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Title 3—

The President

Proclamation 7215 of August 24, 1999

Women's Equality Day, 1999

By the President of the United States of America

A Proclamation

The theme for America's celebration of the coming millennium is ''honor the past—imagine the future,'' a theme that could also describe our annual observance of Women's Equality Day. On this special day, we honor the past by remembering the decades-long struggle of visionary and determined women and men who fought for women's suffrage. Seventy-nine years ago, their efforts were rewarded with the ratification of the 19th Amendment to the Constitution, which guaranteed women the right to vote and moved our Nation forward on the path toward equal civil and political rights for all Americans.

This year we also mark the 35th anniversary of another hard-fought victory for women's equality: the enactment of Title VII of the Civil Rights Act of 1964, which—among other things—prohibits employment discrimination on the basis of gender. Title VII guarantees women equal access to jobs, promotions, pay, and benefits, empowering them to provide for themselves and their families and to achieve their highest aspirations. This historic legislation benefits our entire Nation by strengthening America's workforce and economy through the contributions of millions of Americans whose talents in the past had too often been ignored or excluded.

We also celebrate Women's Equality Day by imagining the future—a future where women will receive equal pay for equal work, where our social structures will help women and men to balance better the responsibilities of job and family, where there will be no ceilings to prevent women from rising as far and as fast as their talents will take them. Such a future seems possible when we reflect on the extraordinary feats women have achieved this summer alone. The entire world was captivated by the energy, skill, teamwork, and determination of the women soccer players from around the globe who competed in the Women's World Cup; and all America rejoiced when the U.S. team won a breathtaking victory. Just 13 days later, Air Force Colonel Eileen Collins, commander of Space Shuttle Mission STS–93, became the first woman to command a mission in space.

With a rich past, an exciting present, and a future of limitless possibilities, women have much to celebrate on this Women's Equality Day, and all Americans have much to be grateful for as we reflect on the countless contributions women make to the quality of our lives and the well-being of our Nation.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 26, 1999, as Women's Equality Day. I call upon the citizens of our great Nation to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of August, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

William J. Clinton

[FR Doc. 99–22483
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Rules and Regulations

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–35]

Modification of Class D Airspace and Class E Airspace; Terre Haute, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class D airspace and Class E airspace at Terre Haute, IN. An analysis of the controlled airspace required for the instrument approach procedures for Terre Haute International-Hulman Field Airport, in light of the recent runway extension for that airport, have resulted in the need to modify the Class D airspace and the Class E airspace extension to the Class D airspace. The purpose of this action is to provide adequate controlled airspace for the instrument approach procedures and flight operations at the airport. This action increases the radius of the Class D airspace and modifies the Class E airspace extension, incorporating the increased radius, for this airport.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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

SUPPLEMENTARY INFORMATION:

History

On Friday, June 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace and Class E airspace at Terre Haute, IN (64 FR 31525). The proposal was to modify the existing controlled airspace to incorporate a recent runway extension at the airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, and Class E airspace areas designated as an extension to a Class D surface area are published in paragraph 6004, of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class D airspace and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace and Class E airspace at Terre Haute, IN, by increasing the radius of the Class D airspace and modifying the Class E airspace extension to the Class D airspace, incorporating the increased radius, for Terre Haute International-Hulman Field Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11035; 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 than will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

Paragraph 5000 Class D airspace.

* * * * *

AGL IN D Terre Haute, IN [Revised]

Terre Haute International-Hulman Field Airport, IN
(Lat. 39°27′05″N., long. 087°18′27″W.)
Terre Haute, Sky King Airport, IN
(Lat. 39°32′52″N., long. 087°22′38″W.)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 5.7-mile radius of the Terre Haute International-Hulman Field Airport, excluding that airspace within a 1.0-mile radius of Sky King Airport.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D surface area.

* * * * *

AGL IN E4 Terre Haute, IN [Revised]

Terre Haute International-Hulman Field Airport, IN
(Lat. 39°27′05″N., long. 087°18′27″W.)
Terre Haute VORTAC
(Lat. 39°29′20″N., long. 087°14′56″W.)

That airspace extending upward from the surface within 1.8 mile each side of the Terre Haute VORTAC 047° radial, extending from the 5.7-mile radius of the Terre Haute International-Hulman Field Airport to 10.5 miles northeast of the VORTAC.

* * * * *

Issued in Des Plaines, Illinois on August 17, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22296 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–32]

Modification of the Legal Description of the Class E Airspace; Cincinnati, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the legal description of the Class E airspace at Cincinnati Municipal Airport Lunken Field, OH. The legal description for this airspace includes a reference to excluding that airspace within the Cincinnati/Northern Kentucky International Airport, KY, Class C airspace area. This Class C airspace designation was revoked, and effective at 0901 UTC, July 15, 1999, a Class B airspace area for the Cincinnati/Northern Kentucky International Airport was established. The reference to Class C airspace in the legal description for the Class E airspace at Cincinnati Municipal Airport Lunken Field will be invalid, and this action changes that reference to Class B airspace.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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

SUPPLEMENTARY INFORMATION:

History

On Thursday, June 3, 1999, the FAA proposed to amend 14 CFR part 71 to modify the legal description of the Class E airspace at Cincinnati Municipal Airport Lunken Field, OH (64 FR 29817). The proposal was to correct the legal description of the existing controlled airspace to reflect the correct reference to the Cincinnati/Northern Kentucky International Airport, KY, Class C airspace area. Effective July 15, 1999, this Class C airspace was revoked and a Class B airspace area for the Cincinnati/Northern Kentucky International Airport was established (Airspace Docket No. 93–AWA–5, final rule published in the **Federal Register** on November 30, 1998, 63 FR 65972, effective date delayed on December 14, 1998, 63 FR 68675, and confirmation of effective date on April 12, 1999, 64 FR 17934). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designated as a surface area are published in paragraph 6002 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies the legal description of the Class E airspace at Cincinnati Municipal Airport Lunken Field, OH, by changing the reference to the Cincinnati/Northern Kentucky International Airport, KY, Class C airspace area to Class B. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 CFR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

* * * * *

Paragraph 6002 Class E airspace designated as a surface area.

* * * * *

AGL OH E2 Cincinnati, OH [Revised]

Cincinnati Municipal Airport Lunken Field, OH

(Lat. 39°06′12″ N., long. 84°25′07″ W.)

Within an 4.1-mile radius of the Cincinnati Municipal Airport Lunken Field, excluding that airspace within the Cincinnati/Northern Kentucky International Airport, KY, Class B airspace area. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22059 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–36]

Revocation of Class E airspace, Lafayette, Aretz Airport, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice revokes the Class E airspace for Lafayette, Aretz Airport, IN. All instrument approach procedures for the Aretz Airport have been cancelled in preparation for the closure of the airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is no longer needed to contain aircraft executing instrument procedures. This action revokes the Class E airspace for Lafayette, Aretz Airport, IN.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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

SUPPLEMENTARY INFORMATION:

History

On Friday, June 11, 1999, the FAA proposed to amend 14 CFR part 71 to

revoke Class E airspace at Lafayette, Aretz Airport, IN (64 FR 31527). The proposal was to revoke the existing controlled airspace due to cancellation of all instrument approach procedures for the airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revokes Class E airspace at Lafayette, Aretz Airport, IN. The area will be removed from appropriate aeronautical charts.

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

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

* * * * *

AGL IN E5 Lafayette, Aretz Airport, IN [Removed]

* * * * *

Issued in Des Plaines, Illinois on August 17, 1999.

Christopher R. Blum,

Manager, Air Traffic Divisions.

[FR Doc. 99–22293 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–34]

Modification of Class E airspace; Escanaba, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies Class E airspace at Escanaba, MI. A Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 9 has been developed for Delta Country Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, November 04, 1999.

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

SUPPLEMENTARY INFORMATION:

History

On Friday, June 11, 1999, the FAA proposed to amend 14 CRF part 71 to modify Class E airspace at Escanaba, MI (64 FR 31526). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comment objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Escanaba, MI, to accommodate aircraft executing the proposed ILS Rwy 9 SIAP at Delta County Airport by modifying the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL MI E2 Escanaba, MI [Revised]

Escanaba, Delta County Airport, MI
Lat. 45° 43′ 22″N., long. 87° 05′ 37″W.)
Escanaba VORTAC
Lat. 45° 43′ 22″N., long. 87° 05′ 23″W.)
Within a 4.3-mile radius of the Escanaba, Delta County Airport, and within 2.6 miles each side of the Escanaba VORTAC 007° radial, extending from the 4.3-mile radius to 7.4 miles north of the VORTAC, and within 2.6 miles each side of the Escanaba VORTAC 101° radial, extending from the 4.3-mile radius to 7.4 miles east of the VORTAC, and within 2.6 miles each side of the Escanaba VORTAC 266° radial, extending from the 4.3-mile radius to 7.0 miles west of the VORTAC, and within 3.2-miles each side of the Escanaba VORTAC 171° radial, extending from the 4.3-mile radius to 7.0 miles south of the VORTAC.

* * * * *

Issued in Des Plaines, Illinois on August 17, 999.

Christopher R. Blum

Manager, Air Traffic Division.

[FR Doc. 99–22295 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 257, 258 and 399

[Docket Nos. OST–95–179, OST–95–623, and OST–95–177]

RIN 2105–AC10, 2105–AC17

Petitions Involving the Effective Dates of the Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases Final Rule, and the Disclosure of Change-of-Gauge Services Final Rule.

AGENCY: Office of the Secretary (OST), Department of Transportation.

ACTION: Final rule and notice of effective and compliance dates.

SUMMARY: On March 15, 1999, we issued two new rules, the Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases Rule, 14 CFR part 257 (''Code-Share Rule''), and the Disclosure of Change-of-Gauge Services Rule, 14 CFR part 258 (''Change-of-Gauge Rule''), to enable consumers to make informed choices about their air transportation and to travel without undue confusion. Both rules were to take effect on July 13. On July 9, in response to petitions to delay the rules' effective date, we issued a Final Rule and Notice of Proposed Disposition (see 64 FR 38111, July 15, 1999), delaying the effective date for both rules until August 25, 1999, and giving interested parties until July 30 to comment on our proposal to delay the compliance date of portions of both rules further, until March 15, 2000. We are adopting our proposal as a final rule, as clarified below, and amending both disclosure rules to reflect the new compliance dates.

DATES: The effective date of 14 CFR part 257, published at 64 FR 12851–12852 (March 15, 1999), and new § 257.6, published herein, is August 25, 1999. The date on which compliance with § 257.5(a), § 257.5(b) (insofar as compliance requires reprogramming by Computer Reservations Systems), and § 257.5(c) is mandatory is March 15, 2000; compliance with all other sections is mandatory as of August 25, 1999.

The effective date of 14 CFR part 258, published at 64 FR 12860 (March 15, 1999), and new § 258.6, published herein, is August 25, 1999. The date on which compliance with § 258.5(c) is mandatory is March 15, 2000; compliance with all other sections is mandatory as of August 25, 1999.

The removal of 14 CFR 399.88, published at 64 FR 12852 (March 15, 1999), is effective August 25, 1999.

FOR FURTHER INFORMATION CONTACT: Betsy L. Wolf, Senior Trial Attorney, Office of Aviation Enforcement and Proceedings (202–366–9359), Office of the General Counsel, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On March 15, 1999, we adopted two new disclosure rules, the Code-Share Rule and the Change-of-Gauge Rule, under 49 U.S.C. § 41712, our authority to prohibit unfair and deceptive practices and unfair methods of competition. The rules will protect consumers of air transportation by ensuring that they are told the nature of service they are considering before they decide to buy it and then by giving them written information to help them avoid confusion and mishaps, such as missed flights or connections, during their transportation. Each rule codifies and augments existing disclosure requirements for air carriers [1] and also sets new disclosure requirements for ticket agents. Among other things, the Code-Share Rule (14 CFR Part 257) requires air carriers involved in code-sharing arrangements or long-term wet leases to identify those arrangements in the written or electronic schedule information they provide to the public, in the Official Airline Guide and comparable publications, and in Computer Reservations Systems (''CRSs'') with an asterisk or comparable mark and to disclose the transporting carrier's corporate name and any other name under which the service is held out to the public (§ 257.5(a)). The rule also requires air carriers and ticket agents to disclose this information orally to prospective passengers before booking transportation (§ 257.5(b)) and then to provide this information in a written notice once a consumer has booked a flight involving a code-share arrangement or a long-term wet lease (§ 257.5(c)). The Change-of-Gauge rule (14 CFR part 258) has comparable requirements for service with one flight number that requires a change of aircraft en route (§ 258.5). For many if not most air carriers and for all ticket agents, the ability to comply fully with the above requirements hinges on the CRSs' capability both to display all of the relevant information and to print it as the required written notice.

The rules were scheduled to take effect on July 13. Beginning in late April, we received several petitions

[1] As used in this discussion, the term ''air carriers'' means both U.S. carriers and foreign carriers.

from air carriers and trade associations asking that we delay the rules' effective date. Most petitioners based their requests on the CRSs' inability to accomplish all necessary reprogramming by July 13 due to two factors: one, their having initially underestimated the magnitude of this task, and two, their needing now to devote the bulk of their information systems resources to anticipating and avoiding problems during the transition to the year 2000 (''Y2K''). Most petitioners asked that both rules be made effective March 15, 2000. The United States Tour Operators Association, Inc. (''USTOA''), which said that its members cannot begin to reprogram their own ''front-end information systems'' until after the CRSs are reprogrammed, requested an additional grace period for its members of six months.

While recognizing that the information systems used by the air transportation industry must be prepared to continue functioning normally through the turn of the year, we also recognized that the need for effective disclosure of code-share service, long-term wet-lease service, and change-of-gauge service has been pressing and is likely to increase as air carriers' relationships and operations grow ever more complex. Balancing these two concerns, in a Final Rule and Notice issued July 9, 1999 (see 64 FR 38111 (July 15, 1999), we delayed the effective date of both rules until August 25; we proposed that compliance with those portions of the new rules that codify existing requirements and those portions with which air carriers and ticket agents can comply without awaiting CRS reprogramming be mandatory as of August 25, and we proposed that compliance with those portions of the new rules with which air carriers and ticket agents cannot comply until CRS reprogramming is completed be mandatory as of March 15, 2000, as requested. We also proposed to refrain as a matter of discretion from enforcing both rules in their entirety against USTOA's members until September 15, 2000. We gave interested parties until July 30 to comment on our proposed disposition.

The sections of Part 257 for which we proposed to make compliance mandatory as of August 25 because carriers and ticket agents can comply with them without further CRS reprogramming are the following:

Sec.
257.1 Purpose.
257.2 Applicability.
257.3 Definitions.
257.4 Unfair and Deceptive Practice.
257.5 Notice requirement.
(b) Oral notice to prospective consumers (in part): oral notice before booking transportation involving a code-share arrangement (1) of the fact that the selling carrier is not the transporting carrier and (2) of the transporting carrier's identity (as shown by its two-letter designator code in CRS displays).
(d) Advertising.

We proposed that compliance with the following sections of Part 258 be mandatory as of August 25:

Sec.
258.1 Purpose.
258.2 Applicability.
258.3 Definitions.
258.4 Unfair and Deceptive Practice.
258.5 Notice requirement.
(a) Notice in schedules.
(b) Oral notice to prospective consumers.

The sections of Part 257 for which we proposed to make compliance mandatory as of March 15, 2000, because carriers and ticket agents cannot comply with them without further CRS reprogramming are the following:

Section 257.5 Notice requirement.
(a) Notice in schedules.
(b) Oral notice to prospective consumers (in part): the remaining elements of this section—*i.e.* (1) identification of the transporting carrier in code-share arrangements by its corporate name and any other name under which the service is held out to the public and (2) all required disclosures for long-term wet leases.
(c) Written notice.

We proposed that compliance with the following section of Part 258 be mandatory as of March 15, 2000:

Section 258.5 Notice requirement.
(c) Written notice.

Disposition of Comments

We received comments from the Air Transport Association of America, Inc. (''ATA''), Amadeus Global Travel Distribution, S.A., the Regional Airline Association (''RAA''), and the following air carriers: Aeropostal Alas de Venezuela, C. por A., Air New Zealand Limited, American Eagle Airlines, Inc. and Executive Airlines, Inc. d/b/a American Eagle, Continental Airlines, Delta Air Lines, Qantas Airways Limited, and US Airways, Inc. ATA, Amadeus, RAA, Continental, Delta, and US Airways support the Department's approach. Aeropostal asks that we delay the compliance date of the requirement that print advertisements disclose long-term wet leases (§ 257.5(d)) until March 15, 2000. Air New Zealand and Qantas ask that we similarly delay the compliance date of any requirement that cannot be met until carriers reprogram their own internal reservations systems. American Eagle and Executive state that they will not need the waiver they requested earlier and were granted in the notice (see 64 FR 38111 at 38112 (July 15, 1999)) if the March 15, 2000, compliance date is adopted as proposed. Finally, US Airways requests clarification of the disclosure requirement for print advertisements (§ 257.5(d)).

Aeropostal, the flag carrier of Venezuela, states that it is only permitted to provide transportation between Venezuela and the United States by means of a wet lease arrangement or a code-sharing arrangement with an authorized carrier from another country. All of its U.S.-Venezuela service is therefore subject to the Code-Share Rule. If the rule's advertising requirement takes effect before March 15, 2000, Aeropostal maintains, the discrepancy between the detailed disclosure in its print advertisements and the more limited information available to travel agents through their CRSs will cause confusion for consumers who call travel agents and will result in lost business. Aeropostal seeks a delay in the advertising requirement's compliance date in order that consumers and travel agents will be working with the same information.

We will deny Aeropostal's request. The information its advertisements will provide on the nature of its services and the identity of the transporting carrier is critical to consumers' ability both to choose intelligently among transportation options and to avoid confusion during their journeys. As § 257.4 of the Code-Share rule states, holding out or selling code-share or long-term wet-lease services without making the required disclosures is an unfair or deceptive practice or an unfair method of competition in violation of 49 U.S.C. 41712. The public interest thus requires that we not delay the effective date of any provision that does not entail CRS reprogramming. Furthermore, we do not share Aeropostal's concern that travel agents will not be able to field consumers' questions about Aeropostal's services. As experienced professionals, travel agents are familiar with industry practices and can be expected to know enough about wet leases and how to find details on particular wet-lease services to explain them to consumers without having the information on their CRS screens. Code-share services are already listed in CRSs with the transporting carrier identified by its designator code: all that the Code-Share Rule adds to existing requirements is to specify that carriers must disclose both the transporting carrier's corporate

name and any other name under which the service is held out to the public.

Air New Zealand and Qantas raise an issue that we did not consider when we issued our July 9 proposal. The Code-Share and Change-of-Gauge Rules apply to air carriers not only in their capacity as providers of air transportation and sellers of their own services but also in their capacity as sellers of the services of other air carriers. In the latter capacity, they are serving the function of a ticket agent. Any carrier that uses a CRS governed by 14 CFR part 255 as its internal CRS has the same information available to it as CRSs' travel agent subscribers have and is thus in a position to comply now with those parts of the new rules' oral disclosure requirements that do not require CRS reprogramming. In particular, such a carrier has the capability of informing a passenger before booking transportation that another carrier's service is a code-share service and naming the transporting carrier. It likewise has the capability of informing a passenger before booking transportation that another carrier's service entails a change of aircraft en route. Air New Zealand and Qantas, however, are not such carriers. Each of them has an internal reservations system that is not a CRS governed by 14 CFR part 255, and the only code-share or change-of-gauge services that these systems currently display as such are those of Air New Zealand and Qantas themselves, respectively. In order to comply with the new rules' oral and written notice requirements, both carriers will need to reprogram their internal reservations systems, which they will not be able to do by August 25. They therefore request that the compliance date of § 257.5(b) and § 258.5(b) be delayed for carriers situated as they are until March 15, 2000.

We will accommodate Air New Zealand, Qantas, and any similarly situated carrier in the same way that we are accommodating USTOA: rather than complicate matters by codifying different compliance dates for different classes of sellers of air transportation, we will simply refrain as a matter of discretion from enforcing § 257.5(b) and § 258.5(b) against carriers whose internal reservations systems do not display the code-share and change-of-gauge services of other carriers for their sales of such services prior to March 15, 2000. This approach is fair to the carriers and should not affect consumers to any significant degree. Air New Zealand estimates that only approximately 0.0135 percent of the bookings on its internal reservations system are made in the U.S. for code-share flights between third-party carriers. The carrier estimates that the level of its third-party carrier change-of-gauge bookings, more difficult to quantify, is even lower.

Qantas raises another issue: it seeks assurance that our decision to delay the compliance date of § 257.5(a), the requirement concerning notice in schedules of code-share and long-term wet-lease arrangements, to March 15, 2000, applies to all information whose inclusion depends on reprogramming carriers' internal reservations systems. The carrier also asks us to delay until March the compliance date of § 258.5(a), the parallel requirement for change-of-gauge service, which we tentatively decided should be August 25. Qantas's request reflects a misunderstanding of the rules. As used in § 257.5(a) and § 258.5(a), the term ''computer reservations system'' means a CRS governed by 14 CFR part 255; it does not mean carriers' internal reservations systems. Carriers offering change-of-gauge service are already required to indicate the change of aircraft in their CRS listings, so no delay in the compliance date of § 258.5(a) is warranted. We are delaying the compliance date of § 257.5(a)—in its entirety—because it requires carriers to list new information in CRSs and because the CRSs cannot display this information until they are reprogrammed.

US Airways requests clarification of the Code-Share Rule's advertising requirement (§ 257.5(d)). With code-sharing relationships that involve 9 ''US Airways Express'' carriers, some 2,500 daily US Airways Express departures, and 170 airports, US Airways seeks a means of implementing this requirement that presents the relevant information without confusing its customers. The carrier states that it frequently lists services for multiple city-pairs in one advertisement as a cost-effective, competitive means of informing the public of low fares. While such an advertisement serves primarily to promote US Airways' own jet service, in some cases, the advertised fare in a city-pair may be available in addition on another routing operated partly or entirely by a US Airways Express carrier, and some travelers may prefer this latter service. Under these circumstances, US Airways plans to use the following language in its advertisements in reasonably-sized print (*i.e.*, not in fine-print fare conditions):

> These fares are available on US Airways. Depending upon your travel needs, alternative routings may be available at the same fares, with all or part of the service on regional aircraft operated by US Airways Express Carriers Allegheny, Air Midwest, CCAIR, Chautauqua, CommutAir, Mesa, Piedmont, PSA or Trans States Airlines. Call your travel consultant for details.

US Airways maintains that in the context of the new rules' other requirements, the above language will give consumers ''complete, concise, readable, and accurate information about their air transportation options.''

In the circumstances outlined by US Airways, the language it proposes will satisfy the Code-Share Rule's requirements for print advertisements. The treatment of § 257.5(d) in the rule's preamble (see 64 FR 12838 at 12848 (March 15, 1999)) might literally be interpreted as precluding US Airways' approach and requiring instead that the carrier at least use symbols for each individual city-pair to identify all possible transporting carriers and combinations of carriers. We believe, however, that in these particular circumstances, such an advertisement would be needlessly complex and would cause consumers undue confusion. Therefore, for an advertisement in which the advertising carrier offers service in its own right in every city-pair listed as well as code-share service in one or more of these city-pairs, the carrier may comply with § 257.5(d) by including the language proposed by US Airways (with the appropriate carriers' names, of course), or equivalent language,[2] in reasonably-sized print. For an advertisement in which the advertising carrier does not offer service in its own right in every city-pair listed, however, the rule requires that the transporting carrier(s) be specified for each city-pair.

In closing, we once again encourage the CRSs and the carriers to complete their reprogramming as quickly as possible, and we encourage any affected parties that can comply with the Code-Share Rule and the Change-of-Gauge Rule in their entirety before they become effective in their entirety to do so.

Regulatory Analyses and Notices

The Department has determined that this action is not an economically significant regulatory action under Executive Order 12866 or the Department's Regulatory Policies and Procedures, and it has not been reviewed by the Office of Management and Budget. This rule is significant under the Department's Regulatory Policies and Procedures because of congressional and public interest. The

[2] Carriers may ask our Office of Aviation Enforcement and Proceedings to review proposed advertisements in order to make certain that any equivalent language complies with the advertising requirement in both letter and spirit.

rule does not impose unfunded mandates or requirements that will have any effect on the quality of the human environment. A summary of the regulatory analyses of the rules whose effective date is being extended here was published at 64 FR 12850–12851 and 12859, March 15, 1999. Also published there were discussions of the rules' effects on small businesses and their Federalism and Paperwork Reduction Act implications. Apart from the Y2K implications recently brought to light and addressed above and in the July 9 proposal, the determinations made previously are not significantly affected by the limited extensions of the effective date made here.

List of Subjects in 14 CFR Parts 257 and 258

Air carriers, Foreign air carriers, Ticket agents, and Consumer protection.

For the reasons set forth in the preamble, the Department amends Title 14, Chapter II, Subchapter A, Parts 257 and 258 as follows:

PART 257—DISCLOSURE OF CODE-SHARING ARRANGEMENTS AND LONG-TERM WET LEASES

1. The authority citation for Part 257 continues to read as follows:

Authority: 49 U.S.C. 40113(a) and 41712.

2. Section 257.6 is added to read as follows:

§ 257.6 Effective and compliance dates.

(a) This Part is effective as of August 25, 1999.

(b) Compliance with the following sections is mandatory as of August 25, 1999:

(1) § 257.1, § 257.2, § 257.3, § 257.4, § 257.5(d), and § 257.6.

(2) § 257.5(b) to the extent that it requires sellers of air transportation to give consumers oral notice before booking transportation involving a code-share arrangement

(i) Of the fact that the selling carrier is not the transporting carrier and

(ii) Of the transporting carrier's identity (as shown by its two-letter designator code in CRS displays).

(c) Compliance with the following sections is mandatory as of March 15, 2000:

(1) § 257.5(a) and § 257.5(c) in their entirety.

(2) § 257.5(b) insofar as it requires sellers of air transportation to give consumers

(i) Oral notice before booking transportation involving a code-share arrangement of the transporting carrier's corporate name and any other name under which the service is held out to the public and

(ii) The same disclosures for long-term wet leases as for code-sharing arrangements.

PART 258—DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

3. The authority citation for Part 258 continues to read:

Authority: 49 U.S.C. 40113(a) and 41712.

4. Section 258.6 is added to read as follows:

§ 258.6 Effective and compliance dates.

(a) This Part is effective as of August 25, 1999.

(b) Compliance with the following sections is mandatory as of August 25, 1999: § 258.1, § 258.2, § 258.3, § 258.4, § 258.5(a), § 258.5(b), and § 258.6.

(c) Compliance with § 258.5(c) is mandatory as of March 15, 2000.

Issued in Washington, DC on August 18, 1999, under authority delegated by 49 CFR 1.56a(h)2.

A. Bradley Mims,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99–21998 Filed 8–25–99; 8:45 am]

BILLING CODE 4910–62–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 270, 274 and 275

[Release Nos. 33–7728, IC–23958, IA–1815; File No. S7–25–95]

RIN 3235–AG27

Personal Investment Activities of Investment Company Personnel

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is adopting amendments to the rule under the Investment Company Act that addresses conflicts of interest that arise from personal trading activities of investment company personnel. The amendments will increase the oversight role of an investment company's board of directors with respect to codes of ethics, improve the manner in which investment company personnel report their personal securities holdings, and require prior approval of investments in initial public offerings and certain limited offerings by certain investment company personnel (including portfolio managers). Related amendments to disclosure forms will require investment companies to provide information about their policies concerning personal investment activities in their registration statements. The rule amendments are designed to enhance the board of directors' oversight of the policies governing personal transactions in securities by investment company personnel, help compliance personnel and the Commission's examinations staff in monitoring potential conflicts of interest and detecting potentially abusive activities, and make information about personal investment policies available to the public.

DATES: *Effective Date:* The rule amendments will become effective October 29, 1999. *Compliance Date:* Section IV of this release contains information on compliance dates.

FOR FURTHER INFORMATION CONTACT: Penelope W. Saltzman, Senior Counsel, or C. Hunter Jones, Assistant Director, Office of Regulatory Policy, Division of Investment Management, at (202) 942–0690, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0506.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to rule 17j–1 [17 CFR 270.17j–1] under the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Investment Company Act'' or the ''Act''), rule 204–2 [17 CFR 275.204–2] under the Investment Advisers Act of 1940 [15 U.S.C. 80b] (the ''Advisers Act''), Forms N–1A [17 CFR 239.15A, 274.11A], N–2 [17 CFR 239.14, 274.11a–1], N–3 [17 CFR 239.17a, 274.11b] and N–5 [17 CFR 239.24, 274.5] under the Investment Company Act and the Securities Act of 1933 [15 U.S.C. 77a–77aa] (the ''Securities Act''), and Form N–8B–2 [17 CFR 274.12] under the Investment Company Act.[1]

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[1] Unless otherwise noted, all references to ''amended rule 17j–1,'' ''rule 17j–1, as amended,'' or any paragraph of the rule will be to 17 CFR 270.17j–1, as amended by this release, and all references to ''amended rule 204–2,'' ''rule 204–2, as amended,'' or any paragraph of the rule will be to 17 CFR 275.204–2, as amended by this release.

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I. Executive Summary

The Commission is adopting amendments to rule 17j–1 under the Investment Company Act. Rule 17j–1 addresses conflicts of interest between registered investment company (''fund'') personnel (such as portfolio managers) and their funds that may arise when these persons buy or sell securities for their own accounts (''personal investment activities'').

Rule 17j–1 prohibits fraudulent, deceptive or manipulative acts by fund personnel in connection with their personal transactions in securities held or to be acquired by the fund. The rule also contains requirements that are designed to prevent fraud, including (i) requiring funds and their investment advisers and principal underwriters (collectively, ''rule 17j–1 organizations'') to adopt a code of ethics (''code'') containing provisions reasonably necessary to prevent fraudulent, deceptive or manipulative acts and (ii) requiring certain persons to report their personal securities transactions to their rule 17j–1 organization.

The amendments to rule 17j–1 are designed to improve the regulation of personal investment activities in two respects. First, the amendments enhance fund directors' oversight of personal investment activities by requiring that a fund's board, including a majority of independent directors on the board, approve the fund's code and the code of any investment adviser or principal underwriter of the fund. Second, the amendments assist the management of rule 17j–1 organizations in monitoring compliance with the rule. The amendments require initial and annual holdings reports from access persons, as well as review of reports on personal trading by compliance personnel. The amendments also require the fund or its investment adviser to review and pre-approve any investment in an initial public offering (''IPO'') or a limited offering (such as a private placement) by personnel who participate in managing the fund's portfolio (''investment personnel''). In addition, amendments to the disclosure forms under the Securities Act of 1933 and the Investment Company Act will make information about a rule 17j–1 organization's policies concerning personal investment activities available to the public in the fund's registration statement.

II. Background

Section 17(j) of the Investment Company Act prohibits any affiliated person of a rule 17j–1 organization from engaging in fraudulent trading activities that violate rules adopted by the Commission.[2] Section 17(j) authorizes the Commission to adopt rules to define or prevent fraudulent activities. Under this authority, the Commission adopted rule 17j–1 in 1980.[3] Rule 17j–1 prohibits fund personnel from engaging in fraud in connection with personal transactions in securities held or to be acquired by the fund.[4] In addition, the rule requires every rule 17j–1 organization to adopt a code of ethics designed to prevent ''access persons''[5] from engaging in fraud,[6] and requires that the organization use reasonable diligence and institute procedures reasonably necessary to prevent violations of its code of ethics.[7] The rule also requires an access person to report personal securities transactions to his or her rule 17j–1 organization at least quarterly.[8]

The Commission issued a release in 1995 proposing amendments to rule 17j–1 (''Proposing Release'').[9] The proposed amendments were designed to: (i) increase the oversight role of a fund's board of directors with respect to the codes of ethics adopted by the fund, its investment adviser, and principal underwriter; (ii) require that rule 17j–1 organizations receive information about the personal securities holdings of their employees; and (iii) improve disclosure to investors concerning policies on personal investment activities.

We received fourteen comment letters, which generally expressed strong support for the proposed amendments to rule 17j–1.[10] In addition, one commenter urged us to impose minimum guidelines that all codes of ethics must contain in order to address conflicts of interest. Two commenters stated that the current rule should not be revised. A number of commenters addressed particular issues raised by the proposals but did not express an overall view on the amendments. The comment letters have been very helpful to us in formulating the final rule amendments, which are described below.[11]

[2] 15 U.S.C. 80a–17(j). An ''affiliated person'' of a rule 17j–1 organization includes: (i) any officer, director, partner, copartner, or employee of the rule 17j–1 organization; (ii) any person directly or indirectly controlling, controlled by, or under common control with the rule 17j–1 organization; (iii) any person owning five percent of the rule 17j–1 organization's voting securities; and (iv) any person in which the rule 17j–1 organization owns five percent or more of the voting securities. *See* Investment Company Act section 2(a)(3) [15 U.S.C. 80a–2(a)(3)].

[3] Prevention of Certain Unlawful Activities With Respect To Registered Investment Companies, Investment Company Act Release No. 11421 (Oct. 31, 1980) [45 FR 73915 (Nov. 7, 1980)] (''1980 Adopting Release'').

[4] Amended rule 17j–1(b).

[5] Rule 17j–1 defines ''access person'' to include: (i) any director, officer, or general partner of a fund or of a fund's investment adviser, or any employee of a fund or of a fund's investment adviser who, in connection with his or her regular functions or duties, participates in the selection of a fund's portfolio securities or who has access to information regarding a fund's future purchases or sales of portfolio securities; or (ii) any director, officer, or general partner of a principal underwriter who, in the ordinary course of business, makes, participates in or obtains information regarding, the purchase or sale of securities for the fund for which the principal underwriter acts, or whose functions or duties in the ordinary course of business relate to the making of any recommendation to the fund regarding the purchase or sale of securities. Amended rule 17j–1(a)(1). The term ''principal underwriter'' is defined in section 2(a)(29) of the Act [15 U.S.C. 80a–2(a)(29)].

[6] Amended rule 17j–1(c)(1)(i).

[7] Amended rule 17j–1(c)(2)(i).

[8] Amended rule 17j–1(d)(1)(ii). The rule 17j–1 organization also must keep records of violations of its code of ethics and certain other records. *See* amended rule 17j–1(f).

[9] Personal Investment Activities of Investment Company Personnel and Codes of Ethics of Investment Companies and their Investment Advisers and Principal Underwriters, Investment Company Act Release No. 21341 (Sept. 8, 1995) [60 FR 47844 (Sept. 14, 1995)]. The Proposing Release was preceded by a Commission staff study of rule 17j–1 and an industry advisory group report. Division of Investment Management, SEC, Personal Investment Activities of Investment Company Personnel (1994) (''PIA Report''); Investment Company Institute, Report of the Advisory Group on Personal Investing (1994) (''ICI Advisory Group Report''). The Investment Company Institute is an association of funds representing approximately 95 percent of total fund assets under management in the United States.

[10] The comment letters and a summary of the comments prepared by Commission staff are available to the public in File No. S7–25–95. The Commission received additional comments on the rule proposal after the summary of comments was completed on September 11, 1997. These comments also are available to the public in File No. S7–25–95.

[11] In addition to the amendments described below, the amendments reorganize and add headings to the text of rule 17j–1 and replace the term ''security'' with ''covered security'' to make the rule easier to understand and use. The Commission also has changed the title of the rule from ''Certain unlawful acts, practices, or courses of business and requirements relating to codes of ethics with respect to registered investment companies'' to ''Personal investment activities of investment company personnel'' to reflect more clearly the substance of the rule.

III. Discussion

A. Codes of Ethics

Codes of ethics are an important part of a rule 17j–1 organization's efforts to prevent fraud resulting from personal trading in securities by its employees. When the Commission adopted rule 17j–1 in 1980, it stated that the ''introduction and tailoring of ethical restraints on the behavior of persons associated with an investment company can best be left in the first instance to the directors of the investment company.'' [12] Comments on the rule proposals confirmed that a ''one-size-fits-all'' approach to these codes would not be more effective in preventing fraudulent personal trading practices, and would be unnecessarily burdensome, particularly for smaller rule 17j–1 organizations.

Although rule 17j–1 does not specify the provisions that a code of ethics must contain, funds can take several steps to anticipate and avoid problems resulting from conflicts of interest. A 1994 report by an advisory group of the Investment Company Institute (''ICI Advisory Group Report'') recommended, among other things, that every code of ethics: (i) prohibit investment personnel from participating in IPOs; (ii) prohibit securities transactions during certain ''blackout periods''; [13] and (iii) prohibit short-term trading profits.[14] A 1994 Commission staff report noted that the recommendations in the ICI Advisory Committee Report provide important guidance for a rule 17j–1 organization in preparing its own code of ethics.[15] The Commission believes that a rule 17j–1 organization should review the recommendations in the ICI Advisory Group Report and determine whether the specific restrictions and prohibitions recommended by the report are appropriate for inclusion in its code of ethics.

B. Role of Fund Boards

1. Approval of Code of Ethics

Rule 17j–1 requires each rule 17j–1 organization to adopt a code of ethics, but does not currently specify a role for a fund's board of directors with respect to the codes.[16] We proposed that a majority of a fund's board, including a majority of independent directors,[17] be required to approve the fund's code and review the codes of any investment adviser or principal underwriter to the fund.

Commenters generally supported increasing board oversight of codes of ethics, and we are adopting the provision, with certain modifications.[18] As suggested by one commenter, the amended rule requires that instead of *reviewing* the code of an investment adviser and principal underwriter, the board must *approve* the code and any material changes.[19] In addition, the Commission is clarifying that the board must approve the code when the fund initially engages the investment adviser or principal underwriter (rather than upon each contract renewal). If an investment adviser or principal underwriter makes a material change to its code of ethics, the board has six months in which to approve the material change.[20]

Under amended rule 17j–1, a fund's board must base its approval of a code of ethics, or a material change to a code of ethics, upon a determination that the code contains provisions reasonably necessary to prevent access persons from violating the anti-fraud provision of the rule.[21] The Commission is not, as suggested by one commenter, adopting specific detailed standards for board approval of a code of ethics. We believe that the relevant factors used to approve a code of ethics will vary from fund to fund. Nevertheless, we continue to believe that a basic issue for each board of directors is whether the code should permit personal trading by personnel of a rule 17j–1 organization.[22] This issue is relevant for each organization covered by the rule and is too important for a board to ignore.

2. Annual Issues and Certification Report

The board's involvement in the personal investment policies applicable to the fund should not end after the board's initial approval of a code. Continued oversight of the personal investment policies applicable to the fund is in the interest of shareholders because it subjects these policies to independent, objective analysis by the ''watchdog'' for fund shareholders.[23] Therefore, we are adopting, as proposed, amendments that require each rule 17j–1 organization to report periodically to the board on issues raised under its code of ethics. Under the amended rule, the management of a rule 17j–1 organization, at least once a year, must provide the fund's board a written report [24] that (i) describes issues that arose during the previous year under the code of ethics or procedures applicable to the rule 17j–1 organization, including, but not limited to,

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[12] *See* 1980 Adopting Release, *supra* note 3, at text following n.2.

[13] Blackout period restrictions generally prohibit transactions by fund personnel in a security during a certain period of time before and after the fund trades in that security.

[14] ICI Advisory Group Report, *supra* note 9, at 31–42. The report also recommended that every code of ethics require prior approval of any acquisition of securities by investment personnel in a private placement and prohibit investment personnel from serving on the boards of publicly traded companies without prior authorization. *Id.* In order to implement these restrictions effectively, the report recommended that fund codes of ethics, among other things, require all access persons to: (i) ''preclear'' personal securities investments; (ii) direct their brokers to provide copies of confirmations of all personal securities transactions and periodic statements of all securities accounts; and (iii) certify annually that they have read and understand the code of ethics, and that they have complied with the requirements of the code. *Id.* at 42–49.

[15] *See* PIA Report, *supra* note 9, at 31–32.

[16] All references in this release to boards of directors include boards of trustees for funds organized as business trusts. *See* Investment Company Act section 2(a)(12) [15 U.S.C. 80a–2(a)(12)] (definition of ''director'' for purposes of the Investment Company Act).

[17] As used in this release, the term ''independent directors'' means directors who are not ''interested persons'' of the fund under the Investment Company Act. *See* Investment Company Act section 2(a)(19) [15 U.S.C. 80a–2(a)(19)] (definition of ''interested person'' for purposes of the Investment Company Act).

[18] Amended rule 17j–1(c)(1)(ii).

[19] *Id.* This change should not affect the substance of board action because, under the proposal, the same analysis would have been required by the board when it reviewed the code of an investment adviser or principal underwriter. *See* Proposing Release, *supra* note 9, at n.17 and accompanying text.

[20] Amended rule 17j–1(c)(1)(ii). Funds in a fund complex often have different fiscal year periods and, as a result, different schedules for meetings of their boards. The amendments to rule 17j–1 permit fund boards six months in which to approve material changes to codes in order to avoid requiring all funds in a fund complex to approve simultaneously a material change in their investment adviser's or principal underwriter's code of ethics. *Id.*

[21] The codes of ethics of some rule 17j–1 organizations only recite general principles, and the procedures (rather than the codes) of these organizations contain the specific restrictions, prohibitions, or requirements concerning an access person's personal investment activities. Under amended rule 17j–1, the board must approve a code based on its determination that the *code* contains provisions reasonably necessary to prevent access persons from violating the anti-fraud provisions of the rule. If a board can make this determination only if it takes into consideration the procedures, then the code must incorporate, or the board must explicitly approve, those procedures, as well as any subsequent material changes to those procedures.

[22] *See* Proposing Release, *supra* note 9, at text preceding n.18.

[23] *See* Division of Investment Management, SEC, Protecting Investors: A Half Century of Investment Company Regulation 253, 255–56 (1992); PIA Report, *supra* note 9, at 47.

[24] The proposed amendments did not specify the method by which the management of a rule 17j–1 organization should provide the report to the fund's board. Two commenters questioned whether the reports could be made orally. The Commission believes that the issues and certification report is important to board oversight of personal investment policies and will best serve the board in written form. We have therefore clarified in the amended rule that the management of each rule 17j–1 organization must furnish a *written* report to the fund board. *See* amended rule 17j–1(c)(2)(ii).

information about material code or procedure violations and sanctions imposed in response to those material violations [25] and (ii) certifies to the fund's board that the rule 17j–1 organization has adopted procedures reasonably necessary to prevent its access persons from violating its code of ethics.[26]

The issues and certification report is designed to give the board an opportunity to evaluate the effectiveness of codes of ethics and procedures and the manner in which they have been implemented. We expect a fund's board to examine the report carefully, and thus the amended rule requires that the board ''consider'' the report.[27] Upon receipt and consideration of a report, a fund board may determine that it is necessary to amend the fund's code or procedures, or to suggest to an investment adviser or principal underwriter that it consider amending its code or procedures.[28]

3. Unit Investment Trusts

Rule 17j–1 currently applies to unit investment trusts (''UITs'') and requires a UIT and its principal underwriter to adopt codes of ethics.[29] Because UITs do not have boards of directors, the Commission proposed to require that the principal underwriter or depositor for a UIT approve the codes of ethics of the UIT and its principal underwriter or depositor, and be responsible for ensuring that the code of ethics applicable to the UIT contains procedures reasonably necessary to prevent an access person from violating rule 17j–1 and the code.[30]

Commenters generally accepted the proposed changes for UITs, which the Commission is adopting substantially as proposed.[31] If a UIT has more than one principal underwriter or depositor, the principal underwriters and depositors may designate a single principal underwriter or depositor to be responsible for approving the UIT's code of ethics and any material changes to the code. The designated principal underwriter or depositor, however, would have to consent in writing to this arrangement.[32]

C. Reports by Access Persons

1. Initial Holdings Report

Rule 17j–1 currently requires an access person to report personal securities transactions to his or her rule 17j–1 organization at least quarterly (''quarterly transaction reports'') but does not require a complete report of all securities holdings that could create a conflict of interest with the fund. In the Proposing Release, the Commission expressed concern that a rule 17j–1 organization may not be able to monitor effectively potential conflicts of interest unless the rule 17j–1 organization knows the identity of *all* securities held by the access person that could present a conflict, including securities acquired before the person became an access person.[33] Without knowledge of all those securities, for example, it would be difficult for a fund to monitor whether the access person is making trading decisions for the fund based on the securities that the access person holds in his or her own portfolio.

To improve the information that a rule 17j–1 organization currently receives under the rule, the Commission proposed to require that each access person provide an initial holdings report to its rule 17j–1 organization listing all securities beneficially owned by the access person no later than 10 days after he or she becomes an access person. We are adopting this provision substantially as proposed.[34]

Commenters generally supported the addition of an initial holdings report requirement, although some urged that it be limited to persons who participate in fund portfolio management.[35] The Commission has decided not to narrow the initial holdings report requirement as suggested by these commenters. These reports are not burdensome to file, and other access persons may be called upon from time to time to participate in fund investment decision-making that may give rise to a conflict because of these persons' securities holdings. The initial holdings report (updated by transaction reports and annual holdings reports described below) will allow a rule 17j–1 organization to better monitor and address these conflicts.[36]

2. Annual Holdings Report

In addition to the initial holdings report and quarterly transaction reports, the Commission is amending rule 17j–1 to require each access person to file with his or her rule 17j–1 organization an annual holdings report.[37] In the Proposing Release, the Commission asked for comment on (but did not propose) an annual holdings report.[38] Commenters differed on the issue. We have decided to require the additional report because of our concern that, without the report, neither the Commission's examinations staff nor a rule 17j–1 organization would be able to understand the full nature of an access person's current securities holdings without sorting through, in some cases,

[25] Amended rule 17j–1(c)(2)(ii)(A). As suggested by two commenters, we are limiting the scope of the annual issues and certification report to *material* violations or matters. Nevertheless, even immaterial individual violations (such as late filings of transaction reports) may collectively suggest material problems with an organization's compliance systems. We therefore would expect the report to include any violations that are material in the aggregate. In addition, the requirement to report on issues under the code of ethics or procedures means that a report also should include significant conflicts of interest that arose involving the personal investment policies of the organization, even if the conflicts have not resulted in a violation of the code. For example, a fund would be required to report to the board if a fund portfolio manager is a director of a company whose securities are held by the fund.

[26] Amended rule 17j–1(c)(2)(ii)(B). Although the amendments require an issues and certification report to be provided to the board only once a year, more frequent reports by the management of a rule 17j–1 organization may be appropriate in certain circumstances, such as when there have been significant violations of a code or procedures, or significant conflicts of interest arising under the code or procedures. The report also may be used as an opportunity to propose changes to the code or to the procedures that must be approved by the board.

[27] Amended rule 17j–1(c)(2)(ii). In considering the report, the board should determine whether any action is required in response to the report.

[28] The board also may determine that the fund, investment adviser or principal underwriter is not appropriately implementing its code and procedures, as required by rule 17j–1, to prevent violations of the organization's code of ethics. *See* amended rule 17j–1(c)(2)(i).

[29] *See* amended rule 17j–1(a)(5) (defining the term ''Fund'' to include any registered investment company). Unlike other types of funds, a UIT typically does not employ an investment adviser or have a board of directors and has a relatively fixed portfolio of investments. *See* Investment Company Act section 4(2) [15 U.S.C. 80a–4(2)] (definition of ''unit investment trust'').

[30] *See* Proposing Release, *supra* note 9, at nn.30–31 and accompanying text.

[31] Amended rule 17j–1(c)(1)(iii).

[32] *Id.*

[33] Proposing Release, *supra* note 9, at n.38 and accompanying text.

[34] Amended rule 17j–1(d)(1)(i). In some cases, persons may have been reporting their securities holdings and brokerage accounts to their rule 17j–1 organizations before they become access persons. In such cases, we believe that an access person would satisfy the initial holdings report requirement, *i.e.*, would not have to submit a report, if his or her rule 17j–1 organization maintains a record of the information required to be disclosed in the initial report and the access person confirms in writing (which writing may be electronic) the accuracy of the record within 10 days after becoming an access person.

[35] These commenters suggested limiting an initial holdings report to ''investment personnel,'' as defined in the ICI Advisory Group Report. *See infra* note 48.

[36] Persons who currently are or who become access persons before the effective date of the amendments to rule 17j–1 are not required to file initial holdings reports. *See infra* note 98.

[37] Amended rule 17j–1(d)(1)(iii).

[38] Proposing Release, *supra* note 9, at n.42 and accompanying text. The Commission noted that the ICI Advisory Group Report recommended that access persons file reports listing all of their securities holdings upon commencement of employment *and annually thereafter. See* ICI Advisory Group Report, *supra* note 9, at 46.

many years of transaction reports.[39] Thus, requiring an annual holdings report should improve the ability of fund compliance personnel and Commission examiners to detect illegal trading activity by fund personnel.

3. Information Required in Reports

The Commission proposed that an access person be required to report in an initial holdings report *every* security (as defined in rule 17j–1) that the access person beneficially owns, regardless of whether the fund owns, or intends or proposes to acquire, the security.[40] The proposed amendments also would have required an initial holdings report to include the title of the security, the number of shares held, the principal amount of the security and its CUSIP number, and a quarterly transaction report to include the CUSIP number for each security for which a transaction occurred and the date that the access person submitted the report.

We are adopting these requirements with some modifications.[41] The amended rule does not require disclosure of the security's CUSIP number. Commenters asserted that CUSIP numbers often are not readily available to access persons, and that requiring them could present an obstacle to timely filing of reports. The reports do, however, require disclosure of any securities account the access person maintains with a broker, dealer or bank.[42] This information will assist the rule 17j–1 organization and the Commission's compliance staff in evaluating compliance with the rule's reporting requirements.[43]

4. Time for Providing Reports

The Commission proposed that the initial holdings report would be required to be filed within ten days after the individual becomes an access person. Some commenters recommended lengthening this period to twenty or thirty days, arguing that a ten-day period may not allow sufficient time for access persons to gather and provide the required information to their rule 17j–1 organization. One commenter suggested that the ten-day period could be *shortened* for an initial holdings report by a portfolio manager.

The Commission notes that quarterly transaction reports under existing rule 17j–1 are required to be submitted no later than ten days after the end of the calendar quarter. This time period does not appear to be unreasonable, and commenters did not argue that it has been burdensome. We are adopting this provision as proposed.[44]

5. Review of Reports

Rule 17j–1 currently includes no specific requirement that the quarterly transaction reports required by the rule be reviewed by anyone in the rule 17j–1 organization. In the Proposing Release, the Commission explained that the purposes of the rule will be served only if the reports are reviewed to detect conflicts of interest and abusive practices.[45] The Commission therefore proposed to require that the procedures instituted by each rule 17j–1 organization include procedures to review all securities transaction and holdings reports required by rule 17j–1.

The Commission is amending rule 17j–1 to require the review of all securities transaction and holdings reports. Under the amended rule, the procedures instituted by a rule 17j–1 organization to prevent a violation of a code must include procedures requiring that: (i) appropriate management or compliance personnel of the rule 17j–1 organization review transaction and holdings reports (both initial and annual reports) submitted by access persons; and (ii) the rule 17j–1 organization maintain the names of the persons responsible for reviewing these reports.[46]

D. Preapproval of Investments in IPOs and Private Placements

As discussed above, the Commission did not propose specific restrictions on personal investment activities of fund personnel, but we did ask for comment on the issue.[47] We noted that the ICI Advisory Group Report recommended that all funds prohibit investment personnel from investing in IPOs, require pre-clearance of investments in private placements, and restrict certain other trading practices.[48] Many fund complexes have followed this advice and revised their codes of ethics accordingly.[49] Not all have adopted these ethical restrictions, however, which caused us to consider procedures that would further assist funds and advisers in monitoring conflicts of interest that arise from these particular investment activities.

Most individuals rarely have a chance to invest in IPOs, particularly ''hot issue'' IPOs,[50] shares of which usually

[39] Using an annual holdings report, a rule 17j–1 organization should better be able to determine the securities holdings of all access persons each year and would not need, for example, to keep a ''running count'' of the holdings based on the initial holdings report and subsequent quarterly transaction reports. If holdings information were needed, for example, five years after a person becomes an access person, the Commission's examinations staff or a rule 17j–1 organization might have to piece together information from the initial holdings report and as many as 20 quarterly reports. Some rule 17j–1 organizations do, however, maintain a ''running count'' of their employees' current securities holdings and brokerage accounts. We believe that access persons at these organizations would satisfy their annual holdings report requirement by confirming annually, in writing (which may be electronic), the accuracy of the organization's record of information required to be disclosed in the annual holdings report, and recording the date of the confirmation.

[40] Proposing Release, *supra* note 9, at nn.43–46 and accompanying text. Under current rule 17j–1, the term ''security'' excludes certain securities, such as U.S. government securities and shares of open-end funds, that do not appear to present the same opportunities for fraudulent trading activities that rule 17j–1 was designed to prevent. *See* current rule 17j–1(e)(5). The amendments to rule 17j–1 change the term to ''covered security'' and expand the types of securities excluded from the definition. *See* amended rule 17j–1(a)(4) (discussed *infra* in section III.H of this release). The Commission has revised the term in order to avoid any confusion with the term ''security'' as defined under the Act. *See* Investment Company Act section 2(a)(36) [15 U.S.C. 80a–2(a)(36)].

[41] Amended rule 17j–1(d)(1).

[42] Amended rule 17j–1(d)(1)(i)(B), (ii)(B) and (iii)(B).

[43] This requirement is similar to a recommendation of the ICI Advisory Group Report that the National Association of Securities Dealers (''NASD'') adopt a rule to require all broker-dealers to notify a fund when any of the fund's employees open a brokerage account. ICI Advisory Group Report, *supra* note 9, at 44–45.

[44] Amended rule 17j–1(d)(1)(i).

[45] Proposing Release, *supra* note 9, at text following n.47.

[46] Amended rule 17j–1(d)(3) and (f)(1)(D).

[47] Proposing Release, *supra* note 9, at nn.32–34 and accompanying text. Five commenters emphasized that all funds should be given flexibility to determine their own policies and procedures governing personal investment activities. One of these commenters, however, supported specific basic requirements in codes, including restrictions on trading in IPOs and private placement offerings.

[48] *Id.* The report did not define the term ''private placement.'' *See supra* notes 13–14 and accompanying text for a discussion of the additional restrictions recommended in the report. The report defined ''investment personnel'' to include portfolio managers and employees who provide information and advice to a portfolio manager or who help execute a portfolio manager's decisions, such as securities analysts and traders. ICI Advisory Group Report, *supra* note 9, at 29–30.

[49] ICI, Report to the Division of Investment Management, U.S. Securities and Exchange Commission: Implementation of the Institute's Recommendations on Personal Investing 15–18 (1995) (''ICI Survey''). Approximately 66 percent of the fund complexes with funds that are ICI members (representing approximately 97 percent of ICI member assets under management) responded to the survey. Seventy-two percent of those fund complexes adopted the ban on investment personnel acquiring securities in an IPO. Sixty-nine percent adopted the ban on purchasing securities in private placements without prior approval. Fourteen percent of the fund complexes that responded to the survey adopted recommendations based on their particular circumstances, which in some cases provided for more stringent restrictions than those recommended by the ICI Advisory Group Report. *Id.*

[50] A ''hot issue'' IPO typically means an IPO in which the securities trade in the aftermarket at a premium over the offering price. *See* Rule IM–2110–1(a)(1) of the NASD Conduct Rules, NASD

Continued

are reserved for institutional investors, or wealthy individual customers with large brokerage accounts.[51] As the ICI Advisory Group Report commented, the opportunity for investment personnel to purchase IPO shares presents a ''clear potential for conflict between the interests of the individual and the fund.'' [52] The purchase of IPO shares by investment personnel may raise questions as to whether the investment is an undisclosed reward for directing fund business to the underwriter or issuer,[53] whether the individual is misappropriating an opportunity that should have been offered to the fund,[54] and whether the individual's future investment decisions for the fund will be based solely on the best interests of the fund's shareholders.[55]

Purchases by investment personnel of securities in private placements or other limited offerings (''private placements'') may raise similar conflicts because the opportunity to invest in the private placement may be a reward for past business deals.[56] In some cases, the conflict may occur later when the issuer of the privately placed security is considering making a public offering.[57]

To ensure that the potential conflicts associated with these investments can be addressed before they arise, the amendments we are adopting require that investment personnel obtain approval from their fund or adviser before directly or indirectly acquiring any beneficial ownership in securities in an IPO or private placement.[58] The amendments *do* not prohibit these investments because we recognize that there may be situations in which investment in these offerings does not raise the types of conflicts that the rule is designed to address. In some circumstances, an investment opportunity clearly may be available to investment personnel for reasons *other than* the individual's position with the fund. The fund or adviser therefore could determine that, based on the particular nature of the offering [59] or the particular facts of the purchase,[60] the investment would create no material conflict. In other circumstances, the investment may raise only potential conflicts from which the fund and its investors can be protected.[61] Because the portfolio manager's fund or investment adviser is in the best position to evaluate whether an investment in an IPO or limited offering creates or may create a conflict of interest, the amendments permit that organization to protect the fund by determining whether to approve the proposed investment.

The Commission expects that a fund or investment adviser, in fulfilling its pre-clearance responsibilities, will assign appropriate compliance personnel to carefully review each request for approval.[62] We also expect that the fund or adviser will use its judgment to distinguish between serious conflicts that must be avoided and those less serious conflicts that the organization can monitor and manage consistent with the protection of the fund and its investors.[63] In addition, in order to further encourage careful monitoring of potential conflicts, amended rule 17j–1 requires funds and advisers to retain a record of the approval of, and rationale supporting, any direct or indirect acquisition by investment personnel of a beneficial interest in securities in an IPO or private placement.[64] These records also should assist compliance personnel and Commission staff in detecting illegal trading activities by fund personnel.

The application of the pre-clearance provision is limited to certain ''investment personnel.'' [65] The term is

Manual (CCH) 4112 (1999) (introduction to rules on ''free-riding'' and ''withholding'').

[51] *See* Kathleen Weiss Hanley, William J. Wilhelm, Jr., *Evidence on the Strategic Allocation of Initial Public Offerings,* 37 Journal of Financial Economics 239 (1995) (suggesting that approximately 67 percent of shares in IPOs are allocated to institutional investors). *See also* Michael Siconolfi, *Underwriters Set Aside IPO Stock for Officials of Potential Customers,* Wall St. J., Nov. 12, 1997, at A1 (''It is no news that underwriters make most of the shares in hot IPOs available not to the little-guy investor but to institutions, such as mutual fund companies and pension funds that provide a lot of trading commissions and other business.'').

[52] ICI Advisory Group Report, *supra* note 9, at 32.

[53] *See, e.g., U.S.* v. *Ostrander,* 999 F.2d 27 (2d Cir. 1993) (affirming conviction of portfolio manager, who purchased privately offered warrants of company whose securities she acquired for the fund, for accepting unlawful compensation for fund's purchase of property in violation of the Investment Company Act).

[54] *See, e.g.,* In the Matter of Ronald V. Speaker and Janus Capital Corporation, Investment Company Act Release No. 22461 (Jan. 13, 1997) (investment adviser made $16,000 profit on same day purchase and sale of debentures in which fund could have invested, and failed to disclose transactions to the fund or obtain prior consent of the fund (or a disinterested employee authorized to waive the opportunity on the fund's behalf)).

[55] *See* ICI Advisory Group Report, *supra* note 9, at 32.

[56] *See Ostrander, supra* note 53.

[57] A fund portfolio manager who has invested in the private placement may have an opportunity to increase the value of his or her investment by causing the fund to invest in the public offering and contribute to its success. *See* ICI Advisory Group Report, *supra* note 9, at 33–34 (citing John Accola, *Firms, Fund Exec Ties ''Normal,'' Rocky Mountain News, Jan. 18, 1994, at 38A).*

[58] Amended rule 17j–1(e). The rule is not limited to purchases of ''covered securities'' sold in an IPO or limited offering, but rather applies to purchases of all securities sold in an IPO or limited offering. *See* 15 U.S.C. 80a–2(a)(36) (definition of ''security''). The rule generally defines an IPO to include an offering of securities registered with the Commission, the issuer of which, immediately before the registration, was not required to file reports with the Commission. Rule 17j–1(a)(6). This is the same definition used in section 12(f)(1)(G)(i) of the Securities Exchange Act of 1934 (the ''Securities Exchange Act'') [15 U.S.C. 78*l*(f)(G)(i)]. The definition of ''limited offering'' under the rule includes private placement offerings that are exempt from registration under section 4(6) of the Securities Act [15 U.S.C. 77d(6)] or under Regulation D [17 CFR 230.501–508], as well as offerings that are not public under section 4(2) of the Securities Act [15 U.S.C. 77d(2)]. Amended rule 17j–1(a)(8).

[59] A portfolio manager, for example, may have an opportunity to invest in an IPO of the fund adviser as a result of his or her service as an employee of the adviser, in an IPO of a mutual insurance company as a result of his or her ownership of a life insurance policy, or in an IPO of a spinoff company as a result of his or her ownership of stock in the company that spins off the issuer. In each case (and other similar cases), a fund or adviser could determine that the portfolio manager's access to the IPO did not result from his or her position with the fund.

[60] For example, a portfolio manager's purchase of privately offered securities issued by a small family business that is unlikely to make a public offering in the future would likely not raise a material conflict if the portfolio manager's fund is prohibited from investing in private placements. Similarly, an investment in an IPO in which all shares are allocated to investors on a non-discriminatory basis may not raise a material conflict. *See* Elizabeth Cochran, *Taking a Seat at the IPO Table,* Wash. Post, Jan. 7, 1999, at E1 (some online firms allocate IPO shares on a ''first-come, first-served'' basis or on a pro-rata basis to all interested investors); Lisa Bransten and Nick Wingfield, *New Company Aims to Shift IPO Playing Field,* Wall St. J., Feb. 8, 1999, at C1 (one online firm selling IPO shares will use a ''Dutch auction'' process to set the offering price and to allocate IPO stock to the highest bidding investors).

[61] For example, if a portfolio manager sought approval to invest in a private placement of securities of a business that might make a public offering in the future, the fund or adviser could decide to approve the investment subject to conditions designed to protect investors from potential conflicts. These conditions might require that the portfolio manager disclose his or her investment if the fund subsequently considers investing in the business, and that other investment personnel who have no personal interest in the issuer review any decision the portfolio manager may make regarding the fund's investment in the business. *See* ICI Advisory Group Report, *supra* note 9, at 33.

[62] We expect that funds and advisers will review these proposed investments on a case-by-case basis, except for those circumstances in which advance general approval may be appropriate because it is clear that conflicts are very unlikely to arise due to the nature of the opportunity for investing in the IPO or private placement. *See supra* text accompanying notes 59–60. The fund's inability to invest in the securities would not be a basis for concluding generally that the conflicts are unlikely to arise. *See* text accompanying note 53 *supra.*

[63] Some conflicts of interest must be reported to the fund's board of directors under rule 17j–1. *See supra* note 25; amended rule 17j–1(c)(2)(ii) (annual issues and certification report requirement).

[64] Amended rule 17j–1(f)(2).

[65] In deciding whether to approve securities transactions by investment personnel, the adviser should consider all conflicts that may cause the adviser and its investment personnel to violate their fiduciary obligations to the fund, other funds

defined in rule 17j–1 to include portfolio managers and other employees of the fund or its investment adviser who participate in making investment recommendations to the fund, and persons in a control relationship to the fund who obtain information about investment recommendations made to the fund.[66] These persons are involved in investment decisions for the fund and thus have significant opportunities to influence fund decisions that may benefit them personally.

E. Disclosure of Policies Concerning Personal Investment Activities

Rule 17j–1 currently does not require funds to disclose publicly any information about their codes of ethics. The Commission proposed to require that a fund disclose in its registration statement (i) that the fund and its investment adviser and principal underwriter have adopted codes of ethics, (ii) whether these codes permit personnel to invest in securities for their own accounts, and (iii) that the codes are on public file with, and are available from, the Commission.[67] We also proposed to require a fund to file with the Commission all codes of ethics applicable to the fund as an exhibit to its registration statement. Commenters generally did not raise significant objections to these proposals, although some commenters questioned whether the proposed disclosure would be meaningful to investors.[68]

The Commission is adopting the disclosure requirements substantially as proposed, except that the disclosure may be in the Statement of Additional Information (''SAI'') rather than in the prospectus.[69] This approach is more consistent with other disclosure rules that govern the type of information that appears in the SAI.[70] We also are requiring that the codes of ethics be filed through the Commission's Electronic Data Gathering, Analysis and Retrieval (''EDGAR'') system as an exhibit to the fund's registration statement.[71] Electronic filing will facilitate public access to the codes and permit investors, market professionals and the financial media to obtain information about a fund's policies concerning personal investment activities.

F. Beneficial Ownership

Rule 17j–1 currently states that, for purposes of the rule 17j–1 reporting requirement, beneficial ownership should be interpreted in a manner that is consistent with section 16 of the Exchange Act.[72] In 1991, the Commission adopted revised rule 16a–1 under the Exchange Act, which clarified the meaning of beneficial ownership for purposes of section 16.[73] The Commission is amending rule 17j–1 to incorporate this interpretation.[74] The Commission is making a parallel amendment to rule 204–2 under the Advisers Act to incorporate this interpretation.[75]

G. ''Security Held or To Be Acquired'' by a Fund

Rule 17j–1 prohibits fraud by certain fund personnel[76] in connection with their purchase or sale of a ''security held or to be acquired'' by the fund.[77] The Commission proposed to amend the definition of a ''security held or to be

advised by the adviser, and other clients of the adviser. In the case of a proposed transaction in a security of limited availability, the adviser should consider whether the fund or other clients can invest in the security before approving the transaction. *See* Speaker, *supra* note 54; In the Matter of Kemper Financial Services, Inc. et al., Investment Advisers Act Release No. 1494 (June 6, 1995); In the Matter of Joan Conan, Investment Advisers Act Release No. 1446 (Sept. 30, 1994).

[66] Amended rule 17j–1(a)(7) defines ''investment personnel'' as: (i) any employee of a fund or its investment adviser (or any company in a control relationship with either) who, in connection with his or her regular functions or duties, makes or participates in making any recommendations regarding the purchase or sale of securities by the fund and (ii) any natural person in a control relationship to the fund or its investment adviser who obtains information concerning recommendations made to the fund regarding the purchase or sale of securities by the fund.

[67] *See* Proposing Release, *supra* note 9, at nn.50–51 and accompanying text.

[68] Two commenters opposed the requirement that a fund disclose whether fund personnel may invest in ''securities, including securities that may be purchased or held by the fund'' and noted that this phrase could imply that investment by fund personnel in these securities is inherently suspect. We believe this information is important for investors, and, as discussed below, we are adopting this requirement as proposed. Funds are free to provide additional disclosure that personal trading by fund personnel is not inherently unlawful.

[69] The SAI is the second part of Form N–1A, the form used to register open-end funds, of Form N–2, the form used to register closed-end funds, and of Form N–3, the form used to register separate accounts offering variable annuity contracts. The recent amendments to Form N–1A require a fund to send an SAI to requesting investors within three business days of a request. *See* Registration Form Used by Open-End Management Investment Companies, Investment Company Act Release No. 23064 (Mar. 13, 1998) [63 FR 13916 (Mar. 23, 1998)], at text accompanying n.189 (''Amendments to Form N–1A''); Form N–1A [17 CFR 274.11A], Instruction 3 to Item 1(b)(1).

[70] *See* Amendments to Form N–1A, *supra* note 69, at text accompanying n.23 (stating that prospectus disclosure requirements are designed to include ''essential information'' about the fundamental characteristics and risks of investing in a fund, and to be limited to information ''necessary for an average or typical investor to make an investment decision'').

[71] Information in the EDGAR system is available through our Internet web site at <http://www.sec.gov>. Registration statements also can be reviewed and copied at the Commission's Public Reference Room in Washington, D.C.

A fund that is not required to have a code of ethics because, for example, it does not invest in covered securities as defined in amended rule 17j–1(a)(4), would not be required to file any code as an exhibit to its registration statement, but should indicate on its exhibit list the reason that it is not filing a code of ethics. *See* Form N–1A, Item 23(p). A fund that invests only in the securities of one other fund (such as a feeder fund in a ''master/feeder'' fund arrangement) would be required to file the codes of ethics applicable to the fund in which it invests because the feeder fund is a vehicle for investment in the underlying fund. *Id.* A management investment company that invests in the securities of other funds and exercises discretion regarding the funds in which it invests (such as a ''fund of funds'') would not, however, be required to file the codes of ethics of those other funds.

[72] Current rule 17j–1(c)(1); 15 U.S.C. 78p.

[73] 17 CFR 240.16a–1(a)(2). *See* Ownership Reports and Trading by Officers, Directors and Principal Security Holders, Securities Exchange Act Release No. 28869 (Feb. 8, 1991) [56 FR 7242 (Feb. 21, 1991)]. The rule provides that, for purposes of determining whether a person is the beneficial owner of more than 10 percent of a registered class of equity securities under section 16 of the Securities Exchange Act [15 U.S.C. 78p], ownership should be calculated according to standards of beneficial ownership outlined under section 13(d) of the Securities Exchange Act [15 U.S.C. 78m(d)] and the rules under section 13(d), subject to certain exclusions. 17 CFR 240.16a–1(a)(1). For all other purposes under section 16, beneficial ownership should be based on whether the person has a pecuniary interest in the equity security. 17 CFR 240.16a–1(a)(2).

[74] Amended rule 17j–1(d)(5). The amended rule also clarifies that the definition of beneficial ownership applies to any ''covered security'' the access person owns or acquires. *Id.* To the extent that the clarification differs from any previous guidance that the staff has given, that guidance is withdrawn. *See* MI Fund, Inc., SEC No-Action Letter (Aug. 18, 1981).

[75] Amended rule 204–2(a)(12)(iii)(B), (13)(iii)(B).

[76] These personnel are ''affiliated persons'' of a fund or of its investment adviser or principal underwriter. An ''affiliated person'' of an organization includes any officer, director, partner, copartner, or employee of the organization. *See supra* note 2.

[77] Amended rule 17j–1(b); *see also* section 17(j) [15 U.S.C. 80a–17(j)] (prohibiting violation of Commission rules in connection with purchase or sale of a ''security held or to be acquired'' by a fund). Under rule 17j–1, a ''security held or to be acquired'' by a fund includes a security that (i) is held or is being considered for purchase by the fund or its investment adviser for the fund at the time of the transaction, or (ii) was held or was considered for purchase by the fund or its investment adviser for the fund at any time during the 15 days before the transaction. Amended rule 17j–1(a)(10). The effect of this provision is to include a transaction in such a security within the scope of the rule's anti-fraud provision. Rule 17j–1 does not prohibit fund personnel from purchasing or selling these securities unless the transaction would defraud the fund (although codes of ethics may prohibit or limit such transactions). In addition, rule 17j–1 does not limit a fund's ability to purchase or sell a security as a result of transactions by fund personnel. While a transaction by fund personnel in a security that is outside the scope of the rule will not violate section 17(j) or rule 17j–1, such a transaction may nonetheless violate other anti-fraud provisions of the federal securities laws. *See, e.g.*, section 17(a) of the Securities Act [15 U.S.C. 77q(a)], section 10(b) of the Securities Exchange Act [15 U.S.C. 78j(b)], rule 10b–5 [17 CFR 240.10b–5] thereunder, and section 206 of the Advisers Act [15 U.S.C. 80b–6].

acquired'' by a fund, to clarify that the securities that are subject to the rule's anti-fraud provision include any option to purchase or sell, and any security that is exchangeable for or convertible into, any security that is held or to be acquired by a fund. As explained in the Proposing Release, a fund insider who purchases or sells an option or convertible security could improperly benefit from that transaction to the same extent as a fund insider who purchases or sells the underlying security.[78] The only two commenters on this issue supported the proposed clarification, and we are adopting it as proposed.[79]

H. Excepted Securities and Funds

Because certain types of securities do not present the opportunity for the type of improper trading activities that rule 17j–1 is designed to prevent, the rule has excepted from its coverage transactions in certain money market fund instruments, certain U.S. Government securities,[80] and securities issued by mutual funds. The Commission proposed to expand the exceptions to cover a broader array of money market instruments, and to exclude from the rule's coverage all money market funds (which are generally limited to investing in money market instruments), as well as their investment advisers and principal underwriters. Commenters supported the amendments, which the Commission is adopting as proposed.[81]

As a result of these exceptions, all funds that are money market funds, or that limit their investments to certain money market instruments, certain U.S. Government securities and securities of other mutual funds, do not need to adopt codes of ethics under rule 17j–1.[82] Access persons of these organizations also would not be required to make holdings or transaction reports to their organization.[83] In addition, access persons of rule 17j–1 organizations that are required to adopt codes of ethics under the rule do not have to file transaction reports concerning transactions in these instruments or report them in their initial or annual holdings reports.[84]

I. Conforming Amendments to Advisers Act Rules

Rule 204–2(a) under the Advisers Act requires each investment adviser to keep records of the personal securities transactions of the adviser and its ''advisory representatives.'' [85] Although the purpose of this requirement is substantially the same as the quarterly transaction reporting requirements of rule 17j–1, the two rules except transactions in different securities from their respective reporting and recordkeeping requirements.[86] The Commission is revising rule 204–2(a), as proposed, to conform its exceptions to those of rule 17j–1.[87] The Commission also is adding an exception to the recordkeeping requirements under rule 204–2(a) to permit an investment adviser not to make certain records under the rule if the information required under rule 204–2(a) would duplicate information contained in a broker trade confirmation or account statement received and kept by the investment adviser.[88]

IV. Effective Date; Compliance Dates

A. Effective Date

The rule amendments the Commission is adopting today will become effective October 29, 1999.

B. Compliance Dates

To permit the individuals and entities that are subject to rule 17j–1 sufficient time to comply with the new provisions adopted today and to avoid conflicts with plans to address Y2K issues, the Commission is providing transition time for certain new requirements.

1. March 1, 2000

No later than March 1, 2000, rule 17j–1 organizations (*i.e.*, funds and their investment advisers and principal underwriters) and their personnel must meet the following requirements: [89]

(i) Each rule 17j–1 organization must have identified access persons and notified them of their reporting obligations; [90]

(ii) Each rule 17j–1 organization must have adopted procedures for management or compliance personnel to review transaction and holdings reports; and [91]

(iii) Each rule 17j–1 organization must have established a record of access persons who are required to make transaction and holdings reports, and of persons who are responsible for reviewing those reports.[92]

2. September 1, 2000

No later than September 1, 2000:

(i) Each fund's board of directors must have approved codes of ethics of the fund, its investment advisers and principal underwriters (which codes may have been revised in response to the rule amendments adopted in this release); [93]

(ii) Each rule 17j–1 organization must have provided the fund's board of

[78] Proposing Release, *supra* note 9, at nn.59–61 and accompanying text.

[79] Amended rule 17j–1(a)(10). A security that is exchangeable for or convertible into a security that is held or to be acquired by a fund would include warrants to purchase or sell the security.

[80] Rule 17j–1 currently excepts ''securities issued by the Government of the United States'' from the definition. The Commission is not changing the securities subject to this exception, but is amending the exception to read ''direct obligations of the Government of the United States'' in order to conform the exception to the exception for these securities listed in rule 204–2(a)(12) and 204–2(a)(13) under the Advisers Act. Amended rule 17j–1(a)(4)(i).

[81] Amended rule 17j–1(a)(4)(ii). As amended, rule 17j–1 excludes from the definition of ''covered security'' ''bankers' acceptances, bank certificates of deposit, commercial paper, and high quality short-term debt instruments, including repurchase agreements.'' *Id.* We interpret ''high quality short-term debt instrument'' to mean any instrument that has a maturity at issuance of less than 366 days and that is rated in one of the two highest rating categories by a Nationally Recognized Statistical Rating Organization.

[82] *See* amended rule 17j–1(c)(1)(i). Similarly, investment advisers and principal underwriters to these funds would not have to adopt codes of ethics *unless* the investment adviser or principal underwriter also provides services to a fund that must adopt a code of ethics under rule 17j–1. *See also supra* note 71.

[83] *See* amended rule 17j–1(d)(1). If, however, an access person is an access person of another organization that is covered by rule 17j–1, the access person would have to provide holdings and transaction reports to that organization.

[84] *See* amended rule 17j–1(d)(1)(i), (ii)(A) and (iii)(A) (reports limited to covered securities). The Proposing Release requested comment whether there are other types of securities that should be excepted from the scope of the rule. Commenters recommended several other types of securities that should be excepted, such as options and futures on broad-based market indices. The Commission does not believe that those recommended types of securities are insulated from the risks of market manipulation and the potential conflicts of interest that rule 17j–1 is intended to cover. The Commission therefore is not amending the rule's definition of ''covered security'' to exclude those securities.

[85] Amended rule 204–2(a)(12), (13).

[86] Rule 17j–1 currently excepts transactions in securities issued by the Government of the United States, bankers' acceptances, bank certificates of deposit, commercial paper and shares of registered open-end investment companies from its reporting requirements. Rule 204–2(a) currently excepts from its recordkeeping requirements only transactions in securities that are direct obligations of the United States.

[87] For a discussion of these exceptions, *see supra* section III.H of this release.

[88] Amended rule 204–2(a)(12), (13).

[89] Rule 17j–1 organizations that already are in compliance with these requirements do not have to satisfy the requirements of the rule again to meet these compliance dates. Thus, a rule 17j–1 organization that currently requires quarterly transaction, initial holdings and annual holdings reports containing the information required under amended rule 17j–1 and that already has identified and notified its access persons of those reporting obligations would not need to identify and notify the individuals again.

[90] *See* amended rule 17j–1(d)(4).

[91] *See* amended rule 17j–1(d)(3).

[92] *See* amended rule 17j–1(f)(4).

[93] *See* amended rule 17j–1(c)(1)(iii).

directors with the first of its annual issues and certification reports;[94] and

(iii) Each access person must have provided the first of his or her annual holdings reports to his or her rule 17j–1 organization.[95]

3. April 10, 2000

Each quarterly transaction report filed for the calendar quarter ending March 31, 2000 (due April 10, 2000), and for subsequent quarters must include all information required under amended rule 17j–1(d)(1)(ii).[96]

4. Other Compliance Dates

(i) After March 1, 2000, investment personnel may not directly or indirectly acquire any beneficial interest in securities in an IPO or in a private placement without prior approval from the fund or the fund's investment adviser, and the fund and adviser must retain records of the approval and reasons for granting the approval;[97]

(ii) Each person who becomes an access person on or after March 1, 2000 must file his or her initial holdings report with his or her rule 17j–1 organization within 10 days after becoming an access person;[98] and

(iii) In the next post-effective amendment filed by a fund after March 1, 2000, the fund must file copies of codes of ethics of the rule 17j–1 organizations as an exhibit to the registration statement, and disclose certain information about those codes.[99]

V. Cost-Benefit Analysis

A. Summary

The Commission is sensitive to the costs and benefits that result from its rules, and understands that complying with the requirements of rule 17j–1 may impose costs on rule 17j–1 organizations and their personnel. The Commission requested data on the costs and benefits of rule 17j–1 in the Proposing Release, but none of the comment letters on the Proposing Release provided specific estimates of any costs or benefits of amending the rule. Nevertheless, as discussed below, the Commission believes that the amendments to rule 17j–1 will improve the regulation of personal investment activities and that the benefits to investors justify the costs of compliance with the rule. Investors also should benefit from the additional disclosure of information about policies of rule 17j–1 organizations concerning personal investment activities.

The amendments to rule 17j–1 require: (i) a fund's board, including a majority of independent directors on the board, to approve the fund's code and the code of any investment adviser or principal underwriter of the fund as well as any material changes to those codes; (ii) the management of a 17j–1 organization to provide the fund's board an annual report describing issues that arose under the code during the previous year; (iii) each access person to file with his or her rule 17j–1 organization an initial and annual holdings report; and (iv) all investment personnel to obtain approval from the fund or investment adviser before investing in an IPO or private placement. The amendments also clarify certain provisions of rule 17j–1. Amendments to disclosure forms under the Securities Act and the Investment Company Act require funds to make available to the public information about the policies of rule 17j–1 organizations regarding personal investment activities.

B. Benefits

The Commission believes that the rule amendments adopted today will yield important benefits for investors. The amendments to rule 17j–1 are designed to improve the oversight and monitoring of personal trading activities. In addition, the amendments to disclosure forms under the Securities Act and Investment Company Act will allow the public, including the financial media and market professionals, to obtain information on rule 17j–1 organizations' policies regarding personal investment activities.

These regulations will allow rule 17j–1 organizations more quickly to detect conflicts of interest that may arise from personal trading activities and help prevent subsequent conduct that could defraud the fund. Specifically, the rule's requirement that each fund board approve the codes of ethics of the fund and its investment advisers and principal underwriters will allow fund directors to better oversee the personal investment activities of fund personnel. The requirement that management of a rule 17j–1 organization annually provide a written report to the board on issues raised under its code of ethics will give the board the opportunity to evaluate the effectiveness of the codes and procedures and the manner in which they have been implemented.

The requirement that each access person provide an initial and annual holdings report to his or her rule 17j–1 organization will allow the organization to better monitor the conflicts of interest that may arise when an access person participates in investment decisions for the fund that involve securities the access person holds in his or her portfolio. The annual holdings report requirement also will enable rule 17j–1 organizations to monitor whether access persons are filing accurate quarterly transaction reports. In addition, the annual report will allow the rule 17j–1 organization and the Commission's examination staff to view the full scope of an access person's current securities holdings without having to sort through multiple years of transaction reports. Finally, the requirement that investment personnel pre-clear their investments in IPOs and private placements will allow funds and advisers to review carefully the personal investment activities that create the greatest opportunities for fraud and to address any potential conflicts of interest that could result from these investments before they arise.

C. Costs

Several commenters who addressed the proposed amendments to rule 17j–1 suggested that the Commission modify the rule to simplify its application and reduce compliance burdens, in order to reduce costs for rule 17j–1 organizations. We have evaluated these comments and determined that it is appropriate to adopt the amendments to rule 17j–1 with a number of changes that simplify the rule for rule 17j–1 organizations. The adopted amendments, for example, simplify the compliance requirements of rule 17j–1 organizations by extending the exception from the requirement to have a code of ethics to cover any fund that does not invest in covered securities as defined in the rule.

We estimate that approximately 5,226 rule 17j–1 organizations would be required to comply with rule 17j–1. Those organizations include approximately: (i) 3,900 active

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[94] *See* amended rule 17j–1(c)(2).

[95] *See* amended rule 17j–1(d)(1)(iii).

[96] The additional information required under this amendment is: (i) the date that the quarterly transaction report is filed; (ii) the name of any covered securities account established by the access person during that quarter; and (iii) the date the account was established. Amended rule 17j–1(d)(1)(ii)(A)(5), (B). Note that access persons need not file a quarterly transaction report if the information would duplicate information that their rule 17j–1 organization has received in a broker's confirmation or account statement. *See* amended rule 17j–1(d)(2)(v).

[97] *See* amended rule 17j–1(e), (f)(2).

[98] *See* amended rule 17j–1(d)(1)(i). Any person who has become an access person before March 1, 2000 need not file an initial holdings report, but must file the first of his or her annual holdings reports no later than the date specified above.

[99] *See* Amended Forms N–1A, N–2, N–3, N–5 and N–8B–2. A post-effective amendment made for the purpose of complying with these amendments may be made pursuant to rules 485(b) or 486(b) under the Securities Act [17 CFR 230.485(b), .486(b)], provided the post-effective amendment otherwise meets the conditions for immediate effectiveness under those rules.

registered investment companies; (ii) 901 investment advisers to funds; and (iii) 425 principal underwriters of funds.[100] The number of rule 17j–1 organizations is based on staff estimates of the number of entities that must comply with rule 17j–1 and data available for 1998.[101] Other estimates are based on the staff's experience and discussions with mutual fund organizations.

Rule 17j–1 Organizations. Funds may incur additional expenses in the first year after the amendments become effective because the board of directors will have to approve the codes of the fund, its investment adviser and principal underwriter.[102] The Commission believes these expenses will be minimal because all rule 17j–1 organizations already are required to have adopted codes of ethics.[103] In addition, we have allowed fund boards one year in which to comply with this requirement, which will allow boards to consider the codes during one of their regularly scheduled meetings.[104] After initial approval, fund boards will be required to approve only material changes to the codes.[105]

Under the amendments, a rule 17j–1 organization also could incur additional costs in producing and filing the annual issues and certification report for the fund's board. We estimate that the report would take each rule 17j–1 organization approximately 3 hours to prepare, for an annual cost to the organization of approximately $315 and a total annual cost to the industry of approximately $1,646,190.[106]

The amendments also require the fund to disclose that the fund, its investment adviser and principal underwriter have adopted codes of ethics, and require each fund to file a copy of the applicable codes with the Commission. We estimate that the cost to funds of these requirements in the first year after the amendments are adopted would be $1,263,600.[107] Funds would be required to file codes in subsequent years only to the extent that the codes had been materially amended.

Finally, funds and advisers will have to maintain a written record of any approvals permitting investment personnel to purchase securities in an IPO or private placement. Many funds and advisers currently prohibit investment personnel from IPO investments and require pre-clearance of investments in private placement offerings.[108] For those funds and advisers that would have to begin maintaining approval records, we estimate the review and documentation process would cost approximately $750 per organization each year, for a total annual cost to the industry of $900,000.[109]

Access Persons. Rule 17j–1 currently requires access persons to file quarterly transaction reports. The amendments to the rule require access persons to file initial holdings reports when they become access persons and annual holdings reports thereafter.[110]

These amendments will impose additional costs on access persons only to the extent that their rule 17j–1 organization currently does not impose similar reporting requirements. A 1995 survey of members by the ICI found that a majority of fund complexes already require some form of reporting similar to that adopted in the amendments.[111] Based on the ICI Survey, we estimate that the rule amendments would require approximately 67,518 access persons at approximately 4,703 rule 17j–1 organizations to begin filing annual holdings reports.[112] We further estimate

[100] The estimated number of respondents may overstate the number of entities actually required to comply with the rule's requirements because money market funds, funds that invest only in securities excluded from the definition of ''covered security'' in rule 17j–1, and some investment advisers, principal underwriters, and access persons to those funds, do not have to comply with the rule's requirements concerning codes of ethics and transactions and holdings reports. *See* amended rule 17j–1(c)(1); 17j–1(d)(2)(i).

[101] Although the Proposing Release requested it, none of the comment letters provided data pertaining to the cost of complying with rule 17j–1.

[102] Because the amendments to rule 17j–1 expand the types of funds that are exempt from rule 17j–1, in certain cases a rule 17j–1 organization's costs could decrease under the amended rule.

[103] *See* current rule 17j–1(b)(1).

[104] We understand that fund directors generally receive compensation on the basis of the number of meetings that they attend. Therefore, no additional payment would be required for work performed during a regularly scheduled meeting.

[105] *See* amended rule 17j–1(c)(1)(ii).

[106] The cost estimate is based on our estimate that the report would take 2 hours of professional time (at $150 per hour) and 1 hour of support staff time (at $15 per hour) to prepare.

The amendments also require the procedures instituted by rule 17j–1 organizations to require review of transaction and holdings reports. The Commission believes that most funds already have review procedures in place and the cost of implementing additional procedures to review transaction and holdings reports would not be significant.

[107] The cost of including this disclosure in a post-effective amendment and filing the codes of ethics would be minimal for funds that submit their own filings through EDGAR. Funds that use outside contractors to submit EDGAR filings would incur some additional cost in filing the codes as exhibits. We estimate that approximately 40 percent of funds submit their own EDGAR filings. Thus, approximately 2,340 funds use outside contractors. We estimate that funds using outside contractors would file an average of 36 pages of exhibits at an average cost of $15 per page, for a total cost to funds of $1,263,600 (2,340 × 36 × $15 = $1,263,600) in the first year after the amendments to rule 17j–1 become effective.

[108] *See infra* note 118.

[109] This estimate assumes that each fund and adviser will receive, on average, 10 applications for review each year, each of which will take, on average, approximately 0.5 hours of professional time (at $150 per hour) to review (and, if necessary, document), for an annual cost of $750 per organization (5 × $150 = $750). These numbers may vary considerably depending on the fund or adviser and its personnel. The estimated annual cost of review and documentation is equal to the number of funds and advisers that must begin review multiplied by the number of hours per organization to review multiplied by the cost per hour to review, for a total of $900,000 (1,200 × 5 × $150 = $900,000).

[110] We have assumed that a new access person who files an initial holdings report would not have to file an annual holdings report in the same year. An access person may, however, have to file an initial and annual holdings report in the same year if the rule 17j–1 organization requires all access persons to file reports by the same date each year.

[111] Sixty-six percent of member fund complexes responded to the ICI Survey. ICI Survey, *supra* note 49, at 1. The Survey indicated that 66 percent of the fund complexes responding adopted the ICI Advisory Group Report recommendation that investment personnel disclose all personal securities holdings when they begin employment and annually thereafter. *Id.* at 30–31. An additional 11 percent of the responding fund complexes stated that they had adapted the disclosure requirements to their circumstances. Some of these adaptations have imposed more frequent reporting requirements or extended reporting requirements to all access persons. *Id.*

[112] We estimate that 275 of the 5,226 rule 17j–1 organizations are new this year. Access persons at those organizations would file an initial holdings report in the first year rather than an annual holdings report. Of the remaining 4,951 existing rule 17j–1 organizations, we estimate that 66 percent already have implemented initial and annual holdings report requirements for *investment personnel, see supra* note 111, and that investment personnel represent half of the *access persons* at these organizations. Therefore, the amendments would impose *new* reporting requirements on only *half* of the access persons at 66 percent of existing organizations. Based on the ICI Survey, we estimate that 5 percent of existing organizations currently require all access persons to submit initial and annual holdings reports. Therefore, the amendments would not impose new reporting requirements on any of the access persons at those organizations. (We do not know the precise percentage of funds that impose reporting requirements on all access persons, *see supra* note 111, so we have estimated 5 percent as the approximate midpoint of the 11 percent range of funds that adapted the reporting recommendations of the ICI Advisory Group Report.) We estimate that the remaining 29 percent of organizations (100 − (66 + 5) = 29) currently do not require any access persons to make personal holdings disclosures comparable to those required by the amendments to rule 17j–1. Therefore, the amendments would impose new reporting requirements on all the access persons at those organizations.

We estimate that, on average, a rule 17j–1 organization will have approximately 24 access persons (22 of whom would file an annual holdings report, and 2 of whom are new and would file an initial holdings report). Therefore, we estimate that the number of access persons who would have to *begin* filing annual reports as a result of the amendments to rule 17j–1 equals the sum of: all continuing access persons at 29 percent of 4,951 existing rule 17j–1 organizations (22 × 1,435 = 31,570) plus half of continuing access persons at 66 percent of existing rule 17j–1 organizations (11 × 3,268 = 35,948); or a total of 67,518 access persons.

that it would take an access person, on average, 0.5 hours of professional time to complete an annual report, for an estimated total annual cost to the industry of $5,063,850.[113]

Initial reports are required to be provided only by persons who become access persons after the effective date of the amendments.[114] The Commission estimates that the amendments to rule 17j–1 will result in approximately 10,218 new access persons having to file initial holdings reports each year.[115] Assuming the initial holdings report will take approximately 1 hour of professional time to prepare, we estimate an annual total cost to the industry of $1,532,700.[116]

Investment Personnel. The requirement that investment personnel obtain approval before investing in an IPO or private placement should impose minimal costs on those individuals for at least three reasons. First, the requirement may result in restrictions on their purchases of two types of offerings, but the provision does not restrict them from participating in the vast majority of investment opportunities. Second, as discussed above, few individuals have access to IPOs and private placements unless they have substantial accounts with a broker or may be in a position to direct business to the broker or issuer.[117] Therefore, few investment personnel appear likely to be given an opportunity to purchase securities in an IPO or private placement that does not raise a serious conflict with the fund. Third, most fund complexes already prohibit these activities.[118] Although the Commission cannot quantify the costs to investment personnel associated with the pre-clearance provision because we cannot verify the number of investment personnel who invest in IPOs and private placements, we believe that any costs of the provision to investment personnel will be minimal and will be greatly outweighed by the benefits to investors of restricting these potentially fraudulent opportunities.

Issuers. We also believe that the pre-approval provision will result in minimal, if any, costs to issuers selling securities in IPOs or private placements. These offerings are often oversubscribed, and we expect that other purchasers will replace investment personnel who might otherwise invest in the offerings.[119]

Based on the estimates discussed above, we estimate that in the first year after the effective date, the costs of complying with the amendments to rule 17j–1 will be $10,406,340. In later years we anticipate these costs will decrease because funds will have to file codes again with the Commission only if the codes have been materially amended.

VI. Effects on Competition, Efficiency and Capital Formation

As discussed above, we anticipate that the amendments to rule 17j–1 will not result in a major increase in costs to funds or fund investors. We also have considered, in addition to the protection of investors, whether the provisions adopted today will promote efficiency, competition, or capital formation.

VII. Paperwork Reduction Act

Certain provisions of the amendments to rule 17j–1 and the conforming amendments to rule 204–2 under the Advisers Act contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (''PRA'').[120] Because the Proposing Release was published in 1995, prior to the effective date of the 1995 amendments to the PRA, the Proposing Release did not contain a separate section requesting comment on the collection of information burdens imposed by the proposed amendments, as required by the PRA.[121] The Proposing Release did, however, request comment regarding the specific reporting and recordkeeping requirements contained in the proposed amendments to rule 17j–1.

The collection of information requirements contained in the amendments were submitted to the Office of Management and Budget (''OMB'') for review pursuant to section 3507(d) of the PRA. OMB approved the PRA submission with respect to these amendments and assigned OMB control numbers with respect to the rules and forms amended by this release.[122] We received an extension of the OMB approval of the collection of information for rule 17j–1 last year.[123] The collection of information requirements are in accordance with section 3507 of the PRA. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number.

As described in more detail above and in the Proposing Release, the collections of information under the rule and form amendments are necessary for funds to monitor potential conflicts of interest, to

[113] The estimated cost to the industry resulting from the rule's annual holdings report requirement equals the number of continuing access persons multiplied by the number of hours required to complete the report multiplied by the hourly cost of completing the report (67,518 × 0.5 × $150 = $5,063,850). The estimated cost of professional time ($150) is an average and could be significantly higher or lower for individual rule 17j–1 organizations and their access persons.

[114] *See supra* note 98.

[115] The estimated number of new access persons who would file initial holdings reports as a result of the amendments to rule 17j–1 equals the number of new access persons each year at existing rule 17j–1 organizations that do not have an initial holdings report requirement *plus* the number of new access persons at new organizations that do not have an initial holdings report requirement. Based on the ICI Survey, *see supra* note 112, we estimate the number of access persons each year who would have to submit an initial holdings report as a result of amendments to rule 17j–1 equals the sum of: all new access persons at 29 percent of 4,951 existing rule 17j–1 organizations (2 × 1,435); all access persons at 29 percent of 275 new rule 17j–1 organizations (24 × 79 = 1,896); half of new access persons at 66 percent of 4,951 existing rule 17j–1 organizations (1 × 3,268 = 3,268); and half of access persons at 66 percent of 275 new rule 17j–1 organizations (12 × 182); for a total of 10,218 access persons.

[116] The estimated cost to the industry of filing initial holdings reports equals the number of access persons required to file reports multiplied by the number of hours required to complete the report multiplied by the hourly cost to complete the report (10,218 × 1 × $150 = $1,532,700).

[117] *See supra* note 51 and accompanying text.

[118] According to the ICI Survey, 72 percent of fund complexes that responded to the Survey prohibit investment personnel from acquiring any securities in an IPO. In addition, approximately 14 percent of responding fund complexes have adapted the prohibition to their circumstances, in some cases adopting broader prohibitions, such as prohibiting purchases of securities in secondary market transactions or extending the prohibition to all access persons or all employees. ICI Survey, *supra* note 49, at 15–16. Approximately 69 percent of fund complexes responding to the Survey stated that they require prior approval before investment personnel may purchase securities in a private placement. An additional 14 percent of responding fund complexes stated that they have adapted this requirement to their situations, in some cases making the restrictions broader, such as by applying it to all access persons or employees in certain cases. *Id.* at 17–18. We estimate that after the amendments to rule 17j–1 become effective, investment personnel in approximately 25 percent of fund complexes will be subject to the restrictions on purchases of IPOs and private placements for the first time.

[119] *See supra* note 51 of this release. We are unable to quantify the number of investment persons who purchase securities in IPOs and private placements or the frequency of those purchases. The number may vary significantly among individual funds or advisers.

[120] 44 U.S.C. 3501–3520.

[121] Prior to the revisions to the PRA in 1995, requiring disclosure of information to third parties was not a ''collection of information'' under the PRA. *See* 44 U.S.C. 3502(3)(A) (definition of ''collection of information'').

[122] OMB control numbers are as follows: rule 17j–1 (3235–0224, expires Oct. 31, 2001); rule 204–2 (3235–0278, expires Apr. 30, 2000); Form N–1A (3235–0307, expires May 31, 2000); Form N–2 (3235–0026, expires Oct. 31, 2001); Form N–3 (3235–0316, expires Mar. 31, 2000); Form N–5 (3235–0169, expires Oct. 31, 2001); Form N–8B–2 (3235–0186, expires Oct. 31, 2001); and Form S–6 (3235–0184, expires Mar. 31, 2002).

[123] As required under any request for extension of approval, the Commission sought comment on the collection of information. *See* Existing Collection; Comment Request, OMB Control No. 3235–0224 [63 FR 37606 (July 13, 1998)]; and Submission for OMB Review; Comment Request, OMB Control No. 3235–0224 [63 FR 50608 (Sept. 22, 1998)].

facilitate the effective oversight of personal investment activities by a fund and our examinations staff, to provide the fund and the Commission with information regarding compliance with rule 17j–1, and to disclose information to investors about a fund's policies concerning personal investment activities. If the records required to be kept pursuant to the rule are requested by Commission examiners, they will be kept confidential to the extent permitted by relevant statutory and regulatory provisions. Information required by Form N–1A, Form N–2, Form N–3, Form N–5, Form N–8B–2, and Form S–6 and disclosed in a registration statement, is public, and we do not keep it confidential.

The amendments to rule 17j–1 as adopted contain two collection of information requirements in addition to those in the proposed amendments. The adopted amendments require each access person to provide an annual holdings report listing all covered securities the access person beneficially owned at the end of the previous calendar year and all accounts in which securities are held for the benefit of the access person.[124] The annual holdings report requirement imposes an additional paperwork burden on rule 17j–1 organizations and their access persons only to the extent that these organizations do not currently require their access persons to file this information.[125] If an access person already submits equivalent information to his or her rule 17j–1 organization, the access person will simply have to confirm in writing the accuracy of that information to satisfy the annual holdings report requirement under rule 17j–1.[126]

The amendments to rule 17j–1 also require funds and their advisers to retain a written record of any decision to permit investment personnel to purchase securities in an IPO or private placement and the reasons supporting the approval.[127] This requirement imposes additional burdens on funds and advisers only to the extent the fund or adviser does not currently prohibit investments in IPOs or require pre-clearance of investments in private placements.[128]

We estimate that each year 275 new rule 17j–1 organizations each will expend 8 hours to formulate and provide codes of ethics for an annual total of 275 responses and 2,200 burden hours ($275 \times 8 = 2{,}200$). We also estimate that the managements of 5,226 rule 17j–1 organizations[129] each will expend 3 hours annually to provide the fund board with an annual issues and certification report for a total of 5,226 responses and 15,678 burden hours ($5{,}226 \times 3 = 15{,}678$). We estimate that in the first year after the amendments to rule 17j–1 become effective, each fund will require 0.25 hours to prepare the required disclosure regarding the appropriate codes of ethics, for a total of 3,900 responses and 975 burden hours ($3{,}900 \times 0.25 = 975$).[130]

We estimate that 103,800 access persons[131] each will spend 0.5 hours filing one quarterly transaction report per year, for a total of 103,800 responses and 51,900 burden hours ($103{,}800 \times 0.5 = 51{,}900$).[132] We estimate that each year 16,502 new access persons each will expend 1 hour to file an initial holdings report for a total of 16,502 responses and 16,502 burden hours[133] and each of 108,922 existing access persons will expend 0.5 hours to file an annual holdings report, for a total of 108,922 responses and 54,461 burden hours ($108{,}922 \times 0.5 = 54{,}461$).[134]

The Commission estimates that 5,226 rule 17j–1 organizations each will expend 2 hours to maintain records of codes of ethics, records of violations of codes of ethics, reports by access persons, and issues and certification reports, for a total of 5,226 responses and 10,452 burden hours ($5{,}226 \times 2 = 10{,}452$). We also estimate that each of the approximately 1,200 funds and advisers that currently do not prohibit investment personnel from purchasing securities in an IPO would take, on average, approximately 0.25 hours to complete each of 3 responses each year to document approvals of IPO purchases, for a total of 3,600 responses and 900 burden hours ($1{,}200 \times 0.25 \times 3 = 900$).[135] Finally, we estimate that 4,801 funds and advisers would make, on average, 3 responses each year to document approvals of investment in private placement offerings, for a total of 14,403 responses and 3,601 burden hours ($4{,}801 \times 0.25 \times 3 = 3{,}601$).

The Commission therefore estimates the total number of annual responses required by the rule is 261,854, and the total annual burden of the collection of information requirements in the first year is 156,669 hours. This estimate represents an increase of 82,099 hours from the current estimate of 74,570

[124] The Proposing Release requested comment on an annual holdings report and whether an annual holdings report would impose an undue burden on persons required to file the report. *See* Proposing Release, *supra* note 9, at n.42 and accompanying text.

[125] *See supra* notes 111–12 and accompanying text.

[126] The amendments also require access persons to disclose two new items of information in their quarterly transaction and initial holdings reports: the name of any broker, dealer or bank with whom they maintain a securities account, and the date the report is filed. Amended rule 17j–1(d)(1)(i)(B), (ii)(B). We believe this information will take little additional time to disclose.

[127] The Proposing Release sought comment regarding specific restrictions on personal investment activities, including prohibition on the purchase of securities in an IPO. *See supra* note 47.

[128] *See supra* note 118. Because this requirement and the requirement for access persons to provide an annual holdings report affect the paperwork burden estimate, the Commission has filed a ''Paperwork Reduction Act Change Worksheet'' with OMB to reflect the changes in the annual reporting burden.

[129] *See supra* note 100 and accompanying text for a discussion of the estimated number of funds, and investment advisers and principal underwriters to funds.

[130] As noted above, funds should have to prepare disclosures regarding codes of ethics after the initial disclosure only to the extent the codes are materially amended.

[131] *See supra* note 112 for an estimate of the average number of access persons at each 17j–1 organization. Under amended rule 17j–1, access persons of investment advisers to funds are exempt from filing quarterly transaction reports if the reports would duplicate information provided under rule 204–2 of the Advisers Act. Amended rule 17j–1(d)(2)(v). Thus, we estimate that the number of access persons filing quarterly transaction reports is equal to the average number of access persons for each rule 17j–1 organization *multiplied* by the total number of funds and principal underwriters of funds ($24 \times (3900 + 425) = 103{,}800$).

[132] The number of access persons who are required to file quarterly transaction reports will vary depending on the personal investment activities of each access person. In addition, amended rule 17j–1 contains several exceptions to filing quarterly transaction reports, including an exception if the report would duplicate information contained in broker trade confirmations or account statements received by the rule 17j–1 organization. Amended rule 17j–1(d)(2)(v). Although a number of access persons may, on average, have transactions to report during more than one quarter each year, many access persons may not have to provide a quarterly transaction report because their rule 17j–1 organizations have received the information in a broker trade confirmation or account statement. Accordingly, we estimate that each access person, on average, would file one quarterly transaction report each year. Estimates concerning quarterly transaction reports are not included in the cost-benefit analysis because access persons currently are required to file quarterly transaction reports under rule 17j–1. *See* current rule 17j–1(c)(1), (2).

[133] We estimate that the number of access persons who would have to file initial holdings reports each year equals the average number of access persons at each new rule 17j–1 organization ($275 \times 24 = 6{,}600$) *plus* the average number of new access persons at existing rule 17j–1 organizations ($4{,}951 \times 2 = 9{,}902$), for a total of 16,502 ($6{,}600 + 9{,}902 = 16{,}502$). *See supra* note 112 and accompanying text.

[134] The number of access persons filing an annual report would not include new access persons. *See supra* note 110. Thus, we estimate that the number of access persons filing an annual report each year equals the number of existing rule 17j–1 organizations ($5{,}226 - 275 = 4{,}951$) *multiplied* by the average number of continuing access persons per organization ($24 - 2 = 22$), for a total of 108,922 ($4{,}951 \times 22 = 108{,}922$).

[135] This estimate assumes that 75 percent of funds and advisers currently prohibit investment personnel from investing in IPOs. *See supra* note 118.

burden hours. The increase is attributable primarily to the annual holdings report requirement, the documentation of approvals for investments in IPOs and private placements, and adjustments due to an increase in rule 17j–1 organizations reflected in the updated number of organizations.[136]

In addition to the annual hour burden, we estimate that some funds will incur costs to file the codes of the fund and its investment adviser and principal underwriter. As discussed above, a fund that submits its own EDGAR filings will incur costs associated with the annual hourly burden. Funds that use an outside contractor to submit filings will incur costs for that service. We have estimated that the cost of filing codes for firms that use outside contractors would be approximately $1,263,600 in the first year after the amendments become effective.[137] Thereafter, the annual cost would decrease significantly because funds would only have to refile a code if the code had been materially amended.

VIII. Summary of Final Regulatory Flexibility Analysis

A summary of the Initial Regulatory Flexibility Analysis (''IRFA'') regarding the proposed amendments, which was prepared in accordance with 5 U.S.C. 603, was published in the Proposing Release. No comments were received on the IRFA. We have prepared a Final Regulatory Flexibility Analysis (''FRFA'') in accordance with 5 U.S.C. 604 relating to the adopted amendments.

The FRFA discusses the need for, and objectives of, the amendments to rule 17j–1. The FRFA states that rule 17j–1 currently prohibits fraud by fund affiliates and certain other persons in connection with their personal transactions in securities held or to be acquired by the fund, requires funds and their investment advisers and principal underwriters to adopt codes of ethics containing provisions reasonably necessary to prevent fund personnel from engaging in conduct prohibited by the rule, and requires fund personnel to report their personal securities transactions to their employers. The FRFA further states that the amendments are designed to enhance the board of directors' oversight of the policies governing personal transactions in securities by investment company personnel, help fund compliance personnel and the Commission's examinations staff in monitoring potential conflicts of interest and detecting potentially abusive activities, and make available to the public additional information about these policies.

The FRFA estimates that out of approximately 3,900 funds registered with the Commission, a total of approximately 732 would be considered small entities.[138] The FRFA also states that investment advisers and principal underwriters of registered funds would be required to comply with certain amendments to rule 17j–1. The FRFA estimates that (i) out of approximately 901 investment advisers registered with the Commission that advise funds, a total of approximately 265 would be considered small entities [139] and (ii) out of approximately 425 principal underwriters to funds, a total of approximately 272 would be considered small entities.[140] The FRFA indicates that the amendments to rule 17j–1 would affect small entities in the same manner as other entities subject to the rule.

Finally, the FRFA states that in adopting the amendments to rule 17j–1, the Commission considered (a) the establishment of differing rule requirements that take into account the resources available to small entities; (b) the clarification, consolidation, or simplification of the rule's requirements for small entities; (c) the use of performance rather than design standards; and (d) an exemption from the rule for small entities. The FRFA states that the Commission concluded that different requirements for small entities would be inconsistent with investor protection. In addition, the amendments to rule 17j–1 incorporate performance standards rather than design standards.

The FRFA is available for public inspection in File No. S7–25–95. A copy may be obtained by contacting Penelope Saltzman, Senior Counsel, Office of Regulatory Policy, Division of Investment Management, at (202) 942–0690, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0506.

IX. Statutory Authority

The Commission is amending rule 17j–1 pursuant to the authority set out in sections 17(j) and 38(a) of the Investment Company Act [15 U.S.C. 80a–17(j) and 80a–37(a)] and sections 206(4) and 211(a) of the Advisers Act [15 U.S.C. 80b–6(4) and 80b–11(a)]. The amendments to registration forms are adopted pursuant to the authority set out in sections 6, 7(a), 10 and 19(a) of the Securities Act [15 U.S.C. 77f, 77g(a), 77j, 77s(a)], and sections 8(b), 24(a) and 38(a) of the Investment Company Act [15 U.S.C. 80a–8(b), 80a–24(a) and 80a–37(a)]. The Commission is adopting amendments to rule 204–2 under the Advisers Act pursuant to the authority set out in sections 204, 206(4) and 211(a) of the Advisers Act [15 U.S.C. 80b–4, 80b–6(4) and 80b–11(a).]

Text of Rule and Form Amendments

List of Subjects in 17 CFR Parts 239, 270, 274 and 275

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

[136] We also did not adopt a proposed exception to the initial holdings report requirement. The proposed amendments would have excepted access persons from filing initial holdings reports if the information would duplicate information already maintained by the person's rule 17j–1 organization. Under the amended rule, all new access persons must file an initial holdings report. As discussed in note 34 *supra*, however, an access person may satisfy the requirement by simply confirming information required to be in the report that is maintained by the person's rule 17j–1 organization. This change from the proposed amendments accounts for the remainder of the increase in burden hours.

[137] *See supra* note 107.

[138] As defined in rules adopted under the Investment Company Act for purposes of the Regulatory Flexibility Act, a small entity is an investment company with net assets of $50 million or less as of the end of its most recent fiscal year. 17 CFR 270.0–10 (1997). The Commission amended its definition of small entity under the Investment Company Act for purposes of the Regulatory Flexibility Act in 1998. *See* Definitions of ''Small Business'' or ''Small Organization'' Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934 and the Securities Act of 1933, Securities Act Release No. 7548 (June 24, 1998), [63 FR 35508 (June 30, 1998)]. Because the IRFA for this proposal relied on the earlier definition (which was broader), the FRFA also relies on the earlier definition.

[139] As defined in rules adopted under the Investment Advisers Act for purposes of the Regulatory Flexibility Act, a small entity is an investment adviser that manages assets with a total value of $50 million or less, in discretionary or nondiscretionary accounts, as of the end of its most recent fiscal year and does not render other advisory services. 17 CFR 275.0–7 (1997). The FRFA relies on the definition of ''small entity'' under the Investment Advisers Act before it was amended in June 1998. *See supra* note 138.

[140] As defined in rules under the Securities Exchange Act for purposes of the Regulatory Flexibility Act, a small entity is a broker or dealer that had total capital of less than $500,000 on the date of its prior fiscal year. 17 CFR 240.0–10 (1997). The FRFA relies on the definition of ''small entity'' under the Securities Exchange Act before it was amended in June 1998. *See supra* note 138.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 is amended by adding the following citation to read as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, 80a–39, unless otherwise noted;

* * * * *

Section 270.17j–1 is also issued under secs. 206(4) and 211(a), Investment Advisers Act (15 U.S.C. 80b–6(4) and 80b–11(a));

* * * * *

2. Section 270.17j–1 is revised to read as follows:

§ 270.17j–1 Personal investment activities of investment company personnel.

(a) *Definitions.* For purposes of this section:

(1) *Access Person* means:

(i) Any director, officer, general partner or Advisory Person of a Fund or of a Fund's investment adviser.

(A) If an investment adviser is primarily engaged in a business or businesses other than advising Funds or other advisory clients, the term Access Person means any director, officer, general partner or Advisory Person of the investment adviser who, with respect to any Fund, makes any recommendation, participates in the determination of which recommendation will be made, or whose principal function or duties relate to the determination of which recommendation will be made, or who, in connection with his or her duties, obtains any information concerning recommendations on Covered Securities being made by the investment adviser to any Fund.

(B) An investment adviser is ''primarily engaged in a business or businesses other than advising Funds or other advisory clients'' if, for each of its most recent three fiscal years or for the period of time since its organization, whichever is less, the investment adviser derived, on an unconsolidated basis, more than 50 percent of its total sales and revenues and more than 50 percent of its income (or loss), before income taxes and extraordinary items, from the other business or businesses.

(ii) Any director, officer or general partner of a principal underwriter who, in the ordinary course of business, makes, participates in or obtains information regarding, the purchase or sale of Covered Securities by the Fund for which the principal underwriter acts, or whose functions or duties in the ordinary course of business relate to the making of any recommendation to the Fund regarding the purchase or sale of Covered Securities.

(2) *Advisory Person* of a Fund or of a Fund's investment adviser means:

(i) Any employee of the Fund or investment adviser (or of any company in a control relationship to the Fund or investment adviser) who, in connection with his or her regular functions or duties, makes, participates in, or obtains information regarding the purchase or sale of Covered Securities by a Fund, or whose functions relate to the making of any recommendations with respect to the purchases or sales; and

(ii) Any natural person in a control relationship to the Fund or investment adviser who obtains information concerning recommendations made to the Fund with regard to the purchase or sale of Covered Securities by the Fund.

(3) *Control* has the same meaning as in section 2(a)(9) of the Act [15 U.S.C. 80a–2(a)(9)].

(4) *Covered Security* means a security as defined in section 2(a)(36) of the Act [15 U.S.C. 80a–2(a)(36)], except that it does not include:

(i) Direct obligations of the Government of the United States;

(ii) Bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements; and

(iii) Shares issued by open-end Funds.

(5) *Fund* means an investment company registered under the Investment Company Act.

(6) An *Initial Public Offering* means an offering of securities registered under the Securities Act of 1933 [15 U.S.C. 77a], the issuer of which, immediately before the registration, was not subject to the reporting requirements of sections 13 or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78m or 78o(d)].

(7) *Investment Personnel* of a Fund or of a Fund's investment adviser means:

(i) Any employee of the Fund or investment adviser (or of any company in a control relationship to the Fund or investment adviser) who, in connection with his or her regular functions or duties, makes or participates in making recommendations regarding the purchase or sale of securities by the Fund.

(ii) Any natural person who controls the Fund or investment adviser and who obtains information concerning recommendations made to the Fund regarding the purchase or sale of securities by the Fund.

(8) A *Limited Offering* means an offering that is exempt from registration under the Securities Act of 1933 pursuant to section 4(2) or section 4(6) [15 U.S.C. 77d(2) or 77d(6)] or pursuant to rule 504, rule 505, or rule 506 [17 CFR 230.504, 230.505, or 230.506] under the Securities Act of 1933.

(9) *Purchase or sale of a Covered Security* includes, among other things, the writing of an option to purchase or sell a Covered Security.

(10) *Security Held or to be Acquired* by a Fund means:

(i) Any Covered Security which, within the most recent 15 days:

(A) Is or has been held by the Fund; or

(B) Is being or has been considered by the Fund or its investment adviser for purchase by the Fund; and

(ii) Any option to purchase or sell, and any security convertible into or exchangeable for, a Covered Security described in paragraph (a)(10)(i) of this section.

(b) *Unlawful Actions.* It is unlawful for any affiliated person of or principal underwriter for a Fund, or any affiliated person of an investment adviser of or principal underwriter for a Fund, in connection with the purchase or sale, directly or indirectly, by the person of a Security Held or to be Acquired by the Fund:

(1) To employ any device, scheme or artifice to defraud the Fund;

(2) To make any untrue statement of a material fact to the Fund or omit to state a material fact necessary in order to make the statements made to the Fund, in light of the circumstances under which they are made, not misleading;

(3) To engage in any act, practice or course of business that operates or would operate as a fraud or deceit on the Fund; or

(4) To engage in any manipulative practice with respect to the Fund.

(c) *Code of Ethics.*

(1) *Adoption and Approval of Code of Ethics.*

(i) Every Fund (other than a money market fund or a Fund that does not invest in Covered Securities) and each investment adviser of and principal underwriter for the Fund, must adopt a written code of ethics containing provisions reasonably necessary to prevent its Access Persons from engaging in any conduct prohibited by paragraph (b) of this section.

(ii) The board of directors of a Fund, including a majority of directors who are not interested persons, must approve the code of ethics of the Fund, the code of ethics of each investment adviser and principal underwriter of the Fund, and any material changes to these codes. The board must base its approval of a code and any material changes to the code on a determination that the code

contains provisions reasonably necessary to prevent Access Persons from engaging in any conduct prohibited by paragraph (b) of this section. Before approving a code of a Fund, investment adviser or principal underwriter or any amendment to the code, the board of directors must receive a certification from the Fund, investment adviser or principal underwriter that it has adopted procedures reasonably necessary to prevent Access Persons from violating the investment adviser's or principal underwriter's code of ethics. The Fund's board must approve the code of an investment adviser or principal underwriter before initially retaining the services of the investment adviser or principal underwriter. The Fund's board must approve a material change to a code no later than six months after adoption of the material change.

(iii) If a Fund is a unit investment trust, the Fund's principal underwriter or depositor must approve the Fund's code of ethics, as required by paragraph (c)(1)(ii) of this section. If the Fund has more than one principal underwriter or depositor, the principal underwriters and depositors may designate, in writing, which principal underwriter or depositor must conduct the approval required by paragraph (c)(1)(ii) of this section, if they obtain written consent from the designated principal underwriter or depositor.

(2) *Administration of Code of Ethics.*

(i) The Fund, investment adviser and principal underwriter must use reasonable diligence and institute procedures reasonably necessary to prevent violations of its code of ethics.

(ii) No less frequently than annually, every Fund (other than a unit investment trust) and its investment advisers and principal underwriters must furnish to the Fund's board of directors, and the board of directors must consider, a written report that:

(A) Describes any issues arising under the code of ethics or procedures since the last report to the board of directors, including, but not limited to, information about material violations of the code or procedures and sanctions imposed in response to the material violations; and

(B) Certifies that the Fund, investment adviser or principal underwriter, as applicable, has adopted procedures reasonably necessary to prevent Access Persons from violating the code.

(3) *Exception for Principal Underwriters.* The requirements of paragraphs (c)(1) and (c)(2) of this section do not apply to any principal underwriter unless:

(i) The principal underwriter is an affiliated person of the Fund or of the Fund's investment adviser; or

(ii) An officer, director or general partner of the principal underwriter serves as an officer, director or general partner of the Fund or of the Fund's investment adviser.

(d) *Reporting Requirements of Access Persons.*

(1) *Reports Required.* Unless excepted by paragraph (d)(2) of this section, every Access Person of a Fund (other than a money market fund or a Fund that does not invest in Covered Securities) and every Access Person of an investment adviser of or principal underwriter for the Fund, must report to that Fund, investment adviser or principal underwriter:

(i) *Initial Holdings Reports.* No later than 10 days after the person becomes an Access Person, the following information:

(A) The title, number of shares and principal amount of each Covered Security in which the Access Person had any direct or indirect beneficial ownership when the person became an Access Person;

(B) The name of any broker, dealer or bank with whom the Access Person maintained an account in which any securities were held for the direct or indirect benefit of the Access Person as of the date the person became an Access Person; and

(C) The date that the report is submitted by the Access Person.

(ii) *Quarterly Transaction Reports.* No later than 10 days after the end of a calendar quarter, the following information:

(A) With respect to any transaction during the quarter in a Covered Security in which the Access Person had any direct or indirect beneficial ownership:

(*1*) The date of the transaction, the title, the interest rate and maturity date (if applicable), the number of shares and the principal amount of each Covered Security involved;

(*2*) The nature of the transaction (*i.e.*, purchase, sale or any other type of acquisition or disposition);

(*3*) The price of the Covered Security at which the transaction was effected;

(*4*) The name of the broker, dealer or bank with or through which the transaction was effected; and

(*5*) The date that the report is submitted by the Access Person.

(B) With respect to any account established by the Access Person in which any securities were held during the quarter for the direct or indirect benefit of the Access Person:

(*1*) The name of the broker, dealer or bank with whom the Access Person established the account;

(*2*) The date the account was established; and

(*3*) The date that the report is submitted by the Access Person.

(iii) *Annual Holdings Reports.* Annually, the following information (which information must be current as of a date no more than 30 days before the report is submitted):

(A) The title, number of shares and principal amount of each Covered Security in which the Access Person had any direct or indirect beneficial ownership;

(B) The name of any broker, dealer or bank with whom the Access Person maintains an account in which any securities are held for the direct or indirect benefit of the Access Person; and

(C) The date that the report is submitted by the Access Person.

(2) *Exceptions from Reporting Requirements.*

(i) A person need not make a report under paragraph (d)(1) of this section with respect to transactions effected for, and Covered Securities held in, any account over which the person has no direct or indirect influence or control.

(ii) A director of a Fund who is not an ''interested person'' of the Fund within the meaning of section 2(a)(19) of the Act [15 U.S.C. 80a–2(a)(19)], and who would be required to make a report solely by reason of being a Fund director, need not make:

(A) An initial holdings report under paragraph (d)(1)(i) of this section and an annual holdings report under paragraph (d)(1)(iii) of this section; and

(B) A quarterly transaction report under paragraph (d)(1)(ii) of this section, unless the director knew or, in the ordinary course of fulfilling his or her official duties as a Fund director, should have known that during the 15-day period immediately before or after the director's transaction in a Covered Security, the Fund purchased or sold the Covered Security, or the Fund or its investment adviser considered purchasing or selling the Covered Security.

(iii) An Access Person to a Fund's principal underwriter need not make a report to the principal underwriter under paragraph (d)(1) of this section if:

(A) The principal underwriter is not an affiliated person of the Fund (unless the Fund is a unit investment trust) or any investment adviser of the Fund; and

(B) The principal underwriter has no officer, director or general partner who serves as an officer, director or general partner of the Fund or of any investment adviser of the Fund.

(iv) An Access Person to an investment adviser need not make a

quarterly transaction report to the investment adviser under paragraph (d)(1)(ii) of this section if all the information in the report would duplicate information required to be recorded under §§ 275.204–2(a)(12) or 275.204–2(a)(13) of this chapter.

(v) An Access Person need not make a quarterly transaction report under paragraph (d)(1)(ii) of this section if the report would duplicate information contained in broker trade confirmations or account statements received by the Fund, investment adviser or principal underwriter with respect to the Access Person in the time period required by paragraph (d)(1)(ii), if all of the information required by that paragraph is contained in the broker trade confirmations or account statements, or in the records of the Fund, investment adviser or principal underwriter.

(3) *Review of Reports.* Each Fund, investment adviser and principal underwriter to which reports are required to be made by paragraph (d)(1) of this section must institute procedures by which appropriate management or compliance personnel review these reports.

(4) *Notification of Reporting Obligation.* Each Fund, investment adviser and principal underwriter to which reports are required to be made by paragraph (d)(1) of this section must identify all Access Persons who are required to make these reports and must inform those Access Persons of their reporting obligation.

(5) *Beneficial Ownership.* For purposes of this section, beneficial ownership is interpreted in the same manner as it would be under § 240.16a–1(a)(2) of this chapter in determining whether a person is the beneficial owner of a security for purposes of section 16 of the Securities Exchange Act of 1934 [15 U.S.C. 78p] and the rules and regulations thereunder. Any report required by paragraph (d) of this section may contain a statement that the report will not be construed as an admission that the person making the report has any direct or indirect beneficial ownership in the Covered Security to which the report relates.

(e) *Pre-approval of Investments in IPOs and Limited Offerings.* Investment Personnel of a Fund or its investment adviser must obtain approval from the Fund or the Fund's investment adviser before directly or indirectly acquiring beneficial ownership in any securities in an Initial Public Offering or in a Limited Offering.

(f) *Recordkeeping Requirements.*

(1) Each Fund, investment adviser and principal underwriter that is required to adopt a code of ethics or to which reports are required to be made by Access Persons must, at its principal place of business, maintain records in the manner and to the extent set out in this paragraph (f), and must make these records available to the Commission or any representative of the Commission at any time and from time to time for reasonable periodic, special or other examination:

(A) A copy of each code of ethics for the organization that is in effect, or at any time within the past five years was in effect, must be maintained in an easily accessible place;

(B) A record of any violation of the code of ethics, and of any action taken as a result of the violation, must be maintained in an easily accessible place for at least five years after the end of the fiscal year in which the violation occurs;

(C) A copy of each report made by an Access Person as required by this section, including any information provided in lieu of the reports under paragraph (d)(2)(v) of this section, must be maintained for at least five years after the end of the fiscal year in which the report is made or the information is provided, the first two years in an easily accessible place;

(D) A record of all persons, currently or within the past five years, who are or were required to make reports under paragraph (d) of this section, or who are or were responsible for reviewing these reports, must be maintained in an easily accessible place; and

(E) A copy of each report required by paragraph (c)(2)(ii) of this section must be maintained for at least five years after the end of the fiscal year in which it is made, the first two years in an easily accessible place.

(2) A Fund or investment adviser must maintain a record of any decision, and the reasons supporting the decision, to approve the acquisition by investment personnel of securities under paragraph (e), for at least five years after the end of the fiscal year in which the approval is granted.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

3. The authority citation for Part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–24, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

4. The authority citation for Part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a–8, 80a–24, and 80a–29, unless otherwise noted.

5. Item 1 of Form N–1A [referenced in §§ 239.15A and 274.11A] is amended by revising paragraph (b)(3) to read as follows:

Form N–1A

* * * * *

Item 1. Front and Back Cover Pages

* * * * *

(b) * * *

(3) A statement that information about the Fund (including the SAI) can be reviewed and copied at the Commission's Public Reference Room in Washington, D.C., and that information on the operation of the Public Reference Room may be obtained by calling the Commission at 1–202–942–8090. State that reports and other information about the Fund are available on the EDGAR Database on the Commission's Internet site at http://www.sec.gov, and that copies of this information may be obtained, after paying a duplicating fee, by electronic request at the following E-mail address: publicinfo@sec.gov, or by writing the Commission's Public Reference Section, Washington, D.C. 20549–0102.

* * * * *

6. Item 13 of Form N–1A [referenced in §§ 239.15A and 274.11A] is amended by adding paragraph (f) and an instruction to read as follows:

Note: The text of Form N–1A does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–1A

* * * * *

Item 13. Management of the Fund

* * * * *

(f) *Codes of Ethics.* Provide a brief statement disclosing whether the Fund and its investment adviser and principal underwriter have adopted codes of ethics under rule 17j–1 of the Investment Company Act [17 CFR 270.17j–1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Fund.

Instruction: A Fund that is not required to adopt a code of ethics under rule 17j–1 of the Investment Company Act is not required to respond to this item.

* * * * *

7. Item 23 of Form N–1A [referenced in §§ 239.15A and 274.11A] is amended

by adding paragraph (p) and an Instruction to read as follows:

Form N–1A

* * * * *

Item 23. Exhibits

* * * * *

(p) *Codes of Ethics.* Any codes of ethics adopted under rule 17j–1 of the Investment Company Act [17 CFR 270.17j–1] and currently applicable to the Fund (*i.e.*, the codes of the Fund and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Fund, state the reason (*e.g.*, that the Fund is a Money Market Fund).

Instruction: A Fund that is a feeder fund also must file a copy of all codes of ethics applicable to the master fund.

* * * * *

8. Item 18 of Form N–2 [referenced in §§ 239.14 and 274.11a–1] is amended by adding paragraph 5 and an instruction to read as follows:

Note: The text of Form N–2 does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–2

* * * * *

Item 18. Management

* * * * *

5. *Codes of Ethics:* Provide a brief statement disclosing whether the Registrant and its investment adviser and principal underwriter have adopted codes of ethics under Rule 17j–1 of the 1940 Act [17 CFR 270.17j–1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant. Also explain in the statement that these codes of ethics can be reviewed and copied at the Commission's Public Reference Room in Washington, D.C., that information on the operation of the Public Reference Room may be obtained by calling the Commission at 1–202–942–8090, that these codes of ethics are available on the EDGAR Database on the Commission's Internet site at http://www.sec.gov, and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following E-mail address: publicinfo@sec.gov, or by writing the Commission's Public Reference Section, Washington, D.C. 20549–0102.

Instruction

A Registrant that is not required to adopt a code of ethics under Rule 17j–1 under the 1940 Act [17 CFR 270.17j–1] is not required to respond to this item.

* * * * *

9. Item 24 of Form N–2 [referenced in §§ 239.14 and 274.11a–1] is amended by adding new paragraph 2.r. to read as follows:

Form N–2

* * * * *

Item 24. Financial Statements and Exhibits

* * * * *

2. * * *

r. copies of any codes of ethics adopted under Rule 17j–1 under the 1940 Act [17 CFR 270.17j–1] and currently applicable to the Registrant (*i.e.*, the codes of the Registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Registrant, state the reason (*e.g.*, the Registrant is a Money Market Fund).

* * * * *

10. Item 20 of Form N–3 [referenced in §§ 239.17a and 274.11b] is amended by adding paragraph (d) and an Instruction to read as follows:

Note: The text of Form N–3 does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–3

* * * * *

Item 20. Management

* * * * *

(d) Provide a brief statement disclosing whether the Registrant and its investment adviser and principal underwriter have adopted codes of ethics under Rule 17j–1 of the 1940 Act [17 CFR 270.17j–1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant. Also explain in the statement that these codes of ethics can be reviewed and copied at the Commission's Public Reference Room in Washington, D.C., that information on the operation of the Public Reference Room may be obtained by calling the Commission at 1–202–942–8090, that these codes of ethics are available on the EDGAR Database on the Commission's Internet site at http://www.sec.gov, and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following E-mail address: publicinfo@sec.gov, or by writing the Commission's Public Reference Section, Washington, D.C. 20549–0102.

Instruction: A Registrant that is not required to adopt a code of ethics under Rule 17j–1 under the 1940 Act [17 CFR 270.17j–1] is not required to respond to this item.

* * * * *

11. Item 28 of Form N–3 [referenced in §§ 239.17a and 274.11b] is amended by removing the word ''and'' at the end of paragraph (b)(14), removing the period at the end of paragraph (b)(15) and in its place adding a semicolon, removing the period at the end of paragraph (b)(16) and in its place adding ''; and'', and adding new paragraph (b)(17) to read as follows:

Form N–3

* * * * *

Item 28. Financial Statements and Exhibits

* * * * *

(b) * * *

(17) copies of any codes of ethics adopted under Rule 17j–1 under the 1940 Act [17 CFR 270.17j–1] and currently applicable to the Registrant (*i.e.*, the codes of the Registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Registrant, state the reason (*e.g.*, the Registrant is a Money Market Fund).

* * * * *

12. Item 3 of Form N–5 [referenced in §§ 239.24 and 274.5] is amended by removing the word ''investment'' both times that it appears in the introductory text and adding paragraph (i) and an Instruction after the Instruction to read as follows:

Note: The text of Form N–5 does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–5

* * * * *

Item 3. Policies with Respect to Security Investments

* * * * *

(i) Whether the registrant and its investment adviser and principal underwriter have adopted codes of ethics under Rule 17j–1 of the Investment Company Act of 1940 [17 CFR 270.17j–1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the registrant. Also explain that these codes of ethics can be reviewed and copied at the Commission's Public Reference Room in Washington, D.C., that information on the operation of the Public Reference Room may be obtained by calling the Commission at 1–202–942–8090, that these codes of ethics are available on the EDGAR Database on the Commission's Internet site at http://www.sec.gov, and that copies of these

codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following E-mail address: publicinfo@sec.gov, or by writing the Commission's Public Reference Section, Washington, D.C. 20549–0102.

Instruction: A registrant that is not required to adopt a code of ethics under Rule 17j–1 under the 1940 Act [17 CFR 270.17j–1] is not required to respond to this item.

* * * * *

13. The Instructions As To Exhibits of Form N–5 [referenced in §§ 239.24 and 274.5] are amended by adding paragraph 13 to read as follows:

Form N–5

* * * * *

Instructions as to Exhibits

* * * * *

13. Copies of any codes of ethics adopted under Rule 17j–1 under the Investment Company Act of 1940 [17 CFR 270.17j–1] and currently applicable to the registrant (*i.e.*, the codes of the registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the registrant, state the reason (*e.g.*, the registrant is a Money Market Fund).

* * * * *

14. Item 52 of Form N–8B–2 [referenced in § 274.12] is amended by adding paragraph (e) and an Instruction to read as follows:

Note: The text of Form N–8B–2 does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–8B–2

* * * * *

Policy of Registrant

52. * * *

(e) Provide a brief statement disclosing whether the trust and its principal underwriter have adopted codes of ethics under rule 17j–1 of the Act [17 CFR 270.17j–1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the trust. Also explain that these codes of ethics can be reviewed and copied at the Commission's Public Reference Room in Washington, D.C., that information on the operation of the Public Reference Room may be obtained by calling the Commission at 1–202–942–8090, that these codes of ethics are available on the EDGAR Database on the Commission's Internet site at http://www.sec.gov, and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following E-mail address: publicinfo@sec.gov, or by writing the Commission's Public Reference Section, Washington, D.C. 20549–0102.

Instruction: A trust that is not required to adopt a code of ethics under Rule 17j–1 under the Act [17 CFR 270.17j–1] is not required to respond to this item.

* * * * *

15. Part IX of Form N–8B–2 [referenced in § 274.12] is amended by adding paragraph A.(11) to read as follows:

Form N–8B–2

* * * * *

IX—Exhibits

A. * * *

(11) Copies of any codes of ethics adopted under rule 17j–1 under the Act [17 CFR 270.17j–1] and currently applicable to the trust (*i.e.*, the codes of the trust and its principal underwriters). If there are no codes of ethics applicable to the trust, state the reason (*e.g.*, the trust invests only in direct obligations of the United States Government).

* * * * *

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

16. The authority citation for Part 275 continues to read in part as follows:

Authority: 15 U.S.C. 80b–2(a)(17), 80b–3, 80b–4, 80b–6(4), 80b–6a, 80b–11, unless otherwise noted.

* * * * *

17. Section 275.204–2 is amended by revising paragraph (a)(12)(i), redesignating paragraphs (a)(12)(ii) and (a)(12)(iii) as paragraphs (a)(12)(iii) and (a)(12)(iv), adding new paragraph (a)(12)(ii), redesignating newly designated paragraph (a)(12)(iii)(B) as paragraph (a)(12)(iii)(C), adding new paragraph (a)(12)(iii)(B), revising paragraph (a)(13)(i), redesignating paragraphs (a)(13)(ii) and (a)(13)(iii) as paragraphs (a)(13)(iii) and (a)(13)(iv), adding new paragraph (a)(13)(ii), redesignating newly designated paragraphs (a)(13)(iii)(B) and (a)(13)(iii)(C) as paragraphs (a)(13)(iii)(C) and (a)(13)(iii)(D), and adding new paragraph (a)(13)(iii)(B) to read as follows:

§ 275.204–2 Books and records to be maintained by investment advisers.

(a) * * *

(12)(i) A record of every transaction in a security in which the investment adviser or any advisory representative (as defined in paragraph (a)(12)(iii)(A) of this section) of the investment adviser has, or by reason of the transaction acquires, any direct or indirect beneficial ownership, except:

(A) Transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(B) Transactions in securities that are: direct obligations of the Government of the United States; bankers' acceptances, bank certificates of deposit, commercial paper, and high quality short-term debt instruments, including repurchase agreements; or shares issued by registered open-end investment companies.

(ii) The record required by paragraph (a)(12)(i) of this section must state the title and amount of the security involved; the date and nature of the transaction (*i.e.*, purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer, or bank with or through whom the transaction was effected. Any record required by paragraph (a)(12)(i) of this section also may contain a statement declaring that the record of the transaction will not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction must be recorded no later than 10 days after the end of the calendar quarter in which the transaction was effected. An investment adviser will be considered to have made a record required by paragraph (a)(12)(i) of this section if:

(A) The investment adviser receives a broker trade confirmation or account statement in the time period required by this paragraph (a)(12)(ii);

(B) The broker trade confirmation, account statement or other records of the investment adviser contains all the information required by this paragraph (a)(12)(ii);

(C) The investment adviser keeps the broker trade confirmation, account statement, and other records containing the information required by this paragraph (a)(12)(ii); and

(D) All broker trade confirmations and account statements that are printed on paper and kept under paragraph (a)(12)(ii)(C) of this section are organized in a manner that allows easy access to and retrieval of any particular confirmation or statement.

(iii) * * *

(B) *Beneficial ownership* will be interpreted in the same manner as it would be under § 240.16a–1(a)(2) of this chapter in determining whether a person has beneficial ownership of a security for purposes of section 16 of the

Securities Exchange Act of 1934 [15 U.S.C. 78p] and the rules and regulations thereunder.

* * * * *

(13)(i) Notwithstanding the provisions of paragraph (a)(12) of this section, an investment adviser that is primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, must maintain a record of every transaction in a security in which the investment adviser or any advisory representative (as defined in paragraph (a)(13)(iii)(A) of this section) of the investment adviser has, or by reason of the transaction acquires, any direct or indirect beneficial ownership, except:

(A) Transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(B) Transactions in securities that are: direct obligations of the Government of the United States; bankers' acceptances, bank certificates of deposit, commercial paper, and high quality short-term debt instruments, including repurchase agreements; or shares issued by registered open-end investment companies.

(ii) The record required by paragraph (a)(13)(i) of this section must state the title and amount of the security involved; the date and nature of the transaction (*i.e.*, purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Any record required by paragraph (a)(13)(i) of this section also may contain a statement declaring that the record of the transaction will not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction must be recorded no later than 10 days after the end of the calendar quarter in which the transaction was effected. An investment adviser will be considered to have made a record required by paragraph (a)(13)(i) of this section if:

(A) The investment adviser receives a broker trade confirmation or account statement in the time period required by this paragraph (a)(13)(ii);

(B) The broker trade confirmation, account statement or other records of the investment adviser contains all the information required by this paragraph (a)(13)(ii);

(C) The investment adviser keeps the broker trade confirmation, account statement, and other records containing the information required by this paragraph (a)(13)(ii); and

(D) All broker trade confirmations and account statements that are printed on paper and kept under paragraph (a)(13)(ii)(C) of this section are organized in a manner that allows easy access to and retrieval of any particular confirmation or statement.

(iii) * * *

(B) *Beneficial ownership* will be interpreted in the same manner as it would be under § 240.16a–1(a)(2) of this chapter in determining whether a person has beneficial ownership of a security for purposes of section 16 of the Securities Exchange Act of 1934 [15 U.S.C. 78p] and the rules and regulations thereunder.

* * * * *

By the Commission.

Dated: August 20, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–22310 Filed 8–26–99; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Zeranol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The supplemental NADA provides for use of a zeranol implant in steers fed in confinement for slaughter for improved feed efficiency.

EFFECTIVE DATE: August 27, 1999.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., P.O. Box 3182, Union, NJ 07083–1982, filed supplemental NADA 38–233 that provides for use of Ralgro® Magnum (zeranol) implant in steers being fed in confinement for slaughter at a dose of 72 milligrams per steer for improved feed efficiency. The supplemental NADA is approved as of June 25, 1999, and the regulations are amended in 21 CFR 522.2680(d)(3)(ii) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning June 25, 1999, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval and conducted or sponsored by the applicant. Three years marketing exclusivity is limited to use of the drug for improved feed efficiency in steers fed in confinement for slaughter.

FDA has carefully considered the potential environmental impact of this action and has concluded that the action will not have a significant impact on the human environment and an environmental impact statement is not required. FDA's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.2680 [Amended]

2. Section 522.2680 *Zeranol* is amended in paragraph (d)(3)(ii) by removing ''For increased rate of weight gain'' and adding in its place ''For increased rate of weight gain and improved feed efficiency''.

Dated: August 2, 1999.

Claire M. Lathers,

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

[FR Doc. 99–22312 Filed 8–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. 98F–0195]

Food Additives Permitted in the Feed and Drinking Water of Animals; Menadione Nicotinamide Bisulfite

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of menadione nicotinamide bisulfite (MNB) in diets of growing and finishing swine as a nutritional supplement for the prevention of vitamin K deficiency and as a source of supplemental niacin. This action is in response to a food additive petition (animal use) filed by Vanetta S.p.A.

DATES: The regulation is effective August 27, 1999; submit written objections and requests for a hearing by September 27, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michaela G. Alewynse, Center for Veterinary Medicine (HFV–228), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6657.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 12, 1998 (63 FR 26194), FDA announced that a food additive petition (animal use) (FAP 2239) had been filed by Vanetta S.p.A., Via Alzia Trento 10, Milano, Corsico, Italy. The petition proposed to amend the food additives regulations in part 573 (21 CFR part 573) to provide for use of menadione nicotinamide bisulfite in swine diets as a source of vitamin K activity and niacin. The notice of filing provided that written comments be sent to the Dockets Management Branch. No comments were received.

The agency has evaluated the information submitted by the sponsor in support of the petition and other relevant material and concluded that it establishes the safety and utility of up to 10 grams MNB per ton of complete feed in the diets of growing and finishing swine as a nutritional supplement for the prevention of vitamin K deficiency and as a source of supplemental niacin. Therefore, § 573.625 is amended to provide for this use. Furthermore, the section is revised to conform to current format.

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Veterinary Medicine by appointment with the information contact person listed above. As provided in § 571.1(h), FDA will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has determined under 21 CFR 25.32(r) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Any person who will be adversely affected by this regulation may at any time on or before September 27, 1999, file with the Dockets Management Branch (see above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 573.625 is revised to read as follows:

§ 573.625 Menadione nicotinamide bisulfite.

The food additive may be safely used as follows:

(a) The additive is 1,2,3,4-tetrahydro-2-methyl-1,4-dioxo-2-naphthalene sulfonic acid with 3-pyridine carboxylic acid amine (CAS No. 73581–79–0).

(b) The additive is used or intended for use as a nutritional supplement for both the prevention of vitamin K deficiency and as a source of supplemental niacin as follows:

(1) In chicken and turkey feeds at a level not to exceed 2 grams per ton of complete feed.

(2) In growing and finishing swine feeds at a level not to exceed 10 grams per ton of complete feed.

(c) To assure safe use, the label and labeling of the additive shall bear adequate directions for use.

Dated: August 2, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–22313 Filed 8–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. 94F–0283]

Food Additives Permitted in the Feed and Drinking Water of Animals; Menadione Nicotinamide Bisulfite

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; republication and opportunity to file objections or additional information.

SUMMARY: The Food and Drug Administration (FDA) is republishing, with additional information, a final rule that published in the **Federal Register** of January 2, 1996 (61 FR 5). The rule amended the food additive regulations (animal use) to reflect approval of a food additive petition (FAP) filed by Vanetta (U.S.A.) Inc. Objections to the final rule were filed. FDA is not acting on the objections in this document, but is clarifying the basis of approval of the petition and providing additional information. The agency also is providing a new 30-day period for the submission of objections or of additional information in support of the objections that were previously filed. FDA has not stayed the effective date of the final rule, effective January 2, 1996.

DATES: Objections, additional information in support of the previously filed objections, or additional written objections and requests for a hearing, must be submitted by September 27, 1999.

ADDRESSES: Submit written objections and/or additional information in support of objections previously submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Sharon A. Benz, Center for Veterinary Medicine (HFV–228), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6656.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 2, 1996, FDA published a final rule that amended the food additive regulations (animal use) to reflect approval of an FAP (FAP 2228) filed by Vanetta (U.S.A.) Inc., 1770 East Market St., York, PA 17402. The final rule provides for the safe use of menadione nicotinamide bisulfite (MNB) as a nutritional supplement in chicken and turkey feeds for the prevention of vitamin K deficiency and as a source of supplemental niacin when used at a rate not to exceed 2 grams per ton (g/t) of complete feed. Heterochemical Corp., 111 East Hawthorne Ave., Valley Stream, NY 11580, filed objections to the final rule in its entirety alleging that the studies upon which the petition relies failed to conform to good laboratory practices (GLP's) or good clinical practices (GCP's), and that the regulation promotes deception of the consumer and misbranding of the product. Heterochemical's objections are:

1. The record of the studies fails to establish that any of the nonclinical laboratory studies (including target animal safety) on which the regulation is based were conducted in accordance with GLP's as described in part 58 (21 CFR part 58). The record also fails to provide, alternatively, a reason for noncompliance as required by § 571.1(k) (21 CFR 571.1(k)). Furthermore, the record does not provide a basis for identifying the differences between the practices used and those required by the GLP regulations, so as to permit an evaluation of the studies' integrity and reliability (i.e., if the target animal safety studies are flawed, there is no information in support of the safety of the food additive) (Ref. 1).

2. The record of the studies fails to establish that any of the clinical studies on which the regulation is based were conducted in accordance with GCP's as illustrated in FDA's Center for Veterinary Medicine's (CVM's) guidance document entitled ''Guideline on the Conduct of Clinical Investigations: Responsibility of Clinical Investigators and Monitors for Investigational New Animal Drug Studies,'' October 1992 (the guidelines cited by the objection were supplanted by a revised document in May 1997) (Ref. 2).

3. Heterochemical objects to the regulation in that it establishes MNB as a source of supplemental niacin and authorizes labeling the product as a source of supplemental niacin. Based on a low level of niacin supplementation, the firm contends that the labeling promotes deception of the consumer and results in misbranding of food within the meaning of the Federal Food, Drug, and Cosmetic Act (the act).

The preamble of the January 2, 1996, final rule stated that FDA evaluated the data presented in the petition and concluded that use of the product is safe. The final rule stated that the food additive regulations would be amended as requested in the FAP. FDA is now republishing the final rule to clarify its basis for approval, and to provide additional information supporting approval of the petitioned use, specifically the GLP statement as described in § 571.1(k). FDA believes this course of action is appropriate to supplement the record. FDA will also clarify the reasons for approving the FAP, and provide Heterochemical and any other interested party with an opportunity to proffer facts that demonstrate FDA's basis for approving FAP 2228 was incorrect.

FDA is therefore republishing the final rule and providing an additional 30 days for submission of objections or of additional information in support of the objections that have already been filed. In accordance with its discretion under section 409(f) of the act (21 U.S.C. 348(f)), FDA is not staying the final rule. FDA will consider a stay, however, if one is requested, after having evaluated any objections or other information filed in response to this document.

II. Administrative Record

A. Question of Adherence to GLP's (Part 58 and § 571.1(k))

In filing an FAP, the petitioner is required to provide data and information to support the safe use of the product as required by section 409(c)(1) of the act. The supporting data and information include full reports of investigations made with respect to the safety of use of the additive, including information as to the methods and controls used in conducting the investigations. Part 58 prescribes GLP's for conducting those nonclinical laboratory studies that are used to support or are intended for use to support FAP's or marketing permits for products regulated by FDA. Compliance with GLP's is intended to ensure the quality and integrity of the safety data filed to support approval of an FAP. If nonclinical laboratory studies are involved, an FAP shall include, for each study, a statement that the study was conducted in compliance with GLP requirements set forth under part 58, or if the study was not conducted in compliance with the GLP's, a brief statement with the reason for noncompliance.

In FAP 2228, Vanetta submitted a journal article (Ref. 1) supporting approval of its petition. The studies reported in the article were not conducted in accordance with GLP's, and Vanetta did not submit a statement of the reason for noncompliance. Accordingly, FDA is reopening the administrative record to include a statement from Vanetta on the reasons for the studies' noncompliance with GLP's, as required under § 571.1(k).

B. Clarification of the Record

The objections Heterochemical filed in response to FDA's approval of MNB point out that the basis for the agency's decision was not clear. The administrative record for FAP 2228 included various agency comments on the studies reported in the journal article by Oduho et al. The objector interpreted the comments to mean that the studies were invalid and thus did not support approval of the FAP. Contrary to the objector's interpretation, the agency's comments on the Oduho studies did not question their validity, and do not invalidate the agency's final decision that MNB is safe and achieves its intended technical effect. However, the objections made it clear that the agency needed to make additional comments to clarify the record.

1. Target Animal Safety

FAP 2228 included the Oduho article to support safety of MNB. The Oduho article included what was described as a chronic study (Ref. 1). The results reported in the article indicated that MNB is a safe and effective source of vitamin K and niacin activities. Niacin can serve as a generic name for all pyridine-3-carboxylic acids that exhibit nicotinamide activity (Ref. 3). Only when doses exceed 1,000 times the chick's vitamin K requirement did the article's authors report morbidity or mortality. The data generated by the chronic study, where up to 6 g of menadione per kilogram (kg) complete feed were fed to chick's, support the safety of the substance.

Although this chronic study was of relatively short duration (14 days), the agency believes that it is sufficient to support its conclusion that MNB is safe. The agency evaluated the results of the study in conjunction with the following and other available information that further supported its final determination that MNB is safe and achieves its intended technical effect. MNB hydrolyzes into menadione and nicotinamide. Menadione is prior sanctioned as a source of vitamin K activity (Ref. 4), and nicotinamide (niacinamide) is generally recognized as safe as a nutrient and/or dietary supplement under 21 CFR 582.5535 and section 201(s) of the act (21 U.S.C. 321(s)). Both components have a long history of safe use in animal diets (Refs. 4 and 5).

2. Utility

Menadione and many of its derivatives have vitamin K activity. This vitamin has several biological functions, one of the most important being in blood clot formation (Ref. 6). The Oduho article included a study demonstrating that inclusion of MNB in chick diets improved blood clotting when compared to negative controls. The improvements observed in the study were similar to those seen when another accepted source of vitamin K activity was added to experimental diets.

The highest level of menadione utilized in this study, 0.4 milligram (mg)/kg diet, approaches that recommended by the National Research Council, 0.5 mg/kg, for the type of birds used in this experiment (Ref. 7). The adequacy of 0.4 mg to meet the birds' nutritional requirement is demonstrated by the fact that the prothrombin times of 17 and 19 seconds for MNB and menadione dimethylpyrimidinol bisulfite (MPB), an accepted source of vitamin K activity (21 CFR 573.620), fall very close to the normal range for chickens, which has been reported to vary from 20 to 25 seconds (Ref. 8). The Oduho article reported the normal prothrombin range for chicks to be 12 to 25 seconds. The bioavailability of the vitamin K activity, supplied by the menadione component of MNB, did not differ significantly from that of the positive control substance, MPB. Both MNB and MPB were bioequivalent as an active source of menadione.

The agency noted that the levels of nicotinamide utilized in Oduho experiment number 2 are below those accepted as nutritionally adequate. However, this study did demonstrate that the nicotinamide portion of the MNB molecule was available to the chicks, i.e., that it is bioavailable to a similar extent as pure nicotinamide, which served as a control in the study. In addition, the low level of nicotinamide supplementation is closer to the level of this vitamin supplied by MNB with the mandated 2 g per ton complete feed restriction. Both the amount of nicotinamide supplied by MNB and other dietary sources of this compound will be utilized to formulate a diet which meets the animal's niacin nutritional requirements.

Vanetta amended its petition and submitted a preliminary report on clinical studies conducted at the University of Georgia. This report supported the utility of MNB as a source of vitamin K activity. Because the bioavailabilities of both the menadione and nicotinamide components of MNB were established by the Oduho article, and the utility of MNB as a source of vitamin K activity was confirmed in the University of Georgia experiments, the utility portion of the amended petition was acceptable.

3. Conditions of Use and Directions for Use

The approved conditions of use, as specified in the MNB regulation (21 CFR 573.625(b)), state that MNB can be used as a ''nutritional supplement in chicken and turkey feeds for both the prevention of vitamin K deficiency and as a source of supplemental niacin.''

The conditions of use appropriately compare the levels of vitamin K activity from menadione and nicotinamide by stating that MNB can prevent a vitamin K deficiency, but is simply a source of niacin. As noted previously, niacin can serve as a generic name for all pyridine-3-carboxylic acids that exhibit nicotinamide activity (Ref. 3). By using the different terms, the conditions of use establish that MNB provides different levels of vitamin K and niacin activities.

The directions for use on the product label specify the minimum amount of menadione and niacin in MNB, and do so in units commonly used in the feed industry (Ref. 9). Animal nutritionists routinely mix feed ingredients to obtain a complete, balanced animal diet, and the composition of this diet normally changes with an animal's weight and age (Ref. 7). Therefore, users of the product will refer to the minimum amounts specified on the MNB label and mix feed accordingly with MNB and other sources of niacin to provide all nutritional needs based on the weight and age of the animals being fed.

Finally, the agency notes that the MNB label follows the Association of American Feed Control Officials (AAFCO) format, which the agency concluded was acceptable. AAFCO, primarily composed of State regulatory officials, has developed a set of model regulations concerning feed labeling. FDA generally concurs with the AAFCO model regulations although these model regulations are not binding. Feed manufacturers routinely follow the model regulations when labeling feed and are familiar with the AAFCO requirements.

III. Opportunity for Objection

A food additive shall, with respect to any particular use or intended use of such additive, be deemed to be unsafe, unless it and its use or intended use conform to the terms of an exemption that is in effect for investigational use, or there is in effect, and it and its use or intended use are in conformity with, a regulation issued under section 409(a) of the act. With respect to any intended use of a food additive, a person may file a petition with the appropriate center within FDA proposing the issuance of a regulation prescribing the conditions under which said additive may be safely used. The petition shall, in addition to any explanatory or supporting data,

contain the name of the food additive, its chemical name and composition, a statement of the conditions of the proposed use of such additive, together with all directions, recommendations, and suggestions proposed for the use of such additive with specimens of proposed labeling. The petition shall also contain relevant data bearing on the physical or other technical effect the additive is intended to produce, the quantity of the additive required to produce the desired effect, a description of practicable methods for determining the quantity of the additive in or on food and any substance formed in or on food because of its use, and full reports of investigations made with respect to the safety of the use of the additive, including information as to the methods and controls used in conducting the investigations.

Any party who will be adversely affected by this regulation may at any time on or before September 27, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. References

1. Oduho, G. W., T. K. Chung, and D. H. Baker, ''Menadione nicotinamide bisulfite is a bioactive source of vitamin K and niacin activity for chicks,'' *Journal of Nutrition*, 123: 737–743, 1993.

2. ''Guideline on the Conduct of Clinical Investigations: Responsibility of Clinical Investigators and Monitors for Investigational New Animal Drug Studies'' (''Guideline No. 39,'' U.S. Department of Health and Human Services, FDA, CVM, October 1992) (superseded by ''Guidance for Industry No. 58,'' May 1997).

3. National Research Council, *Vitamin Tolerance of Animals*, National Academy Press, 1987.

4. ''Food Additive Status of Vitamin K Active Substances in Animal Food'' (48 FR 16748, April 19, 1983).

5. Title 21 CFR 121.101, ''Substances that are generally recognized as safe,'' 1974 (21 CFR part 582, 1998).

6. Suttie, J. W., ''Vitamin K,'' *Handbook of Vitamins*, edited by L. J. Machlin, Marcel Dekker, Inc., 1991.

7. National Research Council, *The Nutritional Requirements of Poultry*, National Academy Press, 1994.

8. Swenson, M. J. ''Physiological properties and cellular and chemical constituents of blood,'' *Duke's Physiology of Domestic Animals*, edited by M. J. Swenson, Cornell University Press, 1977.

9. *Official Publication*, Association of American Feed Control Officials, Inc., 1998.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, FDA is republishing in its entirety the text of the final regulation that appeared in the **Federal Register** of January 2, 1998. This republication of the final rule does not amend the regulation in any way.

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 573.625 is republished as follows:

§ 573.625 Menadione nicotinamide bisulfite.

The food additive may be safely used as follows:

(a) *Product*. The additive is 1,2,3,4-tetrahydro-2-methyl-1, 4-dioxo-2-naphthalene sulfonic acid with 3-pyridine carboxylic acid amine (CAS No. 73581–79–0).

(b) *Conditions of use*. As a nutritional supplement in chicken and turkey feeds for both the prevention of vitamin K deficiency and as a source of supplemental niacin.

(c) *Limitations*. Not to exceed 2 grams per ton of complete feed. To assure safe use, the label and labeling shall bear adequate directions for use.

Dated: August 11, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–22314 Filed 8–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 103

[Docket No. FR–4433–F–02]

RIN 2529–AA86

Fair Housing Complaint Processing; Plain Language Revision and Reorganization

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts an interim rule, published in the **Federal Register** on April 14, 1999, that revised HUD's regulations concerning the processing of fair housing complaints.

DATES: Effective Date: September 27, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Rodriguez, Acting Director, Office of Enforcement, Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–2000; telephone (202) 708–0836 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On April 14, 1999, HUD published in the **Federal Register** an interim rule (64 FR 18538) that revised HUD's fair housing complaint processing regulations. The interim rule revised these regulations in two ways. First, the sections of HUD's regulations that addressed the filing of complaints were rewritten using plain language. Plain language is an approach to writing that promotes responsive, accessible, and understandable written communication. Second, the sections of HUD's regulations that addressed the investigation of complaints were moved to another place in the regulations. We revised these regulations to make the procedures for filing housing discrimination complaints easier to understand.

The interim rule solicited comments from the public on these revisions and included a 60-day public comment period. The public comment period closed on June 14, 1999. We received no comments on the interim rule. This final rule adopts the interim rule without change.

II. Findings and Certifications

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or, tribal governments or on the private sector.

Environmental Impact

This final rule concerns fair housing enforcement procedures. Accordingly, under 24 CFR 50.19(c)(3), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Impact on Small Entities

The Secretary has reviewed this final rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule would not have a significant economic impact on a substantial number of small entities. This final rule adopts an interim rule, published in the **Federal Register** on April 14, 1999, that revised HUD's regulations concerning the processing of fair housing complaints.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612 (entitled ''Federalism''), has determined that the policies contained in this final rule do not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 24 CFR Part 103

Administrative practice and procedure, Aged, Fair housing, Individuals with disabilities, Intergovernmental relations, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

PART 103—FAIR HOUSING—COMPLAINT PROCESSING

Accordingly, the interim rule amending 24 CFR part 103, which was published at 64 FR 18538 on April 14, 1999, is adopted as a final rule without change.

Dated: August 13, 1999.

Eva M. Plaza,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 99–22362 Filed 8–26–99; 8:45 am]

BILLING CODE 4210–28–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 24 and 252

[T.D. ATF–413]

RIN 1512–AC00

Technical Amendments

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule makes technical amendments and conforming changes to the wine and exportation of liquors regulations to provide clarity and uniformity.

DATES: Effective August 27, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy Kern, Regulations Division, (202) 927–8210, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) administers regulations published in Title 27, Code of Federal Regulations. These regulations are updated April 1 of each year to incorporate new or revised regulations that were published by ATF in the **Federal Register** during the preceding year. ATF identified several amendments that are needed to provide clarity and uniformity to the regulations in 27 CFR.

These amendments do not make any substantive changes and are only intended to improve the clarity of title 27.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no recordkeeping or reporting requirements.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply to this rule because no notice of proposed rulemaking is required.

Executive Order 12866

This final rule is not subject to the requirements of Executive Order 12866 because the regulations make nonsubstantive technical corrections to previously published regulations.

Administrative Procedure Act

Because this final rule merely makes technical corrections to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation in section 553(d).

Drafting Information

The author of this document is Nancy M. Kern, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 24

Administrative practice and procedure, Authority delegation, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

27 CFR Part 252

Aircraft, Alcohol and alcoholic beverages, Armed forces, Authority delegations, Beer, Claims, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting requirements, Transportation, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 24—WINE

Paragraph 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. In § 24.177, revise the fourth sentence to read as follows:

§ 24.177 Chaptalization (Brix adjustment).

* * * If grape juice or grape wine is ameliorated after chaptalization, the quantity of pure dry sugar added to

juice for chaptalization will be included as ameliorating material. * * *

* * * * *

Par. 3. In § 24.180, revise the second sentence to read as follows:

§ 24.180 Use of concentrated and unconcentrated fruit juice.

* * * Concentrated fruit juice reduced with water to any degree of Brix greater than 22 degrees Brix may be further reduced with water to any degree of Brix between its original density and 22 degrees Brix. * * *

* * * * *

PART 252—EXPORTATION OF LIQUORS

Par. 4. The authority citation for part 252 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

Par. 5. In § 252.62, revise the second sentence of paragraph (c) to read as follows:

§ 252.62 Bond, Form 2735 (5100.30).

* * * * *

(c) * * * The exporter may reapportion the bond coverage, if changing conditions make this necessary, by filing a consent of surety, ATF Form 1533 (5000.18), for approval by the Director of Industry Operations (DIO).

* * * * *

Signed: June 25, 1999.

John W. Magaw,

Director.

Approved: June 12, 1999.

John P. Simpson

Deputy Assistant Secretary,

(Regulatory, Tariff and Trade Enforcement).

[FR Doc. 99–22290 Filed 8–26–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF JUSTICE

28 CFR Part 0

[AG Order No. 2250–99]

Personnel and Administrative Authorizations

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule transfers the current delegations of authority for personnel and certain administrative matters affecting General Schedule grades GS–1 through GS–15 and wage board positions in the Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA) contained in the Department of Justice regulations. The rule also revises the regulations to add delegations of authority for the Office of Justice Programs, the Executive Office for Immigration Review, and the Executive Office for United States Trustees. This revision consolidates the delegated authority for General Schedule grades GS–1 through GS–15 and wage board positions for all bureaus in one section. Finally, this rule publishes the definition of ''career employee in the civil service'' as it applies to the FBI–DEA Senior Executive Service (SES) and clarifies the authority delegated to the Deputy Attorney General will respect to personnel in the FBI–DEA SES.

EFFECTIVE DATE: August 17, 1999.

FOR FURTHER INFORMATION CONTACT: Valerie M. Willis, Assistant Director, Executive Resources Group, Personnel Staff, Department of Justice, National Place Building, Suite 1170, 1331 Pennsylvania Avenue, NW, Washington, DC 20530, telephone (202) 514–6794.

SUPPLEMENTARY INFORMATION: The Department is consolidating in 28 CFR 0.138 the delegated authority for General Schedule grades GS–1 through GS–15 and wage board positions for all Department components. These delegations were previously included in two separate sections: 28 CFR 0.137 (delegations to the FBI and DEA) and 28 CFR 0.138 (delegations to bureaus. Because section 0.138 currently does not include all the components within the Department, this rule adds the Office of Justice Programs, the Executive Office for Immigration Review, and the Executive Office for United States Trustees to the components listed in section 0.138, thereby consolidating in one section delegations for all Department components.

This rule also publishes the definition of the term ''career employee in the civil service'' as it applies to eligibility for selection to the FBI–DEA SES in section 0.157. As provided in 5 U.S.C. 3151 (b)(2)(B), the Attorney General and the Director of the Office of Personnel Management have consulted and agreed to the definition of ''career employee in the civil service'' added to section 0.157.

Section 0.157 has also been modified to clarify the authority delegated to the Deputy Attorney General. It has been revised further to remove current redelegations. Redelegations will be made in internal guidance. Making redelegations by such guidance will allow greater flexibility to the Department to redelegate when it is in the interest of the Department to do so, e.g., where reorganizations occur within the DEA or the FBI.

Administrative Procedure Act 5 U.S.C. 553

This rule is a rule of agency organization and is therefore exempt from the notice requirement of 5 U.S.C. 553(b). This rule is made effective upon signature.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Attorney General has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The rule pertains only to personnel and administrative matters affecting the Department.

Executive Order 12866

This action has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management, and personnel as described by Executive Order 12866 section 3(d)(3) and therefore is not a ''regulation'' or ''rule'' as defined by that Executive Order. Accordingly, this action has not been reviewed by the Office of Management and Budget.

Executive Order 12612

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

Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not 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, and it will not significantly or uniquely affect small governments. Therefore, no actions were

deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write to Valerie M. Willis, (202) 514–6794.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

According, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515–519.

§ 0.137 [Removed and Reserved]

2. Section 0.137 of Subpart X is removed and reserved.

3. Section 0.138 is revised to read as follows:

§ 0.138 Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Prisons, Federal Prison Industries, Immigration and Naturalization Service, United States Marshals Service, Office of Justice Programs, Executive Office for Immigration Review, Executive Office for United States Attorneys, Executive Office for United States Trustees.

(a) The Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization Service, the Director of the United States Marshals Service, the Assistant Attorney General for the Office of Justice Programs, the Director of the Executive Office for Immigration Review, the Director of the Executive Office for United States Attorneys, and the Director of the Executive Office for United States Trustees are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, awards, classification, and separation) of personnel in General Schedule grades GS–1 through GS–15 and in wage board positions, but excluding therefrom all attorney and U.S. Marshal positions. Such officials are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to employ on a temporary basis experts or consultants or organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)).

(b) All personnel actions taken under this section shall be subject to post-audit and correction by the Assistant Attorney General for Administration.

4. Section 0.157 is amended by removing paragraph (e) and revising paragraphs (b) through (d) to read as follows:

§ 0.157 Federal Bureau of Investigation-Drug Enforcement Administration Senior Executive Service.

* * * * *

(b) Pursuant to 5 U.S.C. 3151(b)(2)(B), a career employee in the civil service is one who occupies, or who within the last 5 years occupied, a permanent position in the competitive service, a career-type permanent position in the excepted service, or a permanent position in the SES while serving under a career appointment. A career-type permanent position in the excepted service does not include:

(1) A Schedule C position authorized under 5 CFR 213.3301;

(2) A position that meets the same criteria as a Schedule C position; and

(3) A position where the incumbent is traditionally removed upon a change in Presidential Administration.

(c) Except as to the position of Deputy Director of the FBI (which remains subject to the exclusive authority of the Attorney General), the FBI–DEA SES is subject to the overall supervision and direction of the Deputy Attorney General, who shall ensure that the FBI–DEA SES is designed and administered in compliance with all statutory and regulatory requirements.

(d) The Attorney General retains the authority to recommend members of the FBI–DEA SES for Presidential Rank Awards.

Dated: August 17, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–22349 Filed 8–26–99; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1917 and 1918

RIN 1218–AB33

Powered Industrial Truck Operator Training; Stay of Compliance Dates

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; Stay of compliance dates.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is staying the compliance date for the new Powered Industrial Truck Operator Training Standard as it applies to employers in the Marine Terminal and Longshoring Industries from December 1, 1999, until March 1, 2000. The compliance date of the standard for employers in General Industry, Shipyards and Construction remains December 1, 1999.

DATES: The effective date of this document is August 27, 1999.

The effective date for the new Powered Industrial Truck Operator Training Standard, published December 1, 1998 (63 FR 66238), is March 1, 1999.

Compliance Dates: The dates by which powered industrial truck operators must be trained and evaluated pursuant to the new standard in the Marine Terminal and Longshoring Industries are shown on the following table.

If the employee was hired	The initial training and evaluation of that employee must be completed
Before March 1, 2000	By March 1, 2000.
After March 1, 2000 ..	Before the employee is assigned to operate a powered industrial truck.

Until operators are trained and evaluated pursuant to the new standard, employers in the Marine Terminal and Longshoring Industries must remain in compliance with OSHA's prior powered industrial truck operator training standards: 29 CFR 1917.27 (1998) for marine terminals; and 29 CFR 1918.98 (1998) for longshoring.

FOR FURTHER INFORMATION CONTACT: Direct press inquiries to: Bonnie Friedman, Director, Office of Information and Consumer Affairs, Rm. N3637, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–1999, Fax (202) 693–1634. Direct technical inquires to: Paul Rossi, Office of Maritime Safety Standards, Rm. N3621, telephone (202) 693–2066, Fax (202) 693–1663 or Patrick Kapust, Directorate of Compliance Programs, Rm. N–3603, telephone (202) 693–1850, Fax (202) 693–1628 at the above address.

SUPPLEMENTARY INFORMATION: On December 1, 1998, OSHA published a final standard improving training requirements for powered industrial truck operators at 63 FR 66238–66274. The new standard applies to employees in general industry, shipyards, marine terminals, longshoring and construction. The new standard will replace existing, more general training requirements in standards pertaining to each of these industrial sectors. The new standard had an effective date of March 1, 1999, and a completion of initial training and evaluation date of December 1, 1999 for operators employed before December 1, 1999. Completion of initial training and evaluation for operators hired on or after December 1, 1999 shall occur prior to their assignment to operate a truck.

The National Maritime Safety Association, Inc. (NMSA) petitioned for review of the standard in the Court of Appeals as it applied to the marine terminal and longshoring industries. (No other legal challenges were filed.) NMSA has asked OSHA to consider that certain unique circumstances in those industries involving the use of day labor and hiring halls suggest the need for flexibility in interpreting some provisions of the new standard.

OSHA, NMSA and some of its management and labor members are engaged in settlement negotiations, which have made some progress. In order to permit time for the negotiations to proceed, OSHA and NMSA have agreed to delay the court briefing schedule, and OSHA has agreed to stay the compliance dates of the new Powered Industrial Truck Operator Training Standard for the marine terminals and longshoring industries from December 1, 1999 to March 1, 2000. In the interim, employers in the marine terminal and longshoring industries are to remain in compliance with the pre-existing powered industrial truck training requirements at 29 CFR 1917.27 and 29 CFR 1918.98, respectively, which appear in the CFR volume, 29 CFR Parts 1911 to 1925 (Revised as of July 1, 1998).

The new Powered Industrial Truck Operator Training Standard is codified as 29 CFR 1910.178(1) and was published at 63 FR 66270–66273 (December 1, 1998). The new standard is made applicable to marine terminals by cross reference from 29 CFR 1917.1 (a)(2)(xiv) and to longshoring by 29 CFR 1918.1(b)(10). See 63 FR 66274. Accordingly, to give notice of the stay, OSHA is adding a note following 29 CFR 1917.1(a)(2)(xiv) and 29 CFR 1918.1(b)(10).

OSHA is not staying the compliance date of the standard for the general industry, shipyard and construction sectors. Accordingly, compliance with the new Powered Industrial Truck Operator Standard is required for those sectors by December 1, 1999. See also 64 FR 22552 (April 27, 1999) for further discussion of the compliance dates.

List of Subjects

29 CFR Part 1917

Hazardous substances, Longshore and harbor workers, Marine terminals, Occupational safety and health, Reporting and recordkeeping.

29 CFR Part 1918

Freight, Hazardous substances, Longshore and harbor workers, Occupational safety and health, Reporting and recordkeeping, Vessels.

Authority and Signature:

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.

Signed at Washington, DC this 23rd day of August, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

Accordingly, pursuant to sections 4, 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657,) section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), Secretary of Labor's Order 6–96 (62 FR 111), and 29 CFR part 1911, 29 CFR parts 1917and 1918 are amended as set forth below.

SUBPART 1917—MARINE TERMINALS

1. The authority citation for part 1917 continues to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 235736), or 6–96 (62 FR 111), as applicable; and 29 CFR Part 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

Subpart A—Scope and Definitions

2. Section 1917.1 is amended by revising paragraph (a)(2)(xiv) to read as follows:

§ 1917.1 Scope and applicability.

(1) * * *

(2) * * *

(xiv) Powered industrial truck operator training, Subpart N, § 1910.178(1).

Note to Paragraph (a)(2)(xiv): The compliance dates of December 1, 1999 set forth in 29 CFR 1910.178(l)(7) are stayed until March 1, 2000 for Marine Terminals.

PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

1. The authority citation for part 1918 continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 653, 655, 657; Walsh Healey Act, 41 U.S.C.. 35 et seq.; Service Contract Act of 1965, 41 U.S.C. 351 et seq.; Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333; Sec. 41 of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 941; National Foundation of Arts and Humanities Act, 20 U.S.C. 951 et seq.; Secretary of Labor's Order No. 6–96 (62 FR 111); and 29 CFR part 1911.

Subpart A—Scope and Definitions

2. Section 1918.1 is amended by revising paragraph (b)(10) to read as follows:

§ 1918.1 Scope and application.

* * * * *

(b) * * *

(10) Powered industrial truck operator training, Subpart N, § 1910.178(l).

Note to Paragraph (b)(10): The Compliance dates of December 1, 1999 set forth in 29 CFR 1910.178(l)(7) are stayed until March 1, 2000 for Longshoring.

[FR Doc. 99–22304 Filed 8–26–99 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–99–094]

RIN 2115–AA97

Safety Zone: Staten Island Fireworks, Lower New York Bay and Raritan Bay

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones for Staten Island fireworks displays located on Lower New York Bay and Raritan Bay. This action is necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic in a portion of Lower New York Bay and Raritan Bay.

DATES: This temporary final rule is effective from 8:30 p.m. on August 28, 1999, until 10 p.m. September 5, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (718) 354–4193.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4193.

SUPPLEMENTARY INFORMATION:

Regulatory History

On July 7, 1999, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Staten Island Fireworks, Lower New York Bay and Raritan Bay in the **Federal Register** (64 FR 36633). The Coast Guard received no letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Good cause exists for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date the Application for Approval of Marine Event was received, there was insufficient time to promulgate a NPRM and a temporary final rule that would be effective at least 30 days after it was published. The Coast Guard published an NPRM with a 45-day comment period, but this did not leave sufficient time to publish the temporary final rule 30 days before its effective date. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of Lower New York and Raritan Bays, and provide for the safety of life on navigable waters.

Background and Purpose

The fireworks programs are being sponsored by the Borough of Staten Island. This temporary final rule establishes two temporary safety zones. First, in all waters of Lower New York Bay within a 360-yard radius of the fireworks barge located in approximate position 40°35′11″ N, 074°03′42″ W (NAD 1983), about 350 yards east of South Beach, Staten Island. The safety zone is in effect from 8:30 p.m. until 10 p.m. on August 28, 1999. The rain date for this event is August 29, 1999, at the same time and place. Second, in all waters of Raritan Bay in the vicinity of the Raritan River Cutoff and Ward Point Bend (West) within a 240-yard radius of the fireworks barge in approximate position 40°30′04″ N, 074°15′35″ W (NAD 1983), about 240 yards east of Raritan River Cutoff Channel Buoy 2 (LLNR 36595). The temporary safety zone is in effect from 8:30 p.m. until 10 p.m. on September 4, 1999. The rain date of this event is September 5, 1999, at the same time and place. The temporary safety zones prevent vessels from transiting a portion of Lower New York Bay and Raritan Bay in the vicinity of the Raritan River Cutoff, Ward Point Bend (West). The temporary safety zones are needed to protect boaters from the hazards associated with fireworks launched from two barges in the area. Marine traffic will still be able to transit through Lower New York Bay during the event off South Beach on August 28, 1999. Marine traffic will still be able to transit through the eastern 140 yards of the 230-yard wide Ward Point Bend (West) during the event on September 4, 1999. Traffic that cannot transit through the closed Raritan River Cutoff may transit through Ward Point Bend (West) by using South Amboy Reach, Great Beds Reach, Ward Point Secondary Channel, and Ward Point Bend (East). Additionally, vessels are not precluded from mooring at or getting underway from any marinas or piers at Perth Amboy, New Jersey during the display in the Raritan River Cutoff. Public notifications will be made before the event by the Local Notice to Mariners and marine information broadcasts. The Coast Guard limited the comment period for this NPRM to 45 days because the temporary safety zones are only for one and a half hour long local events.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. No changes were made to the proposed rule.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, and on the facts that vessels are not precluded from getting underway, or mooring at, the marinas and piers in Perth Amboy, New Jersey; that marine traffic will still be able to transit through Lower New York Bay during the display on August 28, 1999; that marine traffic will still be able to transit to the east of the zone on September 4, 1999; and that advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

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

For reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this temporary final rule under the

principles and criteria contained in Executive Order 12612 and has determined that this temporary final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104–4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This temporary final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this temporary final rule is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

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

2. Add temporary § 165.T01–094 to read as follows:

§ 165.T01–094 Safety Zone: Staten Island Fireworks, Lower New York Bay and Raritan Bay.

(a) *Safety Zone A:* (1) *Location.* All waters of Lower New York Bay within a 360-yard radius of the fireworks barge in approximate position 40°35′11″ N., 074°03′42″ W. (NAD 1983), about 350 yards east of South Beach, Staten Island.

(2) *Effective period.* This paragraph is effective from 8:30 p.m. until 10 p.m. on August 28, 1999. If the event is canceled for inclement weather, then this paragraph is effective from 8:30 p.m. until 10 p.m. on August 29, 1999.

(b) *Safety Zone B:* (1) *Location.* All waters of Raritan Bay in the vicinity of the Raritan River Cutoff and Ward Point Bend (West) within a 240-yard radius of the fireworks barge in approximate position 40°30′04″ N., 074°15′35″ W. (NAD 1983), about 240 yards east of Raritan River Cutoff Channel Buoy 2 (LLNR 36595).

(2) *Effective period.* This paragraph is effective from 8:30 p.m. until 10 p.m. on September 4, 1999. If the event is canceled for inclement weather, then this paragraph is effective from 8:30 p.m. until 10 p.m. on September 5, 1999.

(c) *Effective period.* This section is effective from 8:30 p.m. on August 28, 1999, until 10 p.m. September 5, 1999.

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

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

Dated: August 23 1999.

R.E. Bennis,

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

[FR Doc. 99–22333 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–81–167; FRL–6427–4]

Approval and Promulgation of State Implementation Plans; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision from the State of California demonstrating that the California Low Emission Vehicle (LEV) program qualifies as a substitute for the Clean Air Act (CAA) Clean Fuel Fleet (CFF) vehicle program. The CAA requires states, in order to opt-out of the CFF vehicle program, to submit a substitute program for all or a portion of the program which consists of measures not otherwise required by the Act and that achieves at least equal long-term emission reductions of ozone-producing and air toxic emissions. EPA is taking these actions under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

EFFECTIVE DATE: This approval is effective on September 27, 1999.

ADDRESSES: The rulemaking docket for this notice is available for public inspection during normal business hours at EPA's Region IX office, Air Division, 75 Hawthorne Street, San Francisco, CA 94105–3901. A reasonable fee may be charged for copying parts of the docket.

Copies of related materials are also available for inspection at the following location: California Air Resources Board, 2020 L Street, Sacramento, California 95814–2815

FOR FURTHER INFORMATION CONTACT: Roxanne Johnson, EPA Region IX Air Planning Office, (415) 744–1225, or johnson.roxanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. EPA's Final Action

We are approving a SIP revision submitted by the State of California, consisting of Executive Order G–125–145 containing a substitute for the CAA CFF vehicle program, dated November 7, 1994.[1] The California Air Resources Board (CARB) Executive Order G–125–145 is a formal document which sets forth the substance of California's opt-out request and describes the legal authority under which the SIP revision was submitted.

Sections 182(c)(4)(A) and 246 of the Act require certain states, including California, to submit for EPA approval a SIP revision that includes measures to implement the Clean Fuel Fleet vehicle program. Section 182(c)(4)(B) of the CAA allows states to ''opt-out'' of the

[1] CARB submitted the Executive Order on November 7, 1994 which appended the State's May 11, 1994 SIP submittal. On November 13, 1992, CARB submitted a request to EPA to revise the SIP and opt-out of the CAA CFF vehicle program. In this submittal CARB committed to supply more detailed emission reduction data demonstrating equivalence to the CAA CFF vehicle program, and requested the EPA to conditionally approve the commitment pursuant to CAA section 110(k)(4). The conditional approval dated November 29, 1993, (published at 58 FR 62532) stated that California would be required to submit a SIP revision fulfilling the commitment by May 15, 1994.

CFF vehicle program by submitting for EPA approval a SIP revision consisting of a program or programs not otherwise required by the Act that will result in at least equivalent long term reductions in ozone-producing and toxic air emissions.

II. Background

The six serious and above nonattainment areas for either one or both ozone and carbon monoxide (CO) subject to the CAA Clean Fuel Fleets program include: Los Angeles-South Coast Air Basin; Sacramento Metro; San Diego; San Joaquin Valley; Southeast Desert Modified AQMD; and Ventura County. California has designated a certain portion of the emission benefits achieved by their LEV program as a substitute for the CAA fleet program. California has estimated that the LEV program will achieve more than 50 times the ROG emission reduction and more than 30 times the NO_X emission reduction compared to the CAA fleet program.

On November 7, 1994, CARB submitted as a SIP revision Executive Order G–125–145, formally adopting its request to opt-out of the CAA CFF vehicle program, and attaching supporting materials demonstrating that the State's LEV program achieves longterm reductions in emissions of ozone-forming and air toxic pollutants at least as large as those that would be achieved by the CAA CFF vehicle program. On January 30, 1995, the revision was found to be complete pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.[2] On April 14, 1997, EPA proposed approval of the State's November submittal and removed the condition on approval of California's opt-out of the CAA CFF vehicle program in a notice of proposed rulemaking (NPRM) published at 62 FR 18071[3].

III. Response to Public Comments

A. Summary of Comments and Responses

EPA received comments on the proposed approval only from the California Air Resources Board (CARB). CARB pointed out that the language in the proposal did not clearly state that CARB was opting to use a ''portion'' of the benefits achieved from their Low Emission Vehicle (LEV) program to meet the CAA opt-out requirements.

Response: EPA understands that CARB intended to rely on a portion of the emissions reductions achieved by the LEV program as its substitute for the CFF program. In the May 1994 SIP submittal, CARB estimated the reductions in ozone-forming and toxic air emissions that would be achieved through implementation of the CAA clean fuel fleet program compared to the LEV program. The estimated emission benefits for both programs were calculated for reactive organic gas (ROG), NO_X, and CO emission benefits for the years 2000 and 2010. Implementation of the CAA CFF program is expected to reduce 2.2 tons/day of ROG, 5.0 tons/day of NO_X, and 6.0 tons/day of CO in the year 2000 and 5.0 tons/day of ROG, 10.2 tons/day of NO_X, and 10.4 tons/day of CO in the year 2010. CARB also provided a rationale from their LEV program for long-term emission reductions of toxic air contaminants. The comparison of the emission benefits from the LEV program and the CAA CFF program demonstrated emission reductions in the two ozone precursors ROG and NO_X and therefore a concurrent reduction in the toxic air contaminants included in ROG. CARB cited an EPA study on motor vehicle related toxic air contaminants emphasized those toxics that '' * * * pose the greatest risk to human health or about which significant uncertainties remain, including emissions of benzene, formaldehyde, and 1,3-butadiene (EPA, 1993).'' CARB further stated that emissions of benzene typically account for over 80 percent of the sum total exhaust emissions of these three compounds and are expected to be reduced by the same relative amount as total ROG emissions. Formaldehyde and 1,3-butadiene emissions are also expected to be reduced with ROG emissions although the relative amounts appear to be more variable. CARB's LEV program is expected to provide long-term reductions in toxic air contaminants that will exceed levels anticipated from implementation of the CAA CFF program due to the reductions in ROG emissions of 252 tons/day in the year 2010.

B. Conclusion

We are finalizing the action as proposed. The emission benefits analysis performed by CARB demonstrates that the LEV program provides long-term reductions in ozone and toxic air contaminants exceeding those of the CAA clean fuel fleet program (see Table 1). It should also be noted that CARB is not committing the full benefits demonstrated by the LEV program, but is committing only that portion of the benefits equivalent to those provided by the CAA clean fuel fleet program. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

TABLE 1.—EMISSION BENEFITS: CAA CFF PROGRAM V CA LEV PROGRAM

[Tons/day]

Vehicle Type	CAA CFF Program			LEV Program		
	ROG	NOx	CO	ROG	NOx	CO
Year 2000:						
Passenger Cars	0.84	0.93	3.97	34.61	214.11	38.22
Light-Duty Trucks < 6,001 lbs	0.28	0.41	0.00	8.27	8.17	11.51
Medium-Duty Vehicles	0.09	0.00	0.00	2.53	0.43	0.26
Heavy-Duty Vehicles[1]	0.97	3.65	2.00	0.77	0.44	0.11
Total	2.18	4.99	5.97	46.18	223.15	50.10
Year 2010:						
Passenger Cars	1.60	1.74	6.62	170.35	222.52	824.73

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Final rulemaking published November 29, 1993 at 59 FR 62532.

Table 1.—Emission Benefits: CAA CFF Program v CA LEV Program—Continued

[Tons/day]

Vehicle Type	CAA CFF Program			LEV Program		
	ROG	NOx	CO	ROG	NOx	CO
Light-Duty Trucks < 6,001 lbs	1.16	1.61	0.00	52.35	86.40	88.77
Medium-Duty Vehicles	0.38	0.00	0.00	20.11	5.80	18.02
Heavy-Duty Vehicles	1.89	6.83	3.83	9.45	6.72	11.78
Total	5.03	10.18	10.45	252.26	321.44	943.30

[1] For this analysis, heavy-duty vehicles consist of two categories: (1) light heavy-duty (8501—321.4414,000 lbs) and (2) medium heavy-duty (14,001–33,000 lbs). The federal clean fuel fleet program applies to vehicles weighing less than 26,000 lbs and the LEV program to those weighing less than 14,000 lbs.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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 the Office of Management and Budget 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 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.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, 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 the Office of 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, 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. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective

and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 14, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(201) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(201) A plan for the following agency was submitted on November 7, 1994 by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(*1*) California's Opt-out Program, Executive Order G–125–145, dated November 7, 1994.

* * * * *

[FR Doc. 99–22187 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AC82

Extensions of Application Period for Temporary Housing Assistance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule expands the circumstances under which the Regional Director may extend the standard 60-day application period for assistance provided under the Disaster Housing Program. This rule also retains FEMA's authority to accept an individual application made after the application period has closed when the applicant's reason for lateness is justified.

EFFECTIVE DATE: This rule is effective September 27, 1999.

FOR FURTHER INFORMATION CONTACT: Laurence W. Zensinger, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3642, (facsimile) 202–646–2730, or (e-mail) laurence.zensinger@fema.gov.

SUPPLEMENTARY INFORMATION: On May 6, 1998, we published a proposed rule in the **Federal Register** at 63 FR 25010 and invited comments for 60 days ending on July 6, 1998. We received one set of comments from a legal assistance attorney. While most of the submitted comments addressed issues beyond the scope of the proposed rule, those comments that did address the proposed rule were in favor of placing the flexibility for an extension to the application period in regulation. The attorney asked for additional information on two points: (1) What circumstances may warrant an extension; and (2) what would be sufficient justification for a late application to be accepted. We will issue a policy to provide guidance on these points once the final rule is in effect. We are publishing the final rule with no substantive changes from what we published as a proposed rule.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. We have not prepared an environmental impact assessment.

Executive Order 12866, Regulatory Planning and Review

This rule is not a significant regulatory action within the meaning of section 2(f) of Executive Order 12866 of September 30, 1993, 58 FR 51735. To the extent possible, this rule adheres to the regulatory principles set forth in Executive Order 12866. The Office of Management and Budget has not reviewed it under the provisions of Executive Order 12866.

Paperwork Reduction Act

This rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This rule does not involve any policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Congressional Review of Agency Rulemaking

We have submitted this final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Public Law 104–121. The rule is not a ''major rule'' within the meaning of that Act. It is an administrative action in support of normal day-to-day activities. It does not result in nor is it likely to result in an annual effect on the economy of $100,000,000 or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have ''significant adverse effects'' on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

This final rule is exempt (1) from the requirements of the Regulatory Flexibility Act, and (2) from the Paperwork Reduction Act. The rule is not an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995, Public Law 104–4. It does not meet the $100,000,000 threshold of that Act, and any enforceable duties are imposed as a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Disaster assistance, Housing.

Accordingly, we amend 44 CFR part 206 as follows:

PART 206—FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988

1. The authority citation for part 206 continues to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

Subpart D—Temporary Housing Assistance

2. We revise § 206.101(e)(1) to read as follows:

§ 206.101 Temporary housing assistance.

* * * * *

(e) *Applications*—(1) *Application period.* The standard FEMA application period is the 60 days following the date the President declares an incident a major disaster or an emergency. The Regional Director may, however, extend the application period, when we anticipate that we need more time to collect applications from the affected population or to establish the same application deadline for contiguous Counties or States. After the application period has ended, FEMA will accept and process applications for an additional 60 days only from persons who can provide an acceptable explanation (and documentation to substantiate their explanation) for why they were not able to contact FEMA before the application period ended.

* * * * *

Dated: August 5, 1999.

James L. Witt,

Director.

[FR Doc. 99–21960 Filed 8–26–99; 8:45 am]

BILLING CODE 6718–02–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. RSPA–98–3783; Amendment 192–86; 195–67]

RIN 2137–AB38

Pipeline Safety: Qualification of Pipeline Personnel

AGENCY: Research and Special Programs Administration (RSPA); Office of Pipeline Safety (OPS).

ACTION: Final rule.

SUMMARY: This final rule requires pipeline operators to develop and maintain a written qualification program for individuals performing covered tasks on pipeline facilities. The intent of this qualification rule is to ensure a qualified work force and to reduce the probability and consequence of incidents caused by human error. This final rule creates new subparts in the gas and hazardous liquid pipeline safety regulations. It establishes qualification requirements for individuals performing covered tasks, and amends certain training requirements in the hazardous liquid regulations. This final rule was developed through a negotiation process.

DATES: This final rule will be effective on October 26, 1999.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, or by e-mail at eben.wyman@rspa.dot.gov, regarding the subject matter of this final rule; or the Dockets Unit, (202) 366–4453, for copies of this final rule or other material in the docket. All materials in this docket may be accessed electronically at http://dms.dot.gov. General information about the RSPA Office of Pipeline Safety can be obtained by accessing OPS's Internet home page at http://ops.dot.gov.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Although no regulatory program is capable of completely eliminating human error, the objective of this final rule is to reduce the risk of accidents on pipeline facilities attributable to human error. This final rule for the qualification of individuals is intended to provide an additional level of safety. This final rule does not replace existing qualification requirements in 49 CFR Part 192. However, it does remove the operations and maintenance training requirements of 195.403. The final rule does not diminish the importance of the safety requirements already in the pipeline safety regulations. These include requirements for safety design features, such as relief valves and over-pressure protection devices, to provide protection against human error and other causes of incidents and accidents.

The final rule requires operators of pipelines to develop a qualification program to evaluate an individual's ability to perform covered tasks, and to recognize and react to abnormal operating conditions that may occur while performing covered tasks.

The final rule also sets recordkeeping requirements that operators must follow to successfully demonstrate compliance, and the information that must be maintained on each individual who has been evaluated and deemed qualified to work on a pipeline facility. Finally, the final rule specifies the deadlines by which operators must develop and implement their qualification programs.

This final rule allows operators with existing programs to modify those programs if necessary to ensure compliance with the minimum requirements of this final rule. The final rule also requires operators without a qualification program to establish a program to evaluate the qualifications of individuals performing certain operation and maintenance activities on those pipeline facilities that could affect pipeline operation or integrity.

This final rule establishes a new Subpart N in 49 CFR Part 192 and a new Subpart G in 49 CFR part 195. The final rule amends the training regulations in

49 CFR 195.403. The emergency response training requirements remain as they appear in 49 CFR 195.403.

II. Statutory Authority and Regulatory History

Sections 106 and 205 of the Pipeline Safety Act of 1992 (Pub. L. No. 102–508) required the Department of Transportation to establish regulations requiring that ''all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities.''

On August 3, 1994, RSPA published a notice of proposed rulemaking to establish specific training requirements for the qualification of pipeline workers (59 FR 39506). This proposal would have introduced qualification standards for personnel that perform, or supervise persons performing, regulated operations, maintenance, and emergency response functions. The purpose of the proposal was to improve pipeline safety by requiring operators to ensure the competency of pipeline personnel through training, testing, and periodic refresher training.

In response to this notice, RSPA received 131 comments that expressed a wide variety of interests and concerns. Most commenters asserted that the proposal should have taken a more general approach to qualification with broad requirements for persons performing ''safety related'' functions. Commenters stated that the proposal was too prescriptive and that the many references to training requirements should be modified to focus the proposal on actual qualification, rather than on the method(s) of achieving qualification.

OPS' technical advisory committees, the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee, disapproved of the proposal. These Committees passed several motions for amendments to the proposal. These motions were generally consistent with the written comments.

Subsequently, the Pipeline Safety Act was amended to require that ''all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities'' (49 U.S.C. 60102(a)). This Act also requires that the ''qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits'' (49 U.S.C. 60102(a)).

Following review of the comments to the 1994 proposed rulemaking, as well as recommendations by the Technical Advisory Committees, and a petition for withdrawal and alternative proposal submitted collectively by the American Gas Association, the American Public Gas Association, and the Southern Gas Association, RSPA decided that a regulatory process other than traditional rulemaking would better address the issues surrounding operator qualifications. Consequently, RSPA issued a Notice of Withdrawal of the 1994 proposed rulemaking (61 FR 34413; July 22, 1996) and simultaneously issued a Notice of Intent to form a negotiated rulemaking committee to develop a final rule on the qualification of pipeline personnel (61 FR 34410; July 22, 1996).

III. Negotiated Rulemaking

RSPA understands that effective regulatory solutions to certain issues can be difficult for an agency to craft. In the typical rulemaking process, the participants often develop adversarial relationships that prevent effective communication and creative solutions. Exchange of ideas that may lead to solutions that are acceptable to all interested groups does not often occur in the traditional notice and comment rulemaking procedure.

Negotiated rulemaking is conducted under authority of the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act. The process involves assembling representatives of the affected interests to discuss a particular issue and all potential solutions. The goal was to reach consensus and prepare a proposed rule for consideration by the agency. On February 22–23, 1999, the group reconvened to review received comments and make recommendations for the final rule. This inclusive process was intended to make the rule more acceptable to all affected interests and minimize the likelihood of petitions for reconsideration and litigation.

RSPA believed that the negotiated rulemaking process would provide ample opportunity for all affected parties to present their views and to reach a consensus on a proposed qualification rule. Negotiated rulemakings have been used successfully by the Department of Transportation, including the Federal Aviation Administration, the United States Coast Guard, the Federal Highway Administration, the National Highway Traffic Safety Administration, and the Federal Railroad Administration. In addition, the Environmental Protection Agency, and the Occupational Safety and Health Administration have successfully used the process.

A. Members of the RSPA Negotiated Rulemaking Committee

The Federal Mediation and Conciliation Service (FMCS) served as the convenor and facilitator for the RSPA Negotiated Rulemaking Committee (Committee). FMCS chaired the negotiations, offered suggestions in attempting to reach the desired consensus, and helped determine the feasibility of negotiating particular issues. From the beginning of this process, RSPA met with FMCS on several occasions to discuss the issues that needed to be addressed and the interests that needed to be represented on a Committee. After a comprehensive search, RSPA selected the following organizations, representing broad interests, to serve on the Committee:

1. *American Gas Association (A.G.A.):* represents a large number of gas distribution and a few transmission companies in the pipeline industry. A.G.A. members consist of both large and small operators.

2. *American Petroleum Institute (API):* represents the interests of the hazardous liquid pipeline companies. API is the major trade association in the petroleum industry, and also represents the interests of operators of other hazardous liquid pipelines.

3. *Interstate Natural Gas Association of America (INGAA):* represents the interests of the larger interstate gas transmission pipeline companies in the natural gas transportation industry. INGAA consists mainly of the larger interstate gas transmission pipelines.

4. *American Public Gas Association (APGA):* represents publicly-owned and municipal gas companies. Although these public companies are generally small, they operate a large number of the distribution pipelines in American cities and suburbs.

5. *National Propane Gas Association (NPGA):* represents the interests of propane marketing and distribution at the local level. NPGA is made up of both large and small companies.

6. *Association of Texas Intrastate Natural Gas Pipelines:* represents the interests of intrastate natural gas transmission pipelines.

7. *Midwest Energy Association (MEA):* represents over 300 investor-owned utilities, municipal utilities, contractors and manufacturers. MEA brought considerable expertise in pipeline personnel training issues.

8. *NACE International, The Corrosion Society (NACE):* an organization of corrosion experts. NACE works

primarily on issues of corrosion and corrosion control systems.

9. *National Association of Pipeline Safety Representatives (NAPSR):* represents state pipeline safety programs. Many of these organizations will incorporate the final rule on operator qualifications into their pipeline safety program.

10. *National Association of Regulatory Utility Commissioners (NARUC):* represents the interests of the state utility commissioners, who regulate gas rates and terms of service in most of the fifty states.

11. *National Association of State Fire Marshals (NASFM):* represents the interests of state fire officials in state safety programs and the issue of qualification for emergency response.

12. *International Union of Operating Engineers (IUOE):* represents the interests of a substantial number of pipeline construction and maintenance workers.

13. *International Brotherhood of Electrical Workers (IBEW):* represents over 21,000 gas industry workers.

14. *Office of Pipeline Safety (OPS):* served as the representative of RSPA, and the Designated Federal Official on the Committee.

B. Negotiated Rulemaking Committee Ground Rules

Most of the procedures and protocols followed in the negotiation were established by the Committee. A set of Committee ''ground rules'' was developed by participants at the initial meeting. Issues discussed and agreed upon by the Committee included: how discussions would be conducted, possibility of subgroups to work on particular issues, expectations of Committee members, the Committee's role throughout the rulemaking process, audience participation, and other topics. The following are some of the more significant ground rules established by the Committee:

1. Membership: All organizations were allowed one seat at the table, and permitted to name one alternate to serve in their absence.

2. Good faith: All participants were expected to act in good faith on behalf of their organization. OPS agreed to issue the Committee's proposed rule as long as it was not in conflict with any other legal requirements. In turn, the Committee agreed to support the proposal following publication in the **Federal Register**. It was agreed that the Committee would be actively involved through publication of the final rule.

3. Conduct of meetings: Committee members reserved the right to bring constituents to the table to address the Committee, and could quietly consult with constituents during the course of the negotiation. All meetings were open to the public. The Committee agreed that there would be time scheduled on every meeting agenda for comment by the audience.

4. Public Record: RSPA kept a record of all Committee meetings. This record was placed in the public docket (Docket No. PS–94) and is publicly available.

5. Consensus: The goal of the negotiating process is consensus. The Committee developed its own definition of consensus for the purposes of this rulemaking, which was as follows: ''A decision which all members or designated alternates present at the meeting can agree upon. The decision may not be everyone's first choice, but they have heard it and everyone can live with it.''

C. Committee Meetings

The Committee convened a total of eight times between May 1997, and February 1999. Each negotiating session lasted a minimum of two days, with two sessions convening for two and a half days. These meetings resulted in an NPRM which was published in the **Federal Register** on October 27, 1998, (63 FR 57269). The Committee reached final consensus on the final rule in its last meeting in February 1999.

IV. Discussion of Comments in Response to NPRM

General Comments

RSPA received 41 comments to the NPRM. Comments were received from nine pipeline-related trade associations, 25 pipeline operators, two state government agencies, two union organizations, two independent organizations, and the National Transportation Safety Board. Most commenters expressed support for the rule.

Four commenters questioned the need for an operator qualification rule. They said there is no evidence in the pipeline industry's safety record to demonstrate the need for what they alleged would be a new administrative burden. Another commenter expressed that it is inappropriate to add a new subpart to the pipeline safety regulations. However, RSPA was mandated by Congress to develop qualification requirements in several pipeline safety reauthorization actions, most recently in 1996. The mandate was supported by several entities, including many state government agencies, the National Transportation Safety Board, and others.

In addition, seven out of the 14 members of the Committee that developed this rule represented various parts of the gas and hazardous liquid pipeline industry. The Committee agreed to focus the rule on the requirements of the 1996 Act, which called for the establishment of ''qualification'' requirements rather than ''training and certification'' requirements that were mandated in the 1992 Pipeline Reauthorization Act. RSPA believes the proposed rule addresses the intent of the 1996 Act.

One commenter said that the goal of the rule could be better served by implementing general language into the pipeline safety regulations, such as ''all tasks required by Part 192 will be carried out by qualified individuals.'' RSPA disagrees that this language would be sufficient to ensure a qualified work force. This ambiguous language would not satisfy the requirements called for in the 1996 Act.

A pipeline industry trade association recommended that RSPA conduct a formal cost-benefit analysis as described in the 1996 Act. A cost-benefit analysis was performed and is a part of the public docket. RSPA is statutorily required to prepare a cost-benefit analysis, even if a rule is developed by a negotiated rulemaking committee. RSPA worked closely with the Committee on the regulatory analysis section of the rule.

Another commenter said that RSPA did not adequately consider the burdens imposed on the operator resulting from responsibility for contractor qualification, and asked that RSPA exempt operators from qualifying contractors. Another commenter noted that pipeline contractors with in-house safety training will suffer because different pipeline companies will have different qualification plans. As is the case with all pipeline safety regulations, responsibility for compliance lies with the pipeline operator. RSPA does not have regulatory jurisdiction over pipeline contractors. However, to ensure the qualification of the many contractor personnel that work regularly on pipelines, the proposed rule covers all operator employees, contractors, sub-contractors, or any other entities working on behalf of the operator.

One commenter suggested that RSPA facilitate the development of a ''model qualification program,'' to assist small operators, and to provide outreach and explanation of the rule to pipeline contractors and sub-contractors. Another commenter said that RSPA should not require compliance with ''model'' or ''industry standard'' qualification programs. RSPA believes the spirit of this rule is to allow flexibility for operators to develop

specific qualification programs for their unique systems, and that a compliance ''model'' would be inconsistent with the spirit of the rule. However, RSPA will be working with state government agencies, and pipeline industry groups to facilitate implementation of the qualification rule. RSPA believes cooperative efforts with affected parties will provide the necessary guidance for compliance with the rule.

One commenter said there should be provisions for ''transitional allowances,'' in situations where merging operators have inconsistent qualification programs. RSPA believes the time frames provided allow adequate time to resolve inconsistencies between qualification programs. Program modifications are inevitable in the case of company mergers. RSPA understands the problems that arise in the event of company mergers, and will work with operators on a case by case basis to ensure compliance with this rule.

Eleven commenters believed that the references to the existing authority of inspectors to evaluate the adequacy of qualification programs should be eliminated from the preamble of the final rule, because this authority ''already exists.'' They insisted that existing procedures provide administrative processes for resolution of disagreements. The Committee discussed this issue at length, and agreed that the references should be retained to remind all affected parties that the increased flexibility provided in this rule does not limit the authority of oversight agencies.

There were several comments regarding the implementation of this rule, and on measuring performance. A commenter suggested that RSPA provide the following provisions to mitigate the financial impact on local government systems that must comply with the rule: (1) A federally sponsored and funded training program to be administered on a state/local level; and (2) federal funds necessary for local government compliance. RSPA provides federal funds in the pipeline safety grant program, which provides up to 50% of a state agency's program, if they are considered a ''state partner'' to RSPA. Additional training programs dealing with compliance with the rule are currently under development and will be open to all interested parties, including local government entities affected by the regulation. Further, federal guidance documents such as the revised version of the ''Guidance Manual for Operators of Small Gas Systems'' will help small operators achieve compliance. Also, two commenters suggested that RSPA develop a mechanism(s) to evaluate the rule's effectiveness. RSPA plans to establish a periodic review with stakeholders regarding the effectiveness of the qualification rule.

Finally, eleven commenters said that language should be implemented in the preamble describing what process or procedure RSPA would use if it became necessary to revise the qualification rule. They suggested the following options: (1) Reconvene the Committee; (2) establish an industry/government task team; (3) hold public meetings and/or workshops; or (4) nominating stakeholders to form a peer review team. RSPA cannot predict what changes might be necessary for this rule in the future, but will periodically work with stakeholders to evaluate the effectiveness of this rule.

One commenter was concerned with the effect of the proposed rule on small operators, and suggested that RSPA provide guidance on compliance with the rule to assist small operators, and state pipeline safety inspection personnel. Another commenter believed master meter operators should be exempt from qualification requirements, because many master meter operators are small ''mom and pop'' operations. This commenter asked how these small operators would be able to evaluate qualification of the many contract personnel that work on their master meter systems.

The Committee discussed the issue of the effects of the rule on small operators and master meter systems, and agreed that special provisions would not be appropriate because the qualification of workers at both large and small pipeline operators can impact safety. Federal guidance documents such as the ''Guidance Manual for Operators of Small Gas Systems'' will be revised to help small operators achieve compliance. In addition, many training programs are currently under development by government organizations and members of the pipeline industry.

A commenter said RSPA should clarify how individuals involved in emergency response, who do not perform covered tasks, would be subject to the qualification requirements. The Committee agreed not to re-write the qualification requirements of emergency response personnel. The rule applies only to personnel performing operations and maintenance activities.

Comments to §§ 192.801/195.501—Scope

One pipeline operator suggested the reference to gas control operations on page 57273 of the proposed rule be removed from the rule. This operator claimed that monitoring is related to market response and customer delivery, not overpressure protection, and would not necessarily be a covered task. RSPA believes that controlling gas would clearly have to be considered a covered task. Any handling of the noted ''physical and mechanical devices'' would require qualification. The example remains in the final rule.

Thirty commenters were concerned with a paragraph on page 57273 of the proposed rule dealing with tasks ''performed pursuant to requirement in part 192 or 195,'' and the example of ''calibrations and low-pressure shutdowns.'' These commenters believe this language directly conflicts with the rule language, which describes a covered task as one that is ''performed as a requirement of this Part.'' The commenters noted RSPA added this paragraph to clarify the meaning of a covered task, but that it appears to expand the criteria for determining a covered task. These commenters also said that any references to ''pursuant to'' a requirement in the pipeline safety regulations should be revised to ''as required by'' to be consistent throughout the preamble and rule language. This paragraph was intended to provide further clarification of activities that would be considered covered tasks, but apparently caused confusion. RSPA has deleted the paragraph in the final rule.

Two commenters called for better guidance in identifying covered tasks. For clarification, they believed the term ''pipeline facility'' should be defined in the rule, using the existing definition in the pipeline safety regulations. The definition of the term ''pipeline facility'' can be found in 192.3 and 195.2. These definitions apply generally to those subparts of the pipeline safety regulations. RSPA does not see any merit in adding the definition to the rule.

One commenter said the preamble should include a note of clarification to distinguish the term ''task'' from ''covered task,'' as there could be some misinterpretation of the meaning of the term. RSPA agrees with this comment and has revised any appropriate references to ''task'' with ''covered tasks'' or replaced the term ''task'' with ''activity.''

Thirteen commenters expressed that under ''Tasks affecting the operation or integrity of the pipeline,'' the term ''could'' should be deleted where used in the generic sense in column 1 of page 57273 of the proposed rule to match the language in the rule. RSPA agrees and has made this change in the final rule.

Fourteen commenters wanted clarification of the ''examples'' in the proposed rule used to describe the four-part test. These commenters said that the spirit of the rule is to provide operators with opportunity to identify covered tasks unique to their systems, but the discussion of ''examples'' imply that these examples would always be covered tasks under the rule. These commenters said the preamble should be revised to express that the ''hypothetical examples,'' are not to imply that they would necessarily be covered for all operators. RSPA believes the term ''hypothetical'' speaks for itself. We believe no change is necessary.

One pipeline operator had many problems with various provisions and examples throughout the preamble. This operator incorrectly believed that the example dealing with leak surveys on page 57273 of the NPRM was inappropriate, because leak surveys do not affect the operation or integrity of the pipeline. The commenter also incorrectly said use of the term ''covered task'' is unnecessary because a covered task is simply an operations and maintenance task. Activities such as painting a pipeline for appearance reasons would not require qualification. This operator also stated that the concept of a task not being covered when performed on an unattached pipeline component was confusing, and asked for clarification. The Committee decided that when pipeline facilities are not physically attached to the pipeline, work on these facilities should not be ''covered,'' such as a manufacturers repair work off site.

This operator also alleged that the preamble does not explain that the term ''integrity'' includes the potential long-term effects of an activity. Also, this operator did not believe the example dealing with the coating and jacketing of pipelines was appropriate to illustrate the significance of tasks affecting the operation or integrity of a pipeline. RSPA disagrees with this commenter in all of these areas. The Committee discussed pipeline integrity considerably, and agreed that the examples used were appropriate. Therefore RSPA does not believe any changes are necessary.

Comments to 192.803/195.503—Definitions

Abnormal Operating Condition

Fourteen commenters suggested that the preamble should state that the Committee determined that the current definition for ''Abnormal Operation'' in part 192 would not satisfy the provisions in the 1996 Act. These commenters also claimed that this definition could be read to require individuals to recognize and react to an abnormal operating condition that is unrelated to their expertise. RSPA believes that all persons performing covered tasks should be able to reasonably recognize and react to abnormal operating conditions while performing their work. The current definition of ''Abnormal Operation'' in part 192 does not meet the requirements of the 1996 Act. Further, the Committee agreed that a separate definition would be appropriate for the purposes of this subpart.

One commenter said that the structure of Abnormal Operating Condition definition is unclear and inconsistent with the structure of other definitions. RSPA agrees and has revised the format of the definition to provide clarity.

Evaluation

Eleven commenters said that Note 1 of the table on page 57274 of the NPRM, should be clarified from ''during the period between the effective date of the rule and the three-year compliance date'' to ''October 28, 2002.'' RSPA agrees and has made the appropriate change in the final rule.

Twelve commenters said that RSPA should add the table to the rule language because the description in the preamble is not sufficient guidance for pipeline operators. RSPA does not believe the change is warranted because the rule language provides clear guidance. The table was included in the preamble for illustrative purposes only.

One commenter asked that RSPA clarify how operators should identify and document covered tasks during ''transitional'' qualification. The commenter said the reference to transitional qualification is confusing because no covered tasks are required to be documented for 20 months. It is clear that no worker may be qualified under this rule before an operator has established a qualification program, including a covered task list. Although a qualification program may be established at any time, it must be completed and documented no later than 20 months after the rule is published in the **Federal Register**. The use of the term ''transitional'' in the preamble to the rule merely highlights that current workers can be qualified solely through use of a work performance history review only during the period ending 38 months after the rule is published.

Qualified

One commenter believed there was no need to define this term because it will lead to confusion and inconsistency with other regulations. However, the Committee agreed early in the negotiating process that this term should be defined for the purposes of this rule, so no changes have been made.

One commenter stated that RSPA may need to define ''Operations and Maintenance'' or designate which sections of parts 192 and 195 are covered by the proposed rule. The final rule describes covered tasks as those identified by the operator using the ''four-part test.'' This topic is discussed further in the discussion concerning identification of covered tasks, in particular operations and maintenance tasks. Therefore, RSPA does not believe that further description is warranted in the final rule.

Comments to §§ 192.805/195.505—Qualification Program

Two commenters did not agree with the language ''contributed to an incident as defined in Part 191 of this chapter,'' because it includes LNG facilities in the definition of ''incident.'' These commenters do not believe the scope of the rule should include individuals that work at or near LNG facilities. The scope section of this rule states that the regulation would cover only Parts 192 or 195 of the pipeline safety regulations.

Two commenters believed that there may be situations where a covered task is simple or repetitive enough that a required re-evaluation at any interval is not warranted. The commenters asked that this be noted in the preamble. The Committee discussed this issue at length, and agreed that simple repetition of a covered task does not ensure that the task is performed safely and properly. Appropriate intervals (as determined by the operator) will ensure that the person performing a covered task is continually qualified. Thus, RSPA does not believe a change is needed.

One commenter noted that the description of 192.805 allows operators to add to the seven required elements of their qualification program and makes clear that operators will not be held accountable for the qualification of personnel performing non-covered tasks. However, the commenter was concerned that attempts could be made to treat non-covered tasks included in a qualification program as if they were covered tasks. The commenter suggested that RSPA revise the preamble to emphasize that voluntary tasks included

in a qualification program would not be treated as required covered tasks. RSPA believes the rule is clear as written. If a task does not meet the ''four-part test'' in § 192.805 and § 195.505, it is not covered task, even if voluntarily included in the qualification program.

Comments to §§ 192.807/195.507—Recordkeeping

No comments were received regarding these sections.

Comments to §§ 192.809/195.509—General

Thirteen commenters suggested that ''18 months'' should be changed to ''20 months after publication of the final rule.'' They also asked that RSPA change the final rule to clarify ''three years'' to ''38 months from the publication date of the final rule.'' RSPA agrees and has made the appropriate change in the final rule.

Thirteen commenters said that the language stating that a ''qualification program would be effective for a minimum of 10 years'' is confusing. Commenters suggested that RSPA remove the sentence because it could be subject to multiple interpretations. RSPA agrees and has made the change in the final rule.

Comments to 195.403—Emergency Response Training

A petroleum trade association supported the proposed revisions in 195.403, which would remove prescriptive O&M training requirements and provide consistency with gas regulations. However, the commenter suggested that the preamble clarify that hazardous liquid operators may modify or discontinue operations and maintenance training requirements only when the qualification rule is fully implemented. RSPA agrees and has added language in 195.403 to reflect this change.

RSPA has implemented several other suggested grammatical corrections in the final rule.

Comments to rulemaking analysis and notices

RSPA worked closely with the Committee, as well as with several representatives in the pipeline industry when developing the rulemaking analysis. One commenter suggested RSPA should use simple annualized costs, rather than amortized costs. However, amortized costs more accurately reflect the costs incurred by the pipeline industry.

RSPA received several comments on the following paragraphs regarding Executive Order 12866:

''However, the impact of inadequate qualification of pipeline personnel is not always apparent. For example, incidents/accidents that operators attribute to equipment failure or corrosion may actually have been set in motion by poorly performed operation or maintenance procedures.'' (63 FR 57276)

''In 1997, there were a total of 363 reportable pipeline incidents/accidents. Of these, 105 were directly attributable to human error.'' (63 FR 57276)

''In fact, human error frequently is not cited as a contributing factor in incident/accident investigations, even though it is recognized that human error underlies nearly all pipeline failures to some degree.'' (63 FR 57276)

''Perhaps the most important factor to consider when assessing the benefits of this proposal is that very few pipeline failures occur without some degree of human failure.'' (63 FR 57277)

Twenty-two commenters contend that the above references are not reasonable. They request that RSPA describe its methodology used to reach these conclusions, and substantiate these statements with sufficient and credible data, or delete them.

These commenters did not agree that human error is a contributing factor to nearly all incidents. Further, human error is not always related to lack of qualification. The commenters suggested that RSPA remove or substantiate the ''non-quantifiable benefits,'' because they questioned the assumption that the rule will improve ''work productivity and down-time.''

''[I]n 1997, there were 88 reportable incidents attributed to outside force damage in the natural gas pipeline industry. Although the data reflects outside force damage as the cause of the incidents, human error is inherently present in most outside force damage. For instance, the outside force damage may have resulted from a pipeline worker not following local one-call system procedures or from improper marking of the pipeline prior to excavation'' (63 FR 57277).

Seventeen commenters expressed that this discussion is misleading and not supported by facts. They noted that the discussion referring to ''the difficulty in quantifying the benefits of this proposed rule * * *'' were only made to narrow the gap between costs and benefits. They believe that these assumptions were not substantiated and should be deleted from the preamble. RSPA acknowledges that language was added to the NPRM after the final review by the Committee. However, the cost/benefit section was not part of the negotiated discussion by the entire Committee during the development of this rulemaking. RSPA has nonetheless considerably revised this discussion to take into consideration the comments on this topic.

Two commenters argued that litigation costs may increase, not decrease, as a result of this rule. RSPA has removed the reference to litigation costs since it would be difficult to predict the effect of this rule on litigation costs.

Eighteen commenters expressed that DOT's reference to the 1994 gas pipeline incident in Edison, NJ is inappropriate. This incident was the result of illegal third party activity. They requested that DOT delete the paragraph. RSPA agrees with these commenters and has removed the reference in this final rule.

Specific Comments on the Proposed Rule Language

Several comments were received regarding the regulatory language. One commenter suggested that 192.801 does not need the phrase ''as identified by the operator.'' Several industry representatives on the Committee wanted this clarification to highlight that the operator is responsible for identifying covered tasks. Therefore, RSPA has not made the suggested change to the final rule.

Ten commenters said that 192.803 should be changed by adding the phrase ''that may reasonably be anticipated to be encountered while performing the covered task'' to the end of item #2 in the definition of ''Qualified'' (63 FR 57278). The commenters believed this would be consistent with the language in the preamble and thus does not obligate pipeline personnel to know all types of potential abnormal conditions. The Committee discussed this issue and concluded that no change to the regulatory language is warranted.

Nine commenters suggested that 191.805(f) should have the word ''substantive'' between the words ''communicate'' and ''changes''. Commenters believed this change would make the rule consistent with the preamble (page 57275, 3rd column, 2nd full paragraph) where the term ''substantive'' is used and makes it clear that not every change must be communicated. This issue was discussed by the Committee, and RSPA does not believe change to the regulatory language is warranted.

Ten commenters noted that 192.809(a) should read ''20 months'' instead of ''2018 months''. This typographical error was corrected in this final rule.

Eleven commenters said 192.803 should be revised to clarify that the reference to ''other forms of assessment'' is distinct from ''observation during'' in the Evaluation definition. RSPA discussed this with the Committee and revised the rule to distinguish the term

''observation'' from ''other forms of assessment.''

The term ''integrity'' in the Scope sections is unclear. This issue was discussed by the Committee, and RSPA does not believe changes to the regulatory language are warranted.

One commenter suggested that section 192.809 be revised to allow extra time for operators to ensure qualification of contractor personnel. This issue was discussed by the Committee, and RSPA does not believe changes to the regulatory language are warranted.

One commenter suggested that an additional section be inserted in the rule to measure the performance of the qualification rule. RSPA plans to establish a periodic review with stakeholders regarding the effectiveness of the qualification rule. RSPA does not believe changes to the regulatory language are warranted.

V. Scope

The Accountable Pipeline Safety and Partnership Act of 1996 required RSPA to adopt regulations requiring that ''all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities'' and ''shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits'' (49 U.S.C. 60102(a)). The Committee determined that a national qualification program conducted by RSPA, another federal agency, or a state agency, would not be an appropriate or practical response to the 1996 Act. Such a system offers the advantages of national consistency, including the ability of contractor employees to work for different operators under a single qualification regime. However, it was determined that the complexity and cost of administering such a system, coupled with the difficulty of devising a system appropriate for the wide variations in the operations and maintenance procedures and facilities of individual operators, precluded this from being an effective option.

The Committee determined the mandate would best be met by a non-prescriptive, performance based regulation requiring each operator to develop, or have developed, a written program for the qualification of individuals. This would allow each program to be tailored to the unique operations and practices of each operator.

A. Persons Covered by the Final Rule

This final rule applies to operators subject to the requirements of 49 CFR parts 192 or 195. The rule applies to all individuals who perform covered tasks, regardless of whether they are employed by the operator, a contractor, a sub-contractor, or any other entity performing covered tasks on behalf of the operator.

B. Operators are Responsible for Identifying Covered Tasks

Under this final rule, the operator is responsible for identifying which activities performed on the pipeline facility are covered tasks. The process for identifying covered tasks is set forth in 49 CFR 192.801 and 195.501 (''Scope'') of this final rule.

The Committee discussed whether the regulator or the operator should be responsible for identifying covered tasks. Because of large differences between operations of pipelines across the country, a uniform list of covered tasks would not be useful, and could result in overall increased costs. For example, some operators do not have transmission lines in their systems, others operate only distribution lines, and others do not have compressors, pump stations, or storage facilities. Some operators perform a large number of covered tasks, while other, smaller, operators may have only a limited number of tasks that must be classified as covered tasks.

Identification of covered tasks is a key component of the qualification requirements under this final rule. The Committee proposed that it would be more effective and practical to let each operator determine the covered tasks requiring qualification.

However, some Committee members were concerned that if operators are allowed to determine the covered tasks, the final rule should also ensure that the regulators retain the authority to review each operator's determinations. Some Committee members objected to allowing each operator to identify covered tasks requiring individuals to be qualified. These members objected to the use of the words ''determined by,'' which could be interpreted to preclude regulators from questioning the operator's identification of covered tasks. The Committee decided to use the words ''identified by'' to mean the selection of covered tasks by the operator. The Committee concluded that the authority to allow pipeline safety regulators to require modifications to programs that fail to meet regulatory requirements was already within the scope of federal and state jurisdiction, as was the authority to question particular activities included as covered tasks by the operator. The Committee concluded that covered tasks would be activities identified by the operator.

Therefore, under this final rule, the operator of a pipeline facility is responsible for identifying which activities performed on that facility are covered tasks. The criteria for identifying covered tasks on gas and hazardous liquid pipelines is set forth in 49 CFR 192.801 and 195.501, respectively.

Although operators are responsible for identifying covered tasks for which individuals must be qualified, regulators remain responsible for reviewing operator qualification programs and ensuring that federal regulatory standards are applied and met nationwide. Regulators may question an operator's inclusion and exclusion of particular activities as covered tasks. Regulators may require modifications to programs that fail to meet the requirements of the rule.

B. Identification of Covered Tasks

The final rule includes a four-part test that each operator must use to determine whether an activity constitutes a covered task. A covered task is: (1) Performed on a pipeline facility; (2) an operations or maintenance task; (3) performed pursuant to a requirement in 49 CFR part 192 or 195; and (4) affects the operation or integrity of the pipeline.

1. *Tasks Performed on a Pipeline Facility.* The phrase ''performed on a pipeline facility'' means an activity that is performed by an individual whose performance directly impacts the pipeline facility. An individual who works on a pipeline component that is physically connected to the pipeline system is performing work ''on a pipeline facility'' and may be subject to the final rules, regardless of whether or not product is flowing through the pipeline. However, a person who repairs a pipeline system or appurtenance, that has been removed from the system, would not be performing work on the pipeline, and therefore would not be performing a covered task.

2. *Operations or Maintenance Tasks.* The Federal pipeline safety law requires that all individuals who operate and maintain pipeline facilities be qualified to operate and maintain those facilities (49 U.S.C. 60102(a)(1)(C)).

Most of the operations and maintenance activities on pipeline facilities are found in 49 CFR part 192, subparts L and M, or in 49 CFR part 195, subpart F. In addition, the regulations contain other subparts that include requirements for conducting operations and maintenance activities. For example, part 192, Subpart I, establishes

requirements for protecting metallic pipelines from external, internal, and atmospheric corrosion. The requirements to monitor corrosion control systems are operations activities. The requirements to take corrective action when deficiencies are found in a corrosion control program are maintenance activities. Therefore, repairing pipelines affected by corrosion is also a maintenance activity.

Certain tasks performed on pipeline facilities may be covered tasks when performed in the course of operation and maintenance activities, but may not be covered tasks in the course of other activities. For example, ''welding'' could be a covered task when performed as an operations and maintenance activity on a pipeline, such as when installing a weld-over sleeve to repair an anomaly. However, ''welding'' is not a covered task under this subpart when performed during the fabrication of new installations, because this would not be an operations and maintenance task.

However, welders are currently subject to qualification requirements in 49 CFR part 192, Subpart E, and Part 195, Subpart D. To comply with the final rule, welders would have to be additionally qualified to recognize and react to abnormal operating conditions when welding as a covered task. This also applies to other activities such as ''plastic pipe joining,'' for which the regulations contain specific requirements.

3. *Tasks Performed Pursuant to a Requirement in 49 CFR Part 192 or 195.* Covered tasks include only those operations and maintenance activities required by 49 CFR Part 192 or 195.

Examples of covered tasks might include:

- purging a pipeline because it is specifically required by 49 CFR 192.629;
- leakage surveys of distribution lines, required by 49 CFR 192.723;
- starting, operating, and shutting down gas compressor units, because 49 CFR 192.605(b)(7) specifically requires written procedures on these activities, to provide safety during maintenance and operations;
- inspection of navigable water crossings under 49 CFR 195.412; and
- inspection of breakout tanks required by 49 CFR 195.432.

Operators of pipeline facilities may voluntarily conduct operations and maintenance activities that are not required by a specific provision in 49 CFR parts 192 or 195. However, an activity does not necessarily become a covered task simply because an operator develops procedures for conducting the activity, and includes those procedures in its Operations and Maintenance Plan. For example, an operator may voluntarily choose to maintain a customer's buried piping, and include procedures for this activity in its Operations and Maintenance Plan. Because such maintenance is not specifically required by 49 CFR parts 192 or 195, the associated maintenance activities are not covered tasks.

4. *Tasks Affecting the Operation or Integrity of the Pipeline.* Under the final rule, covered tasks include only those activities that affect the operation or integrity of the pipeline.

The main purpose of the final rule is to ensure safety of pipelines through qualification of individuals. Initial discussions centered around safety-related activities and the need to categorize covered tasks as only those activities having safety implications. Some Committee members argued that most of the provisions in parts 49 CFR 192 and 195 regulate safety-related activities. It would therefore be redundant to include the word ''safe'' on pipeline operations addressed under this criteria. Therefore, it was decided to use the phrase, ''operation or integrity,'' because some activities do not adversely affect the operation or integrity of the pipeline, even though they meet the other three criteria. The Committee decided to include a fourth criteria that must be satisfied for an activity to be a covered task, namely that the activity affects the operation or integrity of the pipeline.

The Committee discussed the term ''operation'' as used here in the safety context of normal versus abnormal operation, where the latter could result in an unsafe condition. For example, the control of flow and pressure in pipelines could result in abnormal operation, if the pressure is allowed to rise above an acceptable limit. Therefore, in this example, activities that include controlling flow and pressure on a pipeline system would be considered covered tasks if the other three criteria for covered tasks were met.

An additional example of an activity affecting the integrity of the pipeline would be coating or jacketing of aboveground pipeline components. In the event atmospheric corrosion is present, coating or jacketing the component could affect the integrity of the pipeline. However, painting a pipeline for aesthetic reasons would not affect the integrity of the pipeline.

The ''integrity'' of the pipeline refers to the pipeline's ability to operate safely and to withstand stresses imposed during operations. An example of a short-term effect on integrity would be exceeding the Maximum Allowable Operating Pressure (MAOP) for gas pipelines and Maximum Operating Pressure (MOP) for liquid pipelines. An example of a long-term effect would be failure from corrosion due to improper coating after repair of a welded joint.

Because the term ''pipeline facility'' was used in the first criterion, the Committee also considered whether it would be appropriate to use the term ''pipeline facility'' in the fourth criterion instead of the term ''pipeline.'' Although some argued that consistency should be maintained, others stated that the primary goal of the final rule is to ensure the safe operation and integrity of the pipeline itself. Furthermore, the term ''pipeline'' as defined in 49 CFR parts 192 and 195 already encompasses the ''facilities'' targeted by the final rule. The Committee therefore agreed that this criterion should remain unchanged.

If an activity fails to meet any one of the four criteria, the activity would not be considered a covered task under this final rule. The following are hypothetical examples of how the four-part test can be used to identify a covered task:

Example 1: Leakage surveys on gas transmission pipelines.

(1) Performed on a pipeline facility? Yes, because leakage surveys are performed immediately above the pipeline and on the pipeline right-of-way.

(2) Is an operations and maintenance task? Yes, leakage surveys are conducted in the course of pipeline operations and maintenance activities.

(3) Is performed as a requirement of this part? Yes, leakage surveys are required by 49 CFR 192.706 and 192.723.

(4) Affects the operation or integrity of the pipeline? Yes, if a leakage survey is not properly conducted, a leak might not be detected, resulting in a potentially hazardous situation.

Since all four criteria are met, the leakage survey is a covered task.

Example 2: Measuring pipe-to-soil potentials.

(1) Performed on a pipeline facility? Yes, pipe-to-soil potentials are measured at cathodic test stations attached directly to the pipeline.

(2) Is an operations and maintenance task? Yes, pipe-to-soil potentials are read in the course of pipeline operations and maintenance activities.

(3) Is performed as a requirement of this part? Yes, pipe-to-soil potential measurements are required by 49 CFR 192.465 and 195.416.

(4) Affects the operation or integrity of the pipeline? Yes, pipe-to-soil potential measurements, if taken improperly, will not accurately reflect the level of cathodic protection being provided.

While not affecting the immediate operation of the pipeline, the future integrity of the pipeline might be jeopardized (for example, corrosion might develop), if inadequate cathodic protection is applied to the pipeline over a period of time.

Since all four criteria are met, the measurement of pipe-to-soil potentials is a covered task.

Example 3: Meter reading.

(1) Performed on a pipeline facility? Yes, a meter is a part of a pipeline facility.

(2) Is an operations and maintenance task? Yes, meters are read in the course of pipeline operations and maintenance activities.

(3) Is performed as a requirement of this part? No, meter reading is not a requirement of 49 CFR part 192 or part 195.

(4) Affects the operation or integrity of the pipeline? No, meter reading has no impact on pipeline operation or integrity.

Because meter reading fails at least one of the four criteria, meter reading is not considered a covered task.

In identifying covered tasks, operators must consider specific activities and not necessarily the job classification of individuals performing the activities, because each job classification may incorporate several activities. For example, an individual with the job classification, ''meter reader,'' may be assigned activities other than reading a meter, such as distribution line patrolling under 49 CFR Part 192.721, that could be covered tasks.

D. Amendments to Section 195.403 (Training).

Section 195.403 currently prescribes the training requirements for operations, maintenance, and emergencies for operators of hazardous liquid pipelines. Because the final rule includes a qualification process for operations and maintenance activities, but does not address emergency response qualification, 49 CFR § 195.403 is amended to retain emergency response training requirements. This rule removes the specific operations and maintenance training requirements addressed in 49 CFR § 195.403. Persons performing operations and maintenance tasks need to be qualified in accordance with the final rule. This amendment is not effective until October 28, 2002.

VI. Definitions

The definitions section of this final rule was developed to facilitate common understanding of key terms. The Committee began using a number of terms that were not commonly defined by all members. To facilitate communication, these terms were defined and are provided in the final rule.

Abnormal operating condition.

An abnormal operating condition, as defined in this final rule, is ''a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

(1) Indicate a condition exceeding design limits; or

(2) Result in a hazard(s) to persons, property, or the environment.''

This definition is derived from Federal pipeline safety law (49 U.S.C. 60102) and from the pipeline safety regulations (49 CFR 192.605 (c)(1)(v) and 49 CFR 195.402(d)(1)(v)).

''Abnormal operating conditions'' is also referenced in the definition of the term ''qualified''. To be qualified, an individual needs to be able to properly perform assigned covered tasks and be able to recognize and react to an abnormal operating condition that may be encountered while performing the covered task. For example, this may include notifying the responsible parties or taking corrective action to mitigate the condition.

As an example, an individual who has been qualified to perform leak surveys should be able to recognize and react to an abnormal operating condition such as blowing gas. Likewise, an individual who is qualified to perform control of gas pressure and flow should be able to recognize and react to an abnormal operating pressure in a pipeline segment.

Not all atypical operating conditions are abnormal. An example of an atypical operating condition that is not abnormal is a pipeline which can (not to exceed MAOP or MOP) operate up to 200 pounds per square inch (psig), but which typically operates at 50 psig. Operating this pipeline at 150 psig could be atypical, but not abnormal. If however the atypical operating condition would cause the pressure in the pipeline to exceed its allowable limits or cause a hazard to persons, property or the environment, an abnormal operating condition would result. A qualified individual performing control of gas pressure and flow who observes an unanticipated pressure increase in such a pipeline segment should know to investigate the cause of the change before it reaches the MAOP/MOP of the line.

Evaluation

An evaluation of an individual's ability to perform a covered task is the process that assesses and documents the individual's qualifications to perform the covered task. Although the definition lists several acceptable methods for evaluation, the list is not all-inclusive.

The evaluation of an individual's qualifications should be an objective, consistent process that documents an individual's ability to perform the covered task. This includes the individual's ability to recognize and react to abnormal operating conditions that the operator could reasonably anticipate the qualified individual will encounter while performing the covered task. The operator should establish the acceptance criteria for the evaluation method used (for example, for on-the-job training spell out the performance criteria; for a written exam establish the cutoff score). The following table was developed in Committee discussion to illustrate acceptable evaluation methods for ''transitional'', ''initial'' and ''subsequent'' qualification, although these terms do not appear in the rule:

Evaluation method	''Transitional'' qualification[1]	''Initial'' qualification[2]	''Subsequent'' qualification[3]
Written exam	YES	YES	YES.
Oral exam	YES	YES	YES.
Work performance history review.	YES	May not be used as the sole evaluation method.	May not be used as the sole evaluation method after the three-year compliance date.
Performance on-the-job	YES	YES	YES.
On-the-Job Training	YES	YES	YES.
Simulation	YES	YES	YES.
Other	YES	YES	YES.

Notes:
[1] ''Transitional'' qualification means qualification completed by October 28, 2002, of individuals who have been performing a covered task on a regular basis prior to the effective date of the rule.
[2] ''Initial'' qualification means qualification, at any time, of individuals who were not performing a covered task on a regular basis prior to the effective date of the rule.
[3] ''Subsequent'' qualification means evaluation of an individual's qualification, after ''transitional'' or ''initial'' qualification, at the interval established by the operator.

Under 49 CFR §§ 192.809(c) and 195.509(c), a work performance history review may not be used as a sole evaluation method after October 28, 2002. ''Transitional'' qualification may rely on a work performance history review as the sole evaluation method. ''Initial'' qualification may not rely on only a work performance history review. ''Subsequent'' qualifications may rely on work performance history review if used in conjunction with at least one other evaluation method.

Prior to the three year compliance date operators may use work performance history review as the sole method for evaluation when qualifying individuals. After the three year compliance date, if work performance history review is used, it must be combined with at least one other form of assessment. Any of the other forms of assessment specified in the definition of evaluation may be used as the sole method of evaluation both before and after the three year compliance date. When an operator has qualified an individual prior to the three year compliance date and used work performance history review as the sole method of evaluation, the operator is not required to re-evaluate each individual using additional criteria until the next scheduled evaluation, which may vary by covered task.

The operator must establish the parameters for the work performance history review. For example, a work performance history review may include:

(1) A search of existing records for documentation of an individual's past satisfactory performance of a covered task(s);

(2) verification that the individual's work performance history contains no indications of substandard work or involvement in an incident (part 192) or accident (part 195), caused by an error in performing a covered task; and,

(3) verification that the individual has successfully performed the covered task on a regular basis prior to the effective date of the rule.

Qualified

Qualified, means that an individual has been evaluated and is able to properly perform a covered task(s), and recognize and react to abnormal operating conditions that may be encountered during the performance of the covered task(s). An individual may be qualified using any of the evaluation methods specified in the operator's written qualification program.

VII. Qualification program

The Committee identified the following seven elements as requirements in the operator's qualification program:

Paragraph (a) of 49 CFR 192.805 and 195.505 requires operators to identify the covered tasks to be included in the qualification program. Whether an activity is a covered task would be determined using the four criteria in 49 CFR 192.801(b) or 195.501(b). Because operators are responsible for identifying covered tasks, variations among qualification programs are expected.

A concern of the Committee was whether periodic review of covered tasks should be required. Although a periodic review requirement was not included in the final rule, an operator may consider a periodic review to ensure the accuracy of its covered task list.

Paragraph (b) requires that the qualification program include provisions to ensure through evaluation that individuals performing covered tasks are qualified. This would set forth the evaluation methods to determine if an individual is qualified.

The Committee discussed contractor personnel and who is responsible for their qualification and compliance under this rule. Some members believed contractors should not be subject to this final rule and that OPS should be responsible for ensuring the qualification of contractor personnel. OPS does not have the authority to directly enforce compliance by contractors with this rule. The pipeline operator is responsible for all individuals working on their pipeline systems. This includes operator and contractor personnel.

The Committee discussed the role of those performing evaluations. Members agreed not to include a provision in the rule to require that evaluators be ''qualified'' to evaluate. However, persons performing evaluations should possess the required knowledge (1) to ascertain an individual's ability to perform covered tasks and (2) to substantiate an individual's ability to recognize and react to abnormal operating conditions that might surface while performing those activities. This does not necessarily mean that the persons performing evaluations should be physically able to perform the covered tasks themselves.

The Committee discussed the concerns and options available to the operator regarding who should evaluate the individuals performing covered tasks. Because the operator is responsible for the development and implementation of the evaluation methods, the Committee thought that the operator should also be responsible for selecting appropriately knowledgeable individuals to perform evaluations. The final rule requires a qualification program that focuses on ensuring an individual can properly perform a covered task(s) rather than the credentials of persons conducting evaluations.

Paragraph (c) allows for performance of covered tasks by individuals who are not qualified as long as a qualified individual directly observes the non-qualified individual(s), and is able to take immediate corrective actions when necessary. For example, an operator may use a three-person crew to repair gas leaks. Two of the crew members could be non-qualified. The crew excavates and repairs leaking gas mains and services under the direct and close observation of the qualified member of the crew. The intent of this provision is to ensure that non-qualified individuals performing covered tasks are subject to close observation by a qualified individual. Ultimately, the qualified member of the crew is responsible for the repair. The ratio of non-qualified individuals to ''qualified'' individuals should be kept to a minimum.

Paragraph (d) requires the operator to evaluate an individual if the operator has reason to believe that the individual's performance of a covered task could have contributed to an incident as defined in 49 CFR part 191 or accident as defined in 49 CFR part 195. If so, the individual's qualification should be evaluated to determine if the individual continues to be qualified to perform the covered task.

Paragraph (e) requires the operator to evaluate an individual if there is reason to believe that the individual is no longer qualified to perform a covered task. This could occur if the individual displays unsatisfactory performance of

the task or if there is reason to believe the individual can no longer perform the covered task. The operator's qualification program must include provisions for evaluating an individual's qualification if the circumstances warrant.

Paragraph (f) recognizes that changes may occur that impact how a covered task is performed. Changes that may need to be communicated to individuals performing covered tasks may include:

- Modifications to company policies or procedures.
- Changes in state or Federal regulations.
- Utilization of new equipment and/or technology.
- New information from equipment or product manufacturers.

The final rule requires that the qualification program include provisions for communicating information on substantive changes to the individuals performing the affected covered tasks. When significant changes occur, the operator should consider whether additional qualification requirements are necessary and whether individuals performing the covered task should be evaluated again.

Paragraph (g) addresses the identification of covered tasks, and the frequency of evaluation intervals for each covered task. The appropriate interval may vary depending on the covered task. It was therefore left to the operator to determine which covered tasks and the interval at which subsequent qualification of an individual performing a covered task will occur. The Committee felt that the evaluation intervals could be specified in units of time, frequency of performance or other appropriate units. The Committee recognized that subsequent evaluation methods may differ from initial qualification methods.

This rule does not require that the written qualification program be incorporated into an operator's Operations and Maintenance Plan. The operator may expand any of the seven required elements and add additional elements to their program but will only be held accountable to meet the requirements of this Subpart.

VIII. Recordkeeping

Under the final rule, each operator is required to maintain records that demonstrate compliance. The Committee had considerable discussion regarding records content, records to be retained, and length of retention.

The records that support an individual's qualifications must include the identity of each qualified individual (for example, name, social security number, or employee number), identification of each covered task for which qualified, date(s) of current qualification and qualification methods(s). Records of an individual's current qualifications must be maintained while the individual is performing the covered tasks for which qualified. When an individual is evaluated for subsequent qualification, the prior qualification records must be maintained for a period of five years. Also, when an individual stops performing a covered task (for example, the individual retires or is promoted) the individual's qualification records must be retained for a period of five years. The Committee selected five years to be consistent with other regulatory time periods. The records may be kept in paper, electronic, or any other appropriate format. The records may be kept at a central location or at multiple locations.

The final rule does not address whether a certification or other record of qualification need be issued to each qualified individual. This matter is solely within the discretion of the operator.

IX. General

Development and implementation of a qualification program will take some operators longer than others. Many operators currently have adequate processes or programs to ensure the qualification of individuals working on their pipeline systems. However, to ensure that this final rule is enforceable, definitive time frames must be specified. The Committee decided that 18 months would be sufficient time to develop a written qualification program.

An operator will have 38 months from the effective date of the final rule to complete the qualification of all individuals performing covered tasks on its system. This will allow operators with more limited resources and differing budget cycles adequate time to complete the qualification process. Those operators who are able to comply before the mandatory compliance date are encouraged to do so. The rule does not intend to penalize early compliance. Therefore, the starting time for subsequent evaluation intervals determined by the operator is not required to begin until the compliance date.

Finally, work performance history review will only be allowed as the sole method of evaluation during the three-year period prior to mandatory compliance with the rule. After this time, work performance history review will be an acceptable method of evaluating individuals only in combination with another evaluation method.

Rulemaking Analyses and Notices

Executive Order 12866

This final rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, is subject to review by the Office of Management and Budget. The final rule is considered significant under the Department of Transportation Policies and Procedures (44 FR 1103; February 26, 1979) because of the substantial interest expressed by the pipeline industry, state and Federal agencies, and Congress. This section summarizes the conclusions of the regulatory evaluation. Copies of the regulatory evaluation are available in the docket. Several groups, including the Congress, the National Transportation Safety Board, and the National Association of State Pipeline Safety Representatives, have called repeatedly for a pipeline personnel qualification rule.

This final rule is the product of a negotiated rulemaking in which representatives of all interested parties participated, including pipeline trade associations, pipeline operators both large and small, organized labor, state pipeline safety representatives, and the Federal government. The members of the negotiated rulemaking committee agreed that this process ensured adoption of a cost-effective standard for pipeline personnel qualification. The American Gas Association (AGA) and other participants in the negotiated rulemaking contributed to estimates of the cost of this proposal. RSPA adjusted the cost estimates to provide an annualized cost estimate for the entire pipeline industry. Based on an estimated 175,000 covered pipeline employees, including both operator employees and contractors, the industry and the Committee identified three major cost categories for implementation and compliance with the rule by gas and hazardous liquid pipeline operators:

1. Cost for qualification program set-up, $210 million
2. Cost of transitional evaluation and qualification, $140 million
3. Cost of subsequent evaluation and qualification, $87.5 million

RSPA determined that the program set-up costs should be amortized over 9 years. Therefore, RSPA amortized the set-up costs over 9 years using a 7% interest rate for an annualized cost of $29.3 million for program development and initial qualification.

The transitional qualification costs were amortized over a six year period (three years before the effective date of the regulation that requires initial qualification, and an estimated three years before subsequent qualification) using a 7% interest rate for an annualized transitional qualification cost of $28.6 million.

The Committee estimated that qualification for various covered tasks would be reviewed approximately every three years, although the length of time between evaluations for a particular covered task and pipeline operator might vary widely. Therefore, the next qualification (and each subsequent qualification) is amortized over three years at 7% or an annual subsequent qualification cost of $32.4 million.

The result of these calculations is a cost of $57.9 million per year for the years 1–6 ($29.3 million + $28.6 million) and a cost of $61.7 million per year for years 7–9 ($29.3 million + $32.4 million). The average annual cost for compliance with the rule is approximately $59 million.

The preamble to this final rule notes that the intent of the qualification rule is to ensure a qualified workforce and to reduce the probability and consequences of accidents caused by human error. Investigations of pipeline incidents/accidents clearly attributable to human error often indicate either a deficiency of knowledge or skill (for example, lack of qualification) or an error in judgement on the part of pipeline personnel. However, the impact of inadequate qualification of pipeline personnel is not always apparent. For example, incidents/accidents that operators attribute to equipment failure or corrosion may actually have been set in motion by poorly performed operation or maintenance procedures. Although many state pipeline safety representatives have stated that this rule will reduce incidents/accidents by ensuring a qualified workforce, they concede that the task of quantifying that reduction is very difficult.

Perhaps the most important factor to consider when assessing the benefits of this rule is that human error is frequently not cited as an element contributing to an incident/accident. Available data does not always capture the contribution of human error to incidents/accidents. In 1997, there were 354 reportable pipeline incidents/accidents. Of these, 87 gas pipeline incidents and 40 hazardous liquid pipeline accidents were attributed to outside force damage. Although most outside force damage is caused by persons not covered by this rule—as when a third party disregards one-call procedures—damage sometimes results when a pipeline worker fails to follow one-call system procedures or from improper marking of the pipeline prior to excavation. Consequently, while third parties causing damage will not be better prepared to prevent pipeline damage, they will potentially reap the benefits of this rule by working around pipelines that are more clearly marked.

These scenarios show the difficulty in quantifying the benefits of this rule. Nonetheless, it is clear that some incidents/accidents could be avoided as a result of implementation of this rule, and that the cost of these incidents/accidents is substantial. Total outside force incidents/accidents resulted in 7 fatalities ($19 million), 38 injuries ($18.5 million), and $27 million in property damage. This results in a total monetized loss of $ 64.5 million in 1997. Monetization of fatalities and injuries employed DOT's ''willingness to pay'' estimates. Because the record keeping and reporting system of OPS lacks detailed data, it is not possible to accurately quantify the percentage of accidents that will be avoided as a result of this rule.

Although quantifying all the benefits of an operator qualification rule is impossible, most of the Committee members agreed that this rule, as written, is as cost beneficial as practicable, and RSPA believes that the overall benefits justify the costs of the rule. Furthermore, although relatively few fatalities and injuries occur each year from pipeline failures, the potential exists for significant, and very costly, disasters.

In addition, even a small reduction in overall pipeline expenses resulting from a fully-qualified workforce could result in significant savings that could offset the costs of this rule. If standardizing qualification procedures increases productivity and reduces operating expenses by one-half of one percent per year, the annual expenses of the major pipeline operators could drop by more than $68 million (FERC Form 2, page 116, reports $13.77 billion in total 1996 operating expenses for 53 large pipeline operators).

Other nonquantifiable benefits of this rule may include:

1. Reducing the likelihood of incorrectly following procedures;
2. Eliminating and correcting inadequate operating and maintenance procedures;
3. Reducing or eliminating the occurrence of sending inadequately prepared individuals into the field to perform covered tasks;
4. Increasing the formal communications between operator and workers;
5. Increasing the attention and oversight on safety-related procedures; and
6. Improving the documentation that ensures a qualified workforce.

These nonquantifiable benefits could translate into reduced operating expenses. Finally, documentation of a qualified workforce could improve operator public relations. RSPA provides further analysis for its conclusion that this rule will have a positive benefit/cost in its ''Regulatory Evaluation,'' which is included in the docket.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), RSPA must consider whether a rulemaking would have a significant economic impact on a substantial number of small entities. Based on the regulatory evaluation, RSPA has determined that the rule will not have a significant impact on a substantial number of small entities. The Committee unanimously agreed that all operators, regardless of size, should be subject to the final rule because the qualification of workers at both large and small pipeline operators can impact safety. One of the participants in the negotiated rulemaking was a representative of the American Public Gas Association (APGA). The APGA represents municipal gas distribution companies, the main group of small entities in the pipeline industry. Hazardous liquid and gas transmission companies tend to be quite large. As a result, there are not a substantial number of small hazardous liquid pipeline entities. In conversations between RSPA and APGA, APGA indicated that as a trade association it would make itself available to assist its members in complying with this final rule.

As indicated in the regulatory evaluation, many resources exist to assist both small and large operators in compliance with this rule, including classes from DOT's Transportation Safety Institute, nonprofit industry associations, as well as for-profit companies. Additionally, while some costs, such as the development of the qualification program, are on a per company basis, the actual qualification will be on a per-employee basis. As a result, costs incurred by smaller companies should not be significant.

Further, the Committee considered the flexibility that this final rule allows in terms of permitting each company to tailor its worker qualification program

to its own unique needs, and would allow small operators to interact with inspectors to evaluate and modify their qualification programs if necessary. Because of this flexibility, the availability of assistance in developing qualification plans, the fact that much of the cost will be proportionate to the number of employees, and the fact that very few small entities can be found among hazardous liquid and gas transmission companies, I certify that this final rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This Final Rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the information collection requirements in the rule have been submitted to the Office of Management and Budget for their review and have been approved under OMB #2139–0600.

Executive Order 12612

This final rule has been analyzed with the principles and criteria in Executive Order 12612 (''Federalism'') (52 FR 41685), and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the final rule.

National Environmental Policy Act

We have analyzed the final rule for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Requiring all gas and hazardous liquid pipeline operators to adopt the operator personnel qualification regulation should result in a reduction of pipeline incidents that are caused by human error. This should result in reduced fatalities, injuries, property damage, and environmental damage. Furthermore, this regulation will not have a detrimental impact on the environment. Thus, we have determined that the final rule will not significantly affect the quality of the human environment. An environmental assessment document is available for review in the docket.

Impact on Business Processes and Computer Systems

Many computers that use two digits to keep track of dates will, on January 1, 2000, recognize ''double zero'' not as 2000 but as 1900. This glitch, the Year 2000 problem, could cause computers to stop running or to start generating erroneous data. The Year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, Federal agencies are reaching out to increase awareness of the problem and to offer support. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 Problem.

This final rule does not require business process changes or require modifications to computer systems. Because this final rule should not affect the ability of organizations to respond to the Year 2000 problem, we do not intend to delay the effectiveness of the rule changes.

List of Subjects

49 CFR Part 192

Natural gas, Pipeline safety.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Hazardous liquids, Petroleum, Pipeline safety.

In consideration of the foregoing, RSPA amends 49 CFR Parts 192 and 195 as follows:

PART 192 AMENDED

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; and 49 CFR 1.53.

2. Subpart N is added to read as follows:

Sec.
192.801 Scope.
192.803 Definitions.
192.805 Qualification Program.
192.807 Recordkeeping.
192.809 General.

192.801 Scope.

(a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

(1) Is performed on a pipeline facility;

(2) Is an operations or maintenance task;

(3) Is performed as a requirement of this part; and

(4) Affects the operation or integrity of the pipeline.

§ 192.803 Definitions.

Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

(a) Indicate a condition exceeding design limits; or

(b) Result in a hazard(s) to persons, property, or the environment.

Evaluation means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

(a) Written examination;

(b) Oral examination;

(c) Work performance history review;

(d) Observation during:

(e) Performance on the job,

(f) On the job training, or

(g) Simulations; or

(h) Other forms of assessment.

Qualified means that an individual has been evaluated and can:

(a) Perform assigned covered tasks; and

(b) Recognize and react to abnormal operating conditions.

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) Identify covered tasks;

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

(c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Part 191;

(e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

(f) Communicate changes that affect covered tasks to individuals performing those covered tasks; and

(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

§ 192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(1) Identification of qualified individual(s);

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification; and

(4) Qualification method(s).

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

§ 192.809 General.

(a) Operators must have a written qualification program by April 27, 2001.

(b) Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.

(c) Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to August 27, 1999.

(d) After October 28, 2002, work performance history may not be used as a sole evaluation method.

PART 195—AMENDED

3. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

4. Section 195.403 is revised to read as follows:

This section becomes effective October 28, 2002.

§ 195.403 Emergency response training.

(a) Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

(1) Carry out the emergency procedures established under 195.402 that relate to their assignments;

(2) Know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

(3) Recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action;

(4) Take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and

(5) Learn the proper use of firefighting procedures and equipment, fire suits, and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition.

(b) At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

(1) Review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph (a) of this section; and

(2) Make appropriate changes to the emergency response training program as necessary to ensure that it is effective.

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.

Subpart G—[Added]

5. Subpart G is added to read as follows:

Sec.
195.501 Scope.
195.503 Definitions.
195.505 Qualification Program.
195.507 Recordkeeping.
195.509 General.

§ 195.501 Scope.

(a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

(1) Is performed on a pipeline facility;

(2) Is an operations or maintenance task;

(3) Is performed as a requirement of this part; and

(4) Affects the operation or integrity of the pipeline.

§ 195.503 Definitions.

Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

(a) indicate a condition exceeding design limits; or

(b) result in a hazard(s) to persons, property, or the environment.

Evaluation means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

(a) written examination;

(b) oral examination;

(c) work performance history review;

(d) observation during:

(e) performance on the job,

(f) on the job training, or

(g) simulations; or

(h) other forms of assessment.

Qualified means that an individual has been evaluated and can:

(a) perform assigned covered tasks and

(b) recognize and react to abnormal operating conditions.

§ 195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) Identify covered tasks;

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

(c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in Part 195;

(e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

(f) Communicate changes that affect covered tasks to individuals performing those covered tasks; and

(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

§ 195.507 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(1) Identification of qualified individual(s);

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification; and

(4) Qualification method(s).

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

§ 195.509 General.

(a) Operators must have a written qualification program by April 27, 2001.

(b) Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.

(c) Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to August 27, 1999.

(d) After October 28, 2002, work performance history may not be used as a sole evaluation method.

Issued in Washington, DC, on August 20, 1999.

Kelley S. Coyner,

Administrator.

[FR Doc. 99–22208 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 64, No. 166
Friday, August 27, 1999

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–46]

Proposed Modification of Class E Airspace; Fort Wayne, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify Class E airspace at Fort Wayne, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 13 has been developed for Smith Field Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to enlarge the existing controlled airspace to the north to accommodate this airport.

DATES: Comments must be received on or before October 11, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–46, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AGL–46.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Fort Wayne, IN, to accommodate aircraft executing the proposed GPS Rwy 13 SIAP at Smith Field Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL IN E5 Fort Wayne, IN [Revised]

Fort Wayne VORTAC
(Lat. 40°58′45″N., long. 85°11′17″W.)
Fort Wayne, Smith Field Airport, IN
(Lat. 45°14′10″N., long. 93°59′08″W.)

That airspace extending upward from 700 feet above the surface within a 14.8-mile radius of the Fort Wayne VORTAC, and within a 16.1-mile radius of the Fort Wayne VORTAC, extending from the Fort Wayne VORTAC 194° radial clockwise to the Fort Wayne VORTAC 335° radial, and within a 6.3-mile radius of the Smith Field Airport, and within 2.0 miles each side of the 308° bearing from the airport, extending from the 6.3-mile radius to 7.6 miles northwest of the airport.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22062 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–45]

Proposed Modification of Class E Airspace; Maple Lake, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify Class E airspace at Maple Lake, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 28 has been developed for Maple Lake Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before October 11, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–45, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AGL–45.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Maple Lake, MN, to accommodate aircraft executing the proposed GPS Rwy 28 SIAP, at Maple Lake Municipal Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL MN E5 Maple Lake, MN [Revised]

Maple Lake Municipal Airport, MN
(Lat. 40°14′10″ N., long. 93°59′08″ W.)

That airspace extending upward form 700 feet above the surface within a 6.3-mile radius of the Maple Lake Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22061 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–44]

Proposed Establishment of Class E Airspace; Batesville, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Batesville, IN. A Transponder Landing System (TLS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 36 has been developed for Hillenbrand Industries Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to create controlled airspace for this airport.

DATES: Comments must be received on or before October 11, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–44, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AGL–44''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Batesville, IN, to accommodate aircraft executing the proposed TLS Rwy 36 SIAP at Hillenbrand Industries Airport by creating controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL IN E5 Batesville, IN [New]

Batesville, Hillenbrand Industries Airport, IN (Lat. 39°20′40″N., long. 85°15′30″W.)

That airspace extending upward from 700 feet above the surface within and 6.5-mile radius of the Hillenbrand Industries Airport, excluding that airspace within the Greensburg, IN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22060 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–47]

Proposed establishment of Class E Airspace; Pine River, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Pine River, MN. A Nondirectional Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 34 has been developed for Pine River Regional Airport. Controlled airspace extending upward from 700 to 1,200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action would create controlled airspace for Pine River Regional Airport.

DATES: Comments must be received on or before October 18, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–47, 2300, East Devon Avenue, Des Plaines, Illinois 60018.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AGL–47.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Pine River, MN, to accommodate aircraft executing the proposed NDB Rwy 34 SIAP at Pine River Regional Airport by creating controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1999, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document

would be published subsequently in the Order.

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL MN E5 Pine River, MN [New]

Pine River Regional Airport, MN
(lat. 46° 43′ 29″N, long. 94° 22′ 54″W)
Pine River NDB
(lat. 46° 43′ 37″N, long. 94° 23′ 04″W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Pine River Regional Airport and within 1.3 miles each side of the 154° bearing from the Pine River NDB, extending from the 6.3-mile radius to 7.0 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on August 17, 1999.

Christopher R. blum,

Manager, Air Traffic Division.

[FR Doc. 99–22294 Filed 8–20–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Insular Affairs

15 CFR Part 303

[Docket No. 990813222–9222–01]

RIN 0625–AA55

Extend Production Incentive Benefits to Jewelry Manufacturers in the U.S. Insular Possessions

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Departments propose to amend their regulations governing duty-exemption allocations and duty-refund benefits for watch producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands) due to the enactment of Pub. L. 106–36. This law amends additional U.S. notes to chapter 71 of the Harmonized Tariff Schedule of the United States (''HTSUS'') to provide a duty-refund benefit for any article of jewelry within heading 7113 which is the product of the Virgin Islands, Guam, American Samoa or the Northern Mariana Islands in accordance with the new provisions of the note in chapter 71 and additional U.S. note 5 to chapter 91. The proposed rule would amend the regulations by changing Title 15 CFR part 303 to include jewelry, creating a Subpart A for the current insular watch and watch movement regulations and a Subpart B for the new regulations pertaining to jewelry duty-refund benefits authorized by Pub. L. 106–36.

DATES: Written comments must be received on or before September 27, 1999.

ADDRESSES: Address written comments to Faye Robinson, Program Manager, Statutory Import Programs Staff, Room 4211, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526, same address as above.

SUPPLEMENTARY INFORMATION: The insular possessions watch industry provision in Sec. 110 of Pub. L. 97–446 (96 Stat. 2331) (1983), as amended by Sec. 602 of Pub. L. 103–465 (108 Stat. 4991) (1994); additional U.S. Note 5 to chapter 91 of the HTSUS, as amended by Pub. L. 94–241 (90 Stat. 263) (1976) requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (''CNMI''). After the Departments have verified the data submitted on the annual application (Form ITA–334P), the producers' duty-exemption allocations are calculated from the territorial share in accordance with Section 303.14 of the regulations (15 CFR 303.14) and each producer is issued a duty-exemption license. The law further requires the Secretaries to issue duty-refund certificates to each territorial watch and watch movement producer based on the company's duty-free shipments and creditable wages paid during the previous calendar year.

Pub. L. 106–36 authorizes the issuance of a duty-refund certificate to each territorial jewelry producer for any article of jewelry provided for in heading 7113 of the HTSUS which is the product of any such territory based on creditable wages paid and duty-free units shipped into the United States during the previous calendar year. Although the law specifically mentions the U.S. Virgin Islands, Guam and American Samoa, the issuance of the duty-refund certificate would also apply to the CNMI due to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94–241), which states that goods from the CNMI are entitled to the same tariff treatment as imports from Guam. (*See also* 19 CFR 7.2(a)). The law provides that during the first two years, beginning August 9, 1999 (45 days after the date of enactment), jewelry that is assembled in the territories shall be treated as a product of such territories. Thereafter, in order to be considered a product of such territories, the jewelry must meet the

U.S. Custom Service substantial transformation requirements (the jewelry must become a new and different article of commerce as a result of production or manufacture performed in the territory). To receive duty-free treatment, the jewelry must also satisfy the requirements of General Note 3(a)(iv) of the HTSUS and applicable Customs Regulations (19 CFR 7.3).

The law specifies, in addition, that watch producer benefits shall not be diminished as a consequence of extending duty-refund benefits to jewelry manufacturers. In the event that the aggregate amount of the calculated duty refunds for both watches and jewelry exceeds the total amount available under Pub. L. 97–446, as amended by Pub. L. 103–465, the watch producers shall receive their calculated amounts; the jewelry producers would then receive amounts proportionately reduced from the remainder.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule, if promulgated as final, will not have a significant economic impact on a substantial number of small entities. This rulemaking will not affect the five watch companies currently participating in the insular possessions watch program because Pub. L. 106–36 does not allow watch producers' benefits to be reduced as a consequence of extending benefits to jewelry manufacturers. We expect up to five jewelry companies to set up production facilities in the insular possessions in response to the extension to them of existing incentives by Pub. L. 106–36. However, as with watch producers, the duty refund benefit per company does not apply to shipments exceeding 750,000 units of jewelry into the United States per year. The last Census of Manufacturers statistics (1992) indicate that there are 2,180 precious jewelry manufacturers located in the U.S. employing 32,300 employees. Because the insular jewelry industry would represent such a small percentage of the existing U.S. industry and because there is a limit on the benefit extended to insular jewelry producers, the proposed regulations will not have a significant adverse impact on any small business entities. We expect a positive impact in the form of new jobs in the small U.S. insular economies.

Paperwork Reduction Act

This proposed rulemaking involves new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 which have been submitted to OMB for approval. The extension of the insular watch program to include the jewelry benefit will require the use of three of the current forms, modified to accommodate jewelry. The public reporting burden for these collection-of-information requirements include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Form ITA–334P, the annual application, would be completed once a year by each jewelry producer and requires one burden hour. Form ITA–360P, the certificate of refund, would also be used once a year and is completed by the Department of Commerce and imposes no burden hours. Form ITA–361P, the request for refund of duties, would normally used once or twice a year per jewelry producer and takes about 10 minutes to complete. Public comment is sought regarding: Whether the proposed collection-of-information requirements are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including the use of automated collection techniques or other forms of information technology. Send comments regarding any of these burden estimates or any other aspect of the collection-of-information to U.S. Department of Commerce (see Address above) and Office of Information and Regulations Officer, Office of Management and Budget, Washington, DC 20503 (Att: OMB Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

E.O. 12866

It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, The Departments propose to amend 15 CFR Part 303 as follows:

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAM

1. The authority citation for 15 CFR part 303 is revised to read as follows:

Authority: Pub. L. 97–446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103–465, 108 Stat. 4991; Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106–36, 113 Stat. 127,167.

2. Amend the heading for part 303 to read as set forth above.

Subpart A—Watches and Watch Movements

3. Designate §§ 303.1 through 303.14 as subpart A and add a subpart heading as set forth above.

4. Add subpart B to read as follows:

Subpart B—Jewelry

Sec.
303.15 Purpose.
303.16 Definitions and forms.
303.17 Annual jewelry application.
303.18 Sale and transfer of business.
303.19 Issuance and use of production incentive certificate.
303.20 Duty refund.
303.21 Appeals.

Subpart B—Jewelry

§ 303.15 Purpose.

(a) This subpart implements the responsibilities of the Secretaries of Commerce and the Interior (''the Secretaries'') under Pub. L. 106–36, enacted 25 June 1999 which substantially amended Pub. L. 97–446, enacted 12 January 1983, amended by Pub. L. 89–805, enacted 10 November 1966, amended by Pub. L. 94–88, enacted 8 August 1975, amended by Pub. L. 94–241, enacted 24 March 1976, and amended by Pub. L. 103–465, enacted 8 December 1994.

(b) The amended law provides for the issuance of certificates to insular jewelry producers who have met the requirements of the laws and regulations, entitling the holder (or any transferee) to obtain refunds of duties on watches and watch movements and parts (except discrete watch cases) imported into the customs territory of

the United States. The amounts of these certificates may not exceed specified percentages of the producers' verified creditable wages in the insular possessions (90% of wages paid for the production of the first 300,000 duty-free units and declining percentages, established by the Secretaries, of wages paid for incremental production up to 750,000 units by each producer) nor an aggregate annual amount for all certificates exceeding $5,000,000 adjusted for growth by the ratio of the previous year's gross national product to the gross national product in 1982. However, the law specifies that watch producer benefits are not to be diminished as a consequence of extending the duty refund to jewelry manufacturers. In the event that the amount of the calculated duty refunds for watches and jewelry exceeds the total aggregate annual amount that is available, the watch producers shall receive their calculated amounts and the jewelry producers would receive amounts proportionately reduced from the remainder. Refund requests are governed by regulations issued by the Department of the Treasury (*See* 19 CFR 7.4).

(c) Section 2401(a) of Pub. L. 106–36 and additional U.S. note 5 to chapter 91 of the HTSUS authorize the Secretaries to issue regulations necessary to carry out their duties. The Secretaries may cancel or restrict the certificate of any insular manufacturer found violating the regulations.

§ 303.16 Definitions and forms.

(a) *Definitions.* For purposes of this subpart, unless the context indicates otherwise:

(1) *Act* means Pub. L. 97–446, enacted 12 January 1983 (19 U.S.C. 1202), 96 Stat. 2329, as amended by Pub. L. 103–465, enacted on 8 December 1994, 108 Stat. 4991 and, as amended by Pub. L. 106–36, enacted on 25 June 1999.

(2) *Secretaries* means the Secretary of Commerce and the Secretary of Interior or their delegates, acting jointly.

(3) *Director* means the Director of the Statutory Import Programs Staff, International Trade Administration, U.S. Department of Commerce.

(4) *Sale or transfer of a business* means the sale or transfer of control, whether temporary or permanent, over a firm which is eligible for a jewelry program duty-refund to any other firm, corporation, partnership, person or other legal entity by any means whatsoever, including, but not limited to, merger and transfer of stock, assets or voting trusts.

(5) *New firm* means a jewelry producer who has requested in writing to the Secretaries permission to participate in the program, has agreed to abide by the laws and regulations of the program and has been accepted by the Secretaries as a viable company that will make an economic contribution to the territory. Also, the new firm must be an entity which is completely separate from and not associated with, by way of ownership or control, any other potential jewelry duty-refund recipient (and only one watch duty-refund recipient) in any territory.

(6) *Jewelry producer* means a company, located in one of the insular territories (*see* paragraph (a)(8) of this section), that produces jewelry provided for in heading 7113, HTSUS, which meets all the U.S. Customs Service requirements for duty-free entry set forth in General Note 3(a)(iv), HTSUS, and 19 CFR 7.3, and has maintained its eligibility for duty refund benefits by complying with these regulations.

(7) *Unit of jewelry* means a single article, pair (example: earrings, cufflinks), subassembly or component which is contained in HTSUS heading 7113.

(8) *Territories, territorial and insular possessions* refers to the insular possessions of the United States (i.e., the U.S. Virgin Islands, Guam, American Samoa and the Northern Mariana Islands).

(9) *Creditable wages* means all wages—up to the amount per person of $38,650—paid to permanent residents of the territories employed in the firm's manufacture of HTSUS heading 7113 articles of jewelry which are a product of the insular possessions and have met the U.S. Customs Service's criteria for duty-free entry into the United States, plus any wages paid for the repair of non-insular HTSUS heading 7113 jewelry up to an amount equal to 50 percent of the firm's total creditable wages. Excluded, however, are wages paid for special services rendered to the firm by accountants, lawyers, or other professional personnel plus any wages paid for the assembly of dutiable jewelry or the repair of dutiable jewelry to the extent that such wages exceed the percentage set forth above. Wages paid to persons engaged in production of jewelry that has entered the U.S. both duty-free and duty-paid may be credited proportionately *provided* the firm maintains production and payroll records adequate for the Departments' verification of the creditable wages portion.

(10) *Dutiable jewelry* includes jewelry which does not meet the requirements for duty-free entry under General Note 3(a)(iv), HTSUS, and 19 CFR 7.3 , contains any material which is the product of any country with respect to which Column 2 rates of duty apply or is ineligible for duty-free treatment pursuant to other laws or regulations.

(b) *Forms*—(1) *ITA—334P.* ''Annual Application for License to Enter Watches and Watch Movements into the Customs Territory of the United States.'' The Director shall issue instructions for jewelry manufacturers on the completion of the relevant portions of the form. The form must be completed annually by all jewelry producers desiring to receive a duty refund.

(2) *ITA—360P.* ''Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements.'' This document authorizes a territorial jewelry producer to request the refund of duties on imports of watches, watch movements and parts therefor, with certain exceptions, up to a specified value. Certificates may be used to obtain duty refunds only when presented with a properly executed Form ITA–361P.

(3) *ITA—361P.* ''Request for Refund of Duties on Watches and Watch Movements.'' This form must be completed to obtain the refund of duties authorized by the Director through Form ITA–360P. After authentication by the Department of Commerce, it may be used for the refund of duties on items which were entered into the customs territory of the United States during a specified time period. Copies of the appropriate Customs entries must be provided with this form to establish a basis for issuing the claimed amounts. The forms may also be used to transfer all or part of the producer's entitlement to another party (*see* § 303.19(c)).

(The information collection requirements in paragraph (b)(1) were approved by the Office of Management and Budget under control number 0625–0040. The information collection requirements in paragraphs (b) (2) and (3) were approved under control number 0625–0134.)

§ 303. 17 Annual jewelry application

(a) Form ITA–334P shall be furnished to producers by January 1 and must be completed and returned to the Director no later than January 31 of each calendar year.

(b) All data supplied are subject to verification by the Secretaries and no duty refund shall be made to producers until the Secretaries are satisfied that the data are accurate. To verify the data, representatives of the Secretaries shall have access to relevant company records including, but not limited to:

(1) Work sheets used to answer all questions on the application form, as specified by the instructions;

(2) Original records from which such data are derived;

(3) Records pertaining to ownership and control of the company;

(4) Records pertaining to all duty-free and dutiable shipments of HTSUS 7113 jewelry, including Customs entry documents;

(5) Records pertaining to corporate income taxes, gross receipts taxes and excise taxes paid by each producer in the territories;

(6) Customs, bank, payroll, and production records;

(7) Records on purchases of components and sales of jewelry, including proof of payment; and

(8) Any other records in the possession of the parent or affiliated companies outside the territory pertaining to any aspect of the producer's jewelry operations.

(c) Data verification shall be performed in the territories, unless other arrangements satisfactory to the Departments are made in advance, by the Secretaries' representatives by the end of February of each calendar year. In the event a company cannot substantiate the data in its application, the Secretaries shall determine which data will be used.

(d) Records subject to the requirements of paragraph (b), of this section, shall be retained for a period of two years following their creation.

§ 303.18 Sale or transfer of business.

(a) The sale or transfer of a business together with its duty refund entitlement shall be permitted with prior written notification to the Departments. Such notification shall be accompanied by certifications and representations, as appropriate, that:

(1) The transferee is neither directly nor indirectly affiliated with any other territorial duty refund jewelry recipient in any territory;

(2) The transferee will not modify the jewelry operations in a manner that will significantly diminish its economic contributions to the territory.

(b) At the request of the Departments, the transferee shall permit representatives of the Departments to inspect whatever records are necessary to establish to their satisfaction that the certifications and representations contained in paragraph (a) of this section have been or are being met.

(c) Any transferee who is either unwilling or unable to make the certifications and representations specified in paragraph (a) of this section shall secure the Departments' approval in advance of the sale or transfer of the business. The request for approval shall specify which of the certifications specified in paragraph (a) of this section the firm is unable or unwilling to make, and give reasons why such fact should not constitute a basis for the Departments' disapproval of the sale or transfer.

§ 303.19 Issuance and use of production incentive certificates.

(a) *Issuance of certificates.* (1) Certificates of Entitlement, Form ITA–360, shall be issued before March 1 of each year.

(2) Certificates shall not be issued to more than one jewelry company in the territories owned or controlled by the same corporate entity.

(b) *Security and handling of certificates.* (1) Certificate holders are responsible for the security of the certificates. The certificates shall be kept at the territorial address of the producer or at another location having the advance approval of the Departments.

(2) All refund requests made pursuant to the certificates shall be entered on the reverse side of the certificate.

(3) Certificates shall be returned by registered, certified or express carrier mail to the Department of Commerce when:

(i) A refund is requested which exhausts the entitlement on the face of the certificate,

(ii) The certificate expires, or

(iii) The Departments request their return with good cause.

(4) Certificate entitlements may be transferred according to the procedures described in paragraph (c) of this section.

(c) *The use and transfer of certificate entitlements.* (1) Insular producers issued a certificate may request a refund by executing a Form ITA–361P (*see* § 303.16(b)(3)) and the instructions on the form). After authentication by the Department of Commerce, Form ITA–361P may be used to obtain duty refunds on watch movements, watches, and parts therefor. Duties on watch cases not containing a movement and on articles containing any material which is the product of a country with respect to which Column 2 rates of duty apply may not be refunded. Articles for which duty refunds are claimed must have entered the customs territory of the United States during the two-year period prior to the issue date of the certificate or during the one-year period the certificate remains valid. Copies of the appropriate Customs entries must be provided with the refund request in order to establish a basis for issuing the claimed amounts. Certification regarding drawback claims and liquidated refunds relating to the presented entries is required from the claimant on the form.

(2) Regulations issued by the U.S. Customs Service, U.S. Department of the Treasury, govern the refund of duties under 19 CFR 7.4. If the Departments receive information from the Customs Service that a producer has made unauthorized use of any official form, they may cancel the affected certificate.

(3) The territorial producer may transfer a portion of all of its certificate entitlement to another party by entering in block C of Form ITA–361P the name and address of the party.

(4) After a Form ITA–361P transferring a certificate entitlement to a party other than the certificate holder has been authenticated by the Department of Commerce, the form may be exchanged for any consideration satisfactory to the two parties. In all cases, authenticated forms shall be transmitted to the certificate holder or its authorized custodian for disposition (*see* paragraph (b) of this section).

(5) All disputes concerning the use of an authenticated Form ITA–361P shall be referred to the Departments for resolution. Any party named on an authenticated Form ITA–361P shall be considered an ''interested party'' within the meaning of § 303.21 of this part.

§ 303.20 Duty refund.

(a) Territorial jewelry producers are entitled to duty refund certificates only for jewelry that they produce which is provided for in heading 7113, HTSUS, is a product of a territory and otherwise meets the requirements for duty-free entry under General Note 3 (a)(iv), HTSUS, and 19 CFR 7.3.

(1) An article of jewelry is considered to be a product of a territory if:

(i) The article is wholly the growth or product of the territory; or

(ii) The article became a new and different article of commerce as a result of production or manufacture performed in the territories.

(2) *Two-year exception.* Any article of jewelry provided for in heading 7113, HTSUS, entered or withdrawn from warehouse for consumption during the two-year period beginning August 9, 1999, that is assembled in a territory shall be considered a product of the insular possessions. At the expiration of the two-year period, only jewelry which satisfies either of the criteria set forth in paragraph (a)(1) of this section shall be considered a product of an insular possession.

(b) *Calculation of the value of production incentive certificates.* (1) The value of each producer's certificate shall equal the producer's average creditable wages per unit shipped free

of duty into the United States multiplied by the sum of:

(i) The number of units shipped up to 300,000 units times a factor of 90%; plus

(ii) Incremental units shipped up to 450,000 units times a factor of 85%; plus

(iii) Incremental units shipped up to 600,000 times a factor of 80%; plus

(iv) Incremental shipments up to 750,000 units times a factor of 75%.

(2) The Departments may make adjustments for these data in the manner set forth in § 303.17(c).

§ 303.21 Appeals.

(a) Any official decision or action relating to the issuance or use of production incentive certificates may be appealed to the Secretaries by any interested party. Such appeals must be received within 30 days of the date on which the decision was made or the action taken in accordance with the procedures set forth in paragraph (b) of this section. Interested parties may petition for the issuance of a rule, or amendment or repeal of a rule issued by the Secretaries. Interested parties may also petition for relief from the application of any rule on the basis of hardship or extraordinary circumstances resulting in the inability of the petitioner to comply with the rule.

(b) Petitions shall bear the name and post office address of the petitioner and the name and address of the principal attorney or authorized representative (if any) for the party concerned. They shall be addressed to the Secretaries and filed in one original and two copies with the U.S. Department of Commerce, Import Administration, International Trade Administration, Washington, DC 20230, Attention: Statutory Import Programs Staff. Petitions shall contain the following:

(1) A reference to the decision, action or rule which is the subject of the petition;

(2) A short statement of the interest of the petitioner;

(3) A statement of the facts as seen by the petitioner;

(4) The petitioner's argument as to the points of law, policy or fact. In cases where policy error is contended, the alleged error together with the policy the submitting party advocates as the correct one should be described in full;

(5) A conclusion specifying the action that the petitioner believes the Secretaries should take.

(c) The Secretaries may at their discretion schedule a hearing and invite the participation of other interested parties.

(d) The Secretaries shall communicate their decision, which shall be final, to the petitioner by registered, certified or express mail.

Robert LaRussa,

Assistant Secretary for Import Administration, Department of Commerce.

Ferdinand Aranza,

Acting Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 99–22201 Filed 8–26–99; 8:45 am]

BILLING CODE 3510–DS–P and 4310–93–P

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105565–99]

RIN 1545–AX22

Arbitrage Restrictions Applicable to Tax-exempt Bonds Issued by State and Local Governments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations on the arbitrage restrictions applicable to tax-exempt bonds issued by State and local governments. The proposed amendments affect issuers of tax-exempt bonds and provide a safe harbor for qualified administrative costs for brokers' commissions and similar fees incurred in connection with the acquisition of a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow.

DATES: Written comments must be received by November 26, 1999.

Outlines of topics to be discussed at the public hearing scheduled for December 14, 1999, at 10 a.m. must be received by Tuesday, November 23, 1999.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG–105565–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG–105565–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS site at http://www.irs.ustreas.gov/tax__regs/regslist.html. The public hearing is in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Rose M. Weber, (202) 622–3980; concerning submissions of comments, the hearing, and/or requests to be placed on the building access list to attend the hearing, Michael Slaughter, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 148 of the Internal Revenue Code provides rules addressing the use of proceeds of tax-exempt State and local bonds to acquire higher-yielding investments. On May 9, 1997, final regulations (TD 8718) relating to the arbitrage restrictions and related rules under sections 103, 148, 149, and 150 were published in the **Federal Register** (62 FR 25502). The final regulations (TD 8718) were amended on December 30, 1998 (63 FR 71748). This document proposes to modify § 1.148–5(e)(2) to provide a safe harbor for determining whether brokers' commissions and similar fees incurred in connection with the acquisition of guaranteed investment contracts or investments purchased for a yield restricted defeasance escrow are treated as qualified administrative costs.

Explanation of Provisions

Section 1.148–5(e)(2)(iii) and (iv) of the regulations provides rules for determining whether a broker's commission or similar fee is treated as a qualified administrative cost. Section 1.148–5(e)(2)(iii) provides that, for a guaranteed investment contract, a broker's commission or similar fee paid on behalf of either an issuer or the provider is treated as an administrative cost and, generally, is a qualified administrative cost to the extent that the present value of the commission, as of the date the contract is allocated to the issue, does not exceed the lesser of a reasonable amount or the present value of annual payments equal to .05 percent of the weighted average amount reasonably expected to be invested each year of the term of the contract. Present value is computed using the taxable discount rate used by the parties to compute the commission, or if not readily ascertainable, the yield to the issuer on the investment contract or other reasonable taxable discount rate.

Section 1.148–5(e)(2)(iv) provides that, for investments purchased for a yield restricted defeasance escrow, a fee paid to a bidding agent is a qualified administrative cost only if the fee is comparable to a fee that would be

charged for a reasonably comparable investment if acquired with a source of funds other than gross proceeds of tax-exempt bonds, and it is reasonable. The fee is deemed to meet both the comparability and reasonableness requirements if it does not exceed the lesser of $10,000 and .1 percent of the initial principal amount of investments deposited in the yield restricted defeasance escrow.

Unlike § 1.148–5(e)(2)(iv), § 1.148–5(e)(2)(iii) does not provide parameters under which the reasonableness test will be deemed to have been met. Practitioners have noted that they are uncertain about how to determine reasonableness and whether the .05% test may be used as a safe harbor without regard to whether the resulting amount is a reasonable fee.

Practitioners have also noted that the computation required by § 1.148–5(e)(2)(iii) is too complex and results in different fees being paid for the same services provided.

Finally, having different rules for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow provides an unnecessary tax incentive to structure investments in a certain manner.

To eliminate these complexities and to provide a rule that is easily administered by issuers, the proposed regulations create a single rule for qualified administrative costs that applies to a broker's commission or similar fee incurred in connection with a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow. The proposed regulations also set forth a safe harbor, which allows a broker's commission or similar fee incurred in connection with the acquisition of a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow to be treated as a qualified administrative cost. To fairly compensate most brokers, the proposed safe harbor provides a higher safe harbor limit than is currently provided for in § 1.148–5(e)(2)(iv).

The proposed safe harbor sets forth two requirements. Under the first requirement, the amount of the broker's commission or similar fee incurred in connection with the acquisition of a guaranteed investment contract or other investments purchased for a yield restricted defeasance escrow and treated by the issuer as a qualified administrative cost cannot exceed the lesser of $25,000 and .2 percent of the computational base. For guaranteed investment contracts, the computational base is the aggregate amount reasonably expected to be deposited over the term of the contract. For investments, other than guaranteed investment contracts, deposited in a yield restricted defeasance escrow, the computational base is the initial amount invested in those investments. For example, for a guaranteed investment contract purchased for a debt service fund, the aggregate amount reasonably expected to be deposited includes all periodic deposits reasonably expected to be made pursuant to the terms of the contract. Under the second requirement, for any issue of bonds, the issuer cannot treat as qualified administrative costs more than $75,000 in brokers' commissions and similar fees with respect to all guaranteed investment contracts and investments for yield restricted defeasance escrows purchased with gross proceeds of the issue.

The proposed regulations eliminate the special rule in § 1.148–5(e)(2)(iii) for issues that meet section 148(f)(4)(D)(i). These bond issues will be permitted to use the safe harbor.

These regulations are proposed to apply to bonds sold on or after the date 90 days after the issuance of the final regulations.

Special Analysis

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required.

It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies, if written) that are submitted timely to the IRS. In particular, the IRS and Department of Treasury specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, December 14, 1999, beginning at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments by November 26, 1999, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by November 23, 1999. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these proposed regulations are Rose M. Weber and Rebecca L. Harrigal, Office of the Assistant Chief Counsel (Financial Institutions & Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.148–5, paragraph (e) is amended as follows:

1. Paragraph (e)(2)(iii) is revised.
2. Paragraph (e)(2)(iv) is removed.

The revision reads as follows:

§ 1.148–5 Yield and valuation of investments.

* * * * *

(e) * * *

(2) * * *

(iii) *Special rule for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow*—(A) *In general.* An amount paid for a broker's commission or similar fee with respect to a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow is a qualified administrative cost if the fee is reasonable within the meaning of paragraph (e)(2)(i) of this section.

(B) *Safe harbor.* (1) A broker's commission or similar fee with respect to the acquisition of a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow is reasonable within the meaning of paragraph (e)(2)(i) of this section if—

(*i*) The amount of the fee that the issuer treats as a qualified administrative cost does not exceed the lesser of $25,000 and .2% of the computational base; and

(*ii*) For any issue, the issuer does not treat as qualified administrative costs more than $75,000 in brokers' commissions or similar fees with respect to all guaranteed investment contracts and investments for yield restricted defeasance escrows purchased with gross proceeds of the issue.

(*2*) For purposes of paragraph (e)(2)(iii)(B)(*1*) of this section, computational base shall mean—

(*i*) For a guaranteed investment contract, the amount the issuer reasonably expects as of the issue date to be deposited in the guaranteed investment contract over the term of the contract; and

(*ii*) For investments (other than guaranteed investment contracts) to be deposited in a yield restricted defeasance escrow, the amount of gross proceeds initially invested in those investments.

(C) *Example.* The following example illustrates an application of the safe harbor in paragraph (e)(2)(iii)(B) of this section:

Example. The issuer of a multipurpose issue uses brokers to purchase the following investments with gross proceeds of the issue: a guaranteed investment contract for amounts to be deposited in a debt service fund (debt service GIC), a guaranteed investment contract for amounts to be deposited in a construction fund (construction GIC), Treasury securities to be deposited in a yield restricted defeasance escrow (Treasury investments) and a guaranteed investment contract that will be used to earn a return on what would otherwise be idle cash balances from maturing investments in the yield restricted defeasance escrow (the float GIC). The issuer uses $8,040,000 of the proceeds to purchase the Treasury investments and deposits $14,000,000 into the construction GIC. Over the term of the construction GIC, the issuer reasonably expects that no further deposits will be made. Over the term of the float GIC, the issuer reasonably expects that aggregate deposits of $600,000 will be made to the float GIC. Over the term of the debt service GIC, the issuer reasonably expects that it will make aggregate deposits of $22,000,000, plus interest on the bond issue. The brokers' fees do not exceed $16,080 for the Treasury investments, $25,000 for the construction GIC, $1,200 for the float GIC, and $25,000 for the debt service GIC. Assuming the issuer claims no further brokerage or similar fees, the issuer can claim all $67,280 in brokerage fees for these investments as qualified administrative costs because the fees do not exceed the limitations described in paragraph (e)(2)(iii)(B) of this section.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–21877 Filed 8–26–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105327–99]

RIN 1545–AX03

Qualified Zone Academy Bonds; Obligations of State and Political Subdivisions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: This document contains a correction to REG–105327–99, which was published in the **Federal Register** on Thursday, July 1, 1999 (64 FR 35579). These regulations provide guidance to holders and issuers of qualified zone academy bonds.

FOR FURTHER INFORMATION CONTACT: Timothy L. Jones, (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction is under sections 1397E and 1397F of the Internal Revenue Code.

Need for Correction

As published, REG–105327–99 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–105327–99), which is the subject of FR Doc. 99–16622, is corrected as follows:

On page 35579, column 3, in the preamble, under the paragraph heading ''Comments and Public Hearing'', second paragraph, second line of the paragraph, the language ''for November 19, 1999, beginning at 10'' is corrected to read ''for November 9, 1999, beginning at 10''.

Cynthia E. Grigsby,

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

[FR Doc. 99–22223 Filed 8–26–99; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT–001–0011; FRL–6429–8]

Approval and Promulgation of Air Quality Implementation Plans; Montana; Billings/Laurel Sulfur Dioxide State Implementation Plan; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a notice published on July 28, 1999 (64 FR 40791). In the July 28 document, EPA proposed to partially approve, conditionally approve and partially disapprove the Billings/Laurel sulfur dioxide (SO_2) State Implementation Plan (SIP) revisions submitted by the State of Montana in response to a SIP Call. EPA also proposed a regulatory scheme for sanctions. At the request of several of the stationary sources controlled by the SIP, EPA is extending the comment period through September 27, 1999.

DATES: Comments must be received on or before September 27, 1999.

ADDRESSES: Mail written comments (in duplicate if possible) to Richard R. Long, Director, Air Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA, Region VIII, (303) 312–6437.

Dated: August 19, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 99–22326 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 64, No. 166
Friday, August 27, 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.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 27, 1999.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Folder, File, Farmer's Home Administration 7530-FMHA Item #39
NPA: Blind Work Association, Binghamton, New York, Box, Shipping 8115–01–015–1315
NPA: Tarrant County Association for the Blind, Fort Worth, Texas

Services

Grounds Maintenance
Fox Island Acoustic Laboratory, 630 3rd Avenue, Fox Island, Washington
NPA: Peninsula Services, Bremerton, Washington

Janitorial/Custodial

U.S. Geological Survey, 1209 Orca Street, Anchorage, Alaska
NPA: Assets, Inc., Anchorage, Alaska

Janitorial/Custodial

Buildings 1714, 1830 and 1831, Fort Polk, Louisiana
NPA: Vernon Sheltered Workshop, Leesville, Louisiana

Beverly L. Milkman,
Executive Director.

[FR Doc. 99–22352 Filed 8–26–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: September 27, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION:

On June 25, July 9 and 16, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 34187, 34188, 37098 and 38408) of proposed additions to the Procurement List.

Additions

The following comments pertain to Facilities Management, Federal Center, Defense Logistics Information Services (DLIS), 74 North Washington Street, Battle Creek, Michigan

Comments were received from the current contractor in response to a request for sales data. The contractor indicated that losing this project would be ''a significant loss'' to the company. The percentage of the contractor's total sales which its contract for this service represents, however, is below the level which the Committee normally considers to be severe adverse impact on a contractor.

The following comments pertain to Janitorial/Custodial, Basewide, Brooks Air Force Base, Texas and Janitorial/Custodial, Basewide (excluding Gymnasium), Fort Sam Houston, Texas

Identical comments were received from the current contractor and four other small disadvantaged businesses. The commenters opposed the addition of these services to the Procurement List on the basis of impact on the 8(a) Program generally. The commenters claimed that both the 8(a) and JWOD Programs exist to serve disadvantaged individuals, so it would be a conflict to move a project from one program to the other. They also noted that removal of any projects from the 8(a) Program would exacerbate the effects of recent changes in the 8(a) contracting process

and contract bundling by Federal agencies. Accordingly, they asked that the Committee not add these services or any others performed by 8(a) contractors to the Procurement List.

The Committee adds services performed by 8(a) contractors to the Procurement List upon graduation of the contractors from the 8(a) Program, in order to avoid having an impact on the contractors while they remain eligible to perform services which would continue in the 8(a) Program after the contractors' graduation if they were not added to the Procurement List. For Fiscal Year 1998, the JWOD Program's Federal revenues were less than seven percent of the 8(a) Program's Federal revenues, so the Committee does not believe that its Procurement List additions are having a severe adverse impact on the 8(a) Program. The changes in 8(a) contracting processes and opportunities which the commenters mentioned are the result of actions by the Small Business Administration and Federal contracting activities, which are beyond the control of the Committee.

The following material pertains to all of the items being added to the Procurement List

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Sachet Bag Assorted Scents & Oil Crystal Assorted, M.R. 1733 (Sachet Bag), M.R. 1779 (Oil)

Services

Facilities Management, Federal Center, Defense Logistics Information Services (DLIS), 74 North Washington Street, Battle Creek, Michigan

Family Housing Maintenance, Travis Air Force Base, California

Grounds Maintenance, U.S. Environmental Protection Agency, Western Ecology Division, Environmental Effects Laboratory, 200 SW 35th Street, Willamette Research Station, 1350 SE Goodnight Ave, Corvallis, Oregon

Janitorial/Custodial

U.S. Department of Agriculture, Animal Plant Health Inspection Services (APHIS), Plant Protection and Quarantine (PPQ), 214 North Andes Avenue, Orlando, Florida

Janitorial/Custodial

U.S. Army Reserve Center, Building 213, Fort Hamilton, New York

Janitorial/Custodial

Basewide, Brooks Air Force Base, Texas

Janitorial/Custodial

Basewide (excluding Gymnasium), Fort Sam Houston, Texas

Janitorial/Custodial

National Institute for Occupational Safety and Health (NIOSH), Morgantown, West Virginia

Laundry and Dry Cleaning Service, Fort Belvoir, Virginia,

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–22353 Filed 8–26–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–857, A–560–809]

Initiation of Antidumping Investigations: Paintbrushes and Paintbrush Heads, Other Than Natural Bristle Paintbrushes and Paintbrush Heads, From the People's Republic of China and Paintbrushes and Paintbrush Heads From Indonesia

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

EFFECTIVE DATE: August 27, 1999.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2613.

INITIATION OF INVESTIGATIONS:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the current regulations at 19 CFR part 351 (April 1998).

The Petitions

On August 2, 1999, the Department received petitions filed in proper form by The Paintbrush Trade Action Coalition (PATAC) which is comprised of the following companies: EZ Paintr Corporation; The Wooster Brush Company; Purdy Corporation; Bestt Liebco; and Tru*Serv Manufacturing, collectively referred to hereinafter as the petitioner. On August 11 and August 16, 1999, the Department received supplemental information to these petitions that it had requested from the petitioner.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of paintbrushes, other than natural bristle paintbrushes, from the People's Republic of China (PRC), and paintbrushes from Indonesia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioner filed the petitions on behalf of the domestic industry because it is an interested party as defined in sections 771(9) (C) and (D) of the Act and it has demonstrated sufficient industry support. *See* ''Determination of Industry Support for the Petitions'' section, below.

Scope of Investigations

There is an existing antidumping duty order on natural bristle paintbrushes from the PRC. *See Antidumping Duty Order; Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China*, 51 FR 5580 (February 14, 1986). The scope of the petition on

paintbrushes from the PRC covers all paintbrushes and paintbrush heads imported from the PRC, except those that are already covered by the existing order. For Indonesia, the scope of the petition includes all paintbrushes and paintbrush heads (*i.e.*, natural bristle, synthetic filament, and natural-synthetic filament blended paintbrushes).

People's Republic of China

The scope of the PRC investigation includes all paintbrushes and paintbrush heads that are used to apply paint, stain, varnish, shellac, or any other type of protective coating, other than natural bristle paintbrushes and paintbrush heads that are classifiable under 9603.40.4040 of the Harmonized Tariff Schedule of the United States (HTSUS). The scope of the investigation includes paintbrushes and paintbrush heads with a blend of natural bristle and synthetic filaments, provided that the synthetic filaments comprise over 50 percent of the total filler material in the finished paintbrush or paintbrush head.

The merchandise subject to this investigation is classifiable under 9603.40.4060 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Excluded from the scope of this investigation are artists' brushes classifiable under 9603.30.2000, 9603.30.4000, or 9603.30.6000 of the HTSUS or other non-paintbrush products classifiable under 9603.40.4060 of the HTSUS, such as foam applicators, sponge applicators, or any other type of non-brush paint applicator.

Indonesia

The scope of the Indonesian investigation includes all paintbrushes and paintbrush heads that are used to apply paint, stain, varnish, shellac, or any other type of protective coating, including natural bristle paintbrushes and paintbrush heads, synthetic filament paintbrushes and paintbrush heads, and paintbrushes and paintbrush heads made with a blend of natural bristle and synthetic filament.

The merchandise subject to this investigation is classifiable under 9603.40.4040 and 9603.40.4060 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Excluded from the scope of this investigation are artists' brushes classifiable under 9603.30.2000, 9603.30.4000, or 9603.30.6000 of the HTSUS or other non-paintbrush products classifiable under 9603.40.4060 of the HTSUS, such as foam applicators, sponge applicators, or any other type of non-brush paint applicator.

During our review of the petitions, we discussed the definitions of the scope of the investigations with the petitioner to ensure that the definitions accurately reflect the products for which it is seeking relief. As we discussed in the preamble to the Department's regulations, we are setting aside a period for parties to raise issues regarding product coverage. *See* Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all parties to submit such comments by September 13, 1999. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC, 20230. This scope consultation period is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether the domestic industry has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory provision regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1] Section 771(10) of the Act defines domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In this case, the petitioner claims that all paintbrushes including natural bristle, synthetic filament, and natural-synthetic filament blended paintbrushes, constitute one class or kind of merchandise. In addition, the petitioner notes that the ITC, in its determination in the original investigation on natural bristle paintbrushes from the PRC, defined the domestic like product as all paintbrushes, both natural bristle and synthetic filament paintbrushes. *See Natural Bristle Paint Brushes from the People's Republic of China,* Inv. No. 731–TA–244 (Final), USITC Pub.1805 at 7 (January 1986).

Based on our analysis of the information and arguments presented to the Department, we have determined that for purposes of initiation of these investigations there is a single domestic like product which is defined in the ''Scope of Investigations'' section, above, with respect to Indonesia.

Moreover, the Department has determined that the petitions and supplemental information contained adequate evidence of sufficient industry support. *See* August 23, 1999, Initiation Checklist (public version on file in the Central Records Unit of the Department of Commerce, Room B–099). To the best of the Department's knowledge, the producers who support the petitions account for more than 50 percent of the production of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to section 771(9) (C), (D), (E) or (F) of the

[1] See *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition,* 56 Fed. Reg. 32376, 32380–81 (July 16, 1991).

Act expressed opposition to the petitions on the record. Accordingly, the Department determines that these petitions are filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following describes the allegations of sales at less than fair value upon which our decision to initiate these investigations is based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

People's Republic of China

The petitioner identified 42 potential PRC exporters and/or producers of paintbrushes. The petitioner based export price (EP) on offers for sale of the subject merchandise by three PRC exporters. The petitioner made no adjustments to the starting prices.

Because the PRC is considered a nonmarket economy (NME) country under section 771(18) of the Act, the petitioner based normal value (NV) on the factors of production valued in a surrogate country, in accordance with section 773(c)(3) of the Act. For purposes of the petition, the petitioner selected Indonesia as the most appropriate surrogate market economy. For the factors of production, the petitioner analyzed sample paintbrushes provided by the PRC exporters that correspond to the price quotations. The petitioner disassembled and weighed each of the inputs in order to derive the consumption amount of each raw material used. For labor and electricity, the petitioner estimated the consumption amounts based on its own experience.

Materials were valued based on Indonesian prices obtained from the petitioner's market research. For wood handles, the petitioner stated that it was unable to obtain any publicly available information specific to wood handles for paintbrushes. Therefore, wood handles were valued using prices obtained from an Indonesian supplier. The remaining materials, including packing materials, were valued based on publicly available information which consisted principally of prices published in official Indonesian government import statistics (*i.e., Foreign Trade Statistical Bulletin: Imports*) for the period January 1997 through October 1997. Labor, including direct and packing labor, was valued using the regression-based wage rate for the PRC provided by the Department, in accordance with 19 CFR 351.408(c)(3). To value electricity, the petitioner used the value used by the Department in the 1996–1997 administrative review of the antidumping duty order on natural bristle paintbrushes and brush heads from the PRC. This value is based on rates published in *A Brief Guide for Investors 1995,* issued by the Indonesian government's Investment Coordinating Board. The petitioner adjusted the rate for inflation using the wholesale price indices (WPI) published by the International Monetary Fund (IMF). For factory overhead, selling, general, and administrative expenses (SG&A) and profit, the petitioner used information from financial statements pertaining to the Indonesian industrial grouping which includes manufacturers of paintbrushes, as reported in the Indonesian government's *Large and Medium Manufacturing Statistics: Volume I* (1997).

Based on comparisons of EP to NV, the petitioner estimates dumping margins from 10.82 percent to 148.91 percent.

Indonesia

The petitioner identified the following four exporters and producers of paintbrushes from Indonesia: PT Ace Oldfields; PT Eterna Jayatama Industries; PT Kata Perkasa J/V; and PT Sentosa Hastareksa. For EP, the petitioner used price quotes offered by one of the producers, PT Ace Oldfields, as obtained from its foreign market research.

The petitioner adjusted these prices by subtracting amounts for foreign inland freight and brokerage and handling expenses. The movement expenses were based on information obtained from the petitioner's market research report.

With respect to NV, the petitioner used price quotations obtained from the foreign market researcher for paintbrushes manufactured by Ace Oldfields and sold to customers in Indonesia. The petitioner adjusted these prices by subtracting foreign inland freight amounts which were calculated by using information obtained by the market researcher. In addition, the petitioner made a circumstance of sale adjustment for imputed credit expenses by subtracting home market credit expenses from the starting prices. The petitioner calculated home market imputed credit expenses based on an estimated credit period and the average short-term lending rate in Indonesia during the first quarter of 1999, as published in the *International Financial Statistics*.

Based on comparisons of EP to home market prices, the petitioner estimates margins of 0.00 to 53.12 percent.

Allegation of Sales Below Cost

Pursuant to section 773(b) of the Act, the petitioner alleged that home market sales of the foreign like product in Indonesia were made at prices below the cost of production (COP) and requested that the Department initiate a country-wide sales-below-cost investigation.

Pursuant to section 773(b)(3) of the Act, COP consists of cost of manufacturing (COM), SG&A and packing costs. The petitioner calculated the COP for a sample paintbrush manufactured in Indonesia by PT Ace Oldfields in the following manner: (1) the petitioner calculated the cost of materials by weighing the various material inputs, including packing materials, and valuing the cost of each material using publicly available data; (2) for labor and electricity, the petitioner estimated the consumption amounts based on its analysis of the product and the production experience of its members; and (3) for factory overhead and SG&A, the petitioner used information from publicly available 1997 financial statements pertaining to the Indonesian industrial grouping which includes manufacturers of paintbrushes.

With the exception of the values for labor and natural bristle, the petitioner relied on the information used to value the factors of production of paintbrushes from the PRC, as described above, to calculate the COP of the analyzed paintbrush. To value labor, the petitioner used the April 1999 regional minimum wage rate applicable in West Java, Indonesia, as obtained from the February 1999 issue of the *Indonesian Commercial Newsletter.* The petitioner calculated the cost of natural bristles based on values obtained from the October 1997 issue of the *Foreign Trade Statistical Bulletin: Imports* for the period January 1997 through October 1997.

Based upon the comparison of the adjusted prices from the petition of the foreign like product in Indonesia to the COP calculated in the petition, we do not find ''reasonable grounds to believe or suspect'' that sales of these foreign like products were made below their respective COP within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, based on information currently on the record, the Department is not initiating a country-wide cost investigation for Indonesia, as requested by the petitioner.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of paintbrushes and paintbrush heads, other than natural bristle paintbrushes and paintbrush heads, from the PRC and paintbrushes and paintbrush heads from Indonesia are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of imports of the subject merchandise sold at less than NV. The allegations of injury and causation are supported by relevant evidence including business proprietary data from the members of PATAC and U.S. Customs import data. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist (public version on file in the Central Records Unit of the Department of Commerce, Room B–099).

Initiation of Antidumping Investigations

We have examined the petitions on paintbrushes and paintbrush heads, other than natural bristle paintbrushes and paintbrush heads, from the PRC and paintbrushes and paintbrush heads from Indonesia and have found that they meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of paintbrushes and paintbrush heads, other than natural bristle paintbrushes and paintbrush heads, from the PRC and paintbrushes and paintbrush heads from Indonesia are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determinations for the antidumping duty investigations by January 10, 2000.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of the governments of the PRC and Indonesia. We will attempt to provide a copy of the public version of each petition to each exporter named in the petition (as appropriate).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine by September 16, 1999, whether there is a reasonable indication that imports of paintbrushes and paintbrush heads, other than natural bristle paintbrushes and paintbrush heads, from the PRC and paintbrushes and paintbrush heads from Indonesia are causing material injury, or threatening to cause material injury, to a U.S. industry. Negative ITC determinations will result in the particular investigations being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published in accordance with section 777(i)(1) of the Act.

Dated: August 23, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–22354 Filed 8–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

District Export Council Nomination Opportunity

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Opportunity to Serve as a Member of One of the Fifty-five District Export Councils.

SUMMARY: The U.S. Department of Commerce is currently seeking expressions of interest from individuals in serving as a member of one of the fifty-five District Export Councils (DECs) nationwide. The DECs are closely affiliated with the Export Assistance Centers (EACs) of the Commercial Service. DECs combine the energies of more than 1,500 exporters and private and public export service providers who volunteer their time to supply specialized expertise to small and medium-sized businesses in their local communities who are interested in exporting. DEC members volunteer at their own expense.

DATES: Applications for nomination to a DEC must be received by the designated local DEC representative by September 10, 1999.

FOR FURTHER INFORMATION CONTACT: Jennifer Stone, International Trade Specialist, the Commercial Service, tel. 202–482–6298. Additional information about the DECs is also found on the National DEC Homepage at http://www.ita.doc.gov/dec.

SUPPLEMENTARY INFORMATION: Providing their expertise and mentoring services, DEC members help local firms move from their first international business plan to their first export sale. The DECs create seminars that simplify trade finance, host international buyer delegations, design breakthrough exporting guides, put exporters on the Internet, and help build local partnerships that strengthen export assistance programs. Because DEC members represent both the users and providers of local export assistance services, they can identify gaps in the export services that EACs provide to U.S. businesses and thus shape EAC international trade programs to better meet local business needs.

Selection Process

About half of the approximately 30 positions on each of the 55 DECs will be open for nominations for the term that begins January 1, 2000, and ends December 31, 2003. Nominees are recommended by the local DEC Executive Secretary in consultation with the DEC and with other local export promotion partners. After undergoing a review process, DEC nominees are then selected and appointed to DEC membership by the Secretary of Commerce.

Membership Criteria

Each DEC is interested in nominating highly-motivated people active in the local exporting community. Membership composition on the DECs include: exporters (such as representatives from manufacturing, the services industry, and export trading companies); bankers; U.S. Small Business Administration representatives; state and local officials; and other ''partners'' including international lawyers and accountants as well as representatives from world trade centers, chambers of commerce, export management companies, labor and freight forwarders.

Authority: 15 U.S.C. 1501 *et seq.*, 15 U.S.C. 4721.

Dated: August 19, 1999.

Daniel J. McLaughlin,

Deputy Assistant Secretary for Domestic Operations, U.S. and Foreign Commercial Service.

[FR Doc. 99–22356 Filed 8–26–99; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Welded Carbon Steel Pipes and Tubes from Turkey: Extension of Time Limit for Preliminary Results of Five-Year Review:

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

ACTION: Notice of Extension of Time Limit for Preliminary Results of Five-Year (''Sunset'') Review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the sunset review on the countervailing duty on welded carbon steel pipes and tubes from Turkey. Based on adequate responses from domestic interested parties and respondent interested parties, the Department is conducting a full sunset review to determine whether revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy. As a result of this extension, the Department intends to issue its preliminary results not later than November 19, 1999 and its final results not later March 28, 2000.

EFFECTIVE DATE: August 27, 1999.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

Extension of Preliminary Results

The Department has determined that the sunset review of the countervailing duty order on welded carbon steel pipes and tubes from Turkey is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended (''the Act''), the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). *See* section 751(c)(6)(C) of the Act. The Department is extending the time limit for completion of the preliminary results of this review until not later than November 19, 1999 and the final results until not later than March 28, 2000, in accordance with section 751(c)(5)(B) of the Act.

Dated: August 23, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–22355 Filed 8–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Termination of Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Motion to Terminate the Panel Review of the final antidumping duty determination made by the International Trade Administration, respecting Stainless Steel Round Wire From Canada (Secretariat File No. USA–CDA–99–1904–04).

SUMMARY: Pursuant to the Notice of Motion to Terminate the Panel Review by the requestors, the panel review is terminated as of August 10, 1999. No panel has been appointed to this panel review. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: August 23, 1999.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 99–22265 Filed 8–26–99; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072799B]

Marine Mammals; Scientific Research Permit (PHF# 731–1509–00)

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Robin W. Baird, Ph.D., C201–2747 S. Kihei Road, Kihei, HI 96753, has been issued a permit to take several species of cetaceans for purposes of scientific research.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On July 22, 1998, notice was published in the Federal Register (63 FR 39272) that a request for a scientific research permit to take several species of cetaceans during the course of biopsy sampling and photo-identification studies had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR Parts 222 - 226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West

Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6426);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4027);

Protected Species Program Manager,Pacific Islands Area Office, NMFS, NOAA, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, Hawaii 96814–4700 (808/973–2935); and

Regional Administrator, Alaska Region, NMFS, 709 W. 9th Street, Federal Building, Room 461, P.O. Box 21668, Juneau, AK 99802 (907/586–7235).

Dated: July 23, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–22339 Filed 8–26–99; 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 and OMB Number: Information Collection Support of the DoD Acquisition Process (Solicitation Phase); OMB Number 0704–0187.

Type of Request: Extension.

Number of Respondents: 192,555.

Responses Per Respondent: Approximately 12.

Annual Responses: 2,338,668.

Average Burden Per Response: 10.25 hours.

Annual Burden Hours: 23,986,320.

Needs and Uses: This information collection requirement pertains to information that an offeror must submit to DoD in response to a request for proposals or an invitation for bids. DoD uses this information to (1) evaluate offers, (2) determine which offeror to select for contract award, and (3) determine whether the offered price is fair and reasonable. DoD also uses this information in determining whether to furnish precious metals as Government-furnished material; and whether to trade in existing personal property towards the purchase of new items.

Affected Pubic: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 23, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–22254 Filed 8–26–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend record systems.

SUMMARY: The Department of the Air Force proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on September 27, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, Headquarters, Air Force Communications and Information Center/ITC, 1250 Air Force Pentagon, Washington, DC 203301250.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 5886187.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record system being amended are set forth below followed by the notice as amended, published in its entirety.

Dated: August 23, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F035 SAFPA E

SYSTEM NAME:

Public Affairs References *(June 11, 1997, 62 FR 31793).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'F035 SAFAA A'.

* * * * *

SYSTEM LOCATION

Delete entry and replace with 'Office of the Secretary of the Air Force, Secretary s Staff Group, 1670 Air Force Pentagon, Washington, DC 20330-1670.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Disposition pending. No records will be destroyed until authorization is granted from the National Archives and Records Administration. All records will be retained until approval is granted.'

* * * * *

F035 SAFAA A

SYSTEM NAME:

Public Affairs References.

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Secretary s Staff Group, 1670 Air Force Pentagon, Washington, DC 20330-1670.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian officials of the Federal Government (including Presidential Appointees), prominent Americans in and out of government who are involved in defense matters, and reporters and syndicated columnists or commentators who write on defense matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

For military and civilian officials of the Department of Defense and for Presidential Appointees: Copies of official biographies released by the Department of Defense or by the White House. A speech subsystem may contain

copies or excerpts of speeches by military and civilian Federal Government officials speaking about defense matters. A clippings subsystem may contain news media clippings about activities or statements of prominent Americans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force.

PURPOSE(S):

To respond to requests from Air Force and Department of Defense officials for any of the following information: Biographical material about key government officials; public statements by government officials about defense matters; defense related statements or activities of prominentAmericans, as reported in news media; or publishing history of writers on defense matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permittedunder 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C.552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and note books/binders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Disposition pending. No records will be destroyed until authorization is granted from the National Archives and Records Administration. All records will be retained until approval is granted.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant to the Secretary of the Air Force, 1720 Air Force Pentagon, Washington, DC 20330-1720.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the Administrative Assistant to the Secretary of the Air Force, 1720 Air Force Pentagon, Washington, DC 20330-1720.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to or visit the Administrative Assistant to the Secretary of the Air Force, 1720 Air Force Pentagon, Washington, DC 20330-1720.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the public media and from source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–22256 Filed 8–26–99; 8:45 am]
BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 27, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: August 23, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0040–3c DASG

SYSTEM NAME:

Medical Regulating Files *(August 7, 1997, 62 FR 42527).*

CHANGES:

* * * * *

STORAGE:

Delete entry and replace with 'Paper records in file folders and electronic storage media.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Destroyed 1 year following the end of the calendar year in which the patient was reported to the Global Patient Movement Requirements Center.'

* * * * *

A0040–3c DASG

SYSTEM NAME:

Medical Regulating Files.

SYSTEM LOCATION:

Primary location: The Surgeon General, U.S. Army Medical Command, ATTN: MCIM, 2050 Worth Road, Suite 13, Fort Sam Houston, TX 78234–6013.

Segments exist at Army medical treatment facilities, evacuation units and medical regulating offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any patient requiring transfer to another medical treatment facility who is reported to the Global Patient Movement Requirements Center by U.S. Government medical treatment facilities for designation of the receiving medical facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains information reported by the transferring medical treatment

facility and includes, but is not limited to, patient identity, service affiliation and grade or status, sex, medical diagnosis, medical condition, special procedures or requirements needed, medical specialties required, administrative considerations, personal considerations, the patient's home town and/or duty station and other information having an impact on the transfer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and 10 U.S.C. 3013, Secretary of the Army.

PURPOSE(S):

To properly determine the appropriate medical treatment facility to which the reported patient will be transferred; to notify the reporting U.S. Government medical treatment facility of the transfer destination; to notify the receiving medical treatment facility of the transfer; to notify evacuation units, medical regulating offices and other government offices for official reasons; to evaluate the effectiveness of reported information; to establish further the specific needs of the reported patient; for statistical purposes; and when required by law and official purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

Note: Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The Army's 'Blanket Routine Uses' do not apply to these types records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Records are maintained in secured areas accessible only to authorized personnel who are properly screened and trained.

RETENTION AND DISPOSAL:

Destroyed 1 year following the end of the calendar year in which the patient was reported to the Global Patient Movement Requirements Center

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Patient Administration Division, Office of the Surgeon General, U.S. Army Medical Command, ATTN: MCHO-CL-P, Room G104, 2050 Worth Road, Fort Sam Houston, TX 78234-6013.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Chief, Patient Administration Division, Office of the Surgeon General, U.S. Army Medical Command, ATTN: MCHO-CL-P, Room G104, 2050 Worth Road, Fort Sam Houston, TX 78234-6013 or to the Patient Administrator at the medical treatment facility where service was provided.

Individual should provide full name, rank or status and parent service, approximate date of transfer, medical treatment facility from which transferred, and current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to Chief, Patient Administration Division, Office of the Surgeon General, U.S. Army Medical Command, ATTN: MCHO-CL-P, Room G104, 2050 Worth Road, Fort Sam Houston, TX 78234-6013 or to the Patient Administrator at the medical treatment facility where service was provided.

Individual should provide full name, rank or status and parent service, approximate date of transfer, medical treatment facility from which transferred, and current address and telephone number.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From transferring and receiving treatment facilities, medical regulating offices, evacuation offices, and other U.S. Government offices, agencies and commands relevant to the patient transfer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–22257 Filed 8–26–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to amend record systems.

SUMMARY: The Defense Logistics Agency proposes to amend systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The action will be effective on September 27, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 220606221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 7676183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Defense Logistics Agency proposes to amend systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems report. The records systems being amended are set forth below, as amended, published in their entirety.

Dated: August 23, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION

S339.50 DSAC-L

SYSTEM NAME:

Staff Information File *(February 22, 1993, 58 FR 10854).*

Reason: As a result of an internal reorganization and a realignment of functions, this system of records is no longer needed. Therefore, records have been destroyed.

AMENDMENTS

S200.60 DD

SYSTEM NAME:

Chaplain Care and Counseling Records *(August 23, 1996, 61 FR 43532).*

CHANGES:

* * * * *

STORAGE:

Delete 'computerized' and replace with 'electronic'.

* * * * *

NOTIFICATION PROCEDURES:

Delete 'CAAV' and replace with 'ATTN: CAAR'.

RECORD ACCESS PROCEDURES:

Delete 'CAAV' and replace with 'ATTN: CAAR'.

* * * * *

S200.60 DD

SYSTEM NAME:

Chaplain Care and Counseling Records.

SYSTEM LOCATION:

Office of the Command Chaplain, Defense Logistics Agency, ATTN: DDAC, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 220606221.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have received spiritual counseling, guidance, or ministration from the DLA Command Chaplain; individuals who have participated in Chaplain sponsored activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, home address and telephone number, Social Security Number, religion, and details for which the individual sought counseling or assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 302(b)(1) (Delegation of authority); 10 U.S.C. 136, Assistant Secretaries of Defense; 10 U.S.C. 3547, Duties: Chaplains, assistance required of commanding officers; 10 U.S.C. 5142 Chaplain Corps and Chief of Chaplains; 10 U.S.C. 8067(h), Designation: officers to perform certain professional functions (chaplains); and E.O. 9397 (SSN).

PURPOSE(S):

To document spiritual counseling or assistance provided to individuals. The records will be used in the course of scheduling counseling sessions, conducting and evaluating training, and recording participation in spiritual activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 553a(b) of the Privacy Act, these records and information contained therein may specifically be disclosed outside DoD as a routine use pursuant to 5 U.S.C. 55a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning DLA's compilation of systems of records notices *do not* apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper and electronic form.

RETRIEVABILITY:

Records are retrieved by name or Social Security Number.

SAFEGUARDS:

Records are stored in locked cabinets or rooms and are controlled by personnel screening and computer software.

RETENTION AND DISPOSAL:

Information is retained in the system until superseded or no longer needed.

SYSTEM MANAGER AND ADDRESS:

Office of the Command Chaplain, Defense Logistics Agency, ATTN: DDAC, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 220606221.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, HQ DLA, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 220606221.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Privacy Act Officer, HQ DLA, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 220606221.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 220606221.

RECORD SOURCE CATEGORIES:

Information is provided by the record subject or subject's family members.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S322.35 DMDC

SYSTEM NAME:

Survey and Census Data Base *(May 7, 1999, 64 FR 24626).*

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add '10 U.S.C. 1782, Surveys of Military Families'.

* * * * *

S322.35 DMDC

SYSTEM NAME:

Survey and Census Data Base.

SYSTEM LOCATION:

Primary location: Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Back-up location: Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who completed census or survey forms, including military members, civilians, persons eligible for DoD benefits, men and women of military age, and applicants to the military services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Survey responses and census information:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10

U.S.C. 1782, Surveys of Military Families; 10 U.S.C. 2358, Research and Development Projects; DoD Directive 5124.2, Under Secretary of Defense for Personnel and Readiness (USD(P&R)); and E.O. 9397 (SSN).

PURPOSE(S):

The purposes of the system are to count DoD personnel and beneficiaries for evacuation planning, apportionment when directed by oversight authority and for other policy planning purposes, and to obtain characteristic information on DoD personnel and households to support manpower and benefits research; to sample attitudes and/or discern perceptions of social problems observed by DoD personnel and to support other manpower research activities; to sample attitudes toward enlistment in and determine reasons for enlistment decisions. This information is used to support manpower research sponsored by the Department of Defense and the military services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The information may be used to support manpower research sponsored by other Federal agencies.

The 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic computer tape.

RETRIEVABILITY:

Records can be retrieved by Social Security Number; by institutional affiliation such as service membership; and by individual characteristics such as educational level.

SAFEGUARDS:

Access to data at all locations is restricted to those who require the records in the performance of their official duties. Access is further restricted by the use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Manpower Data Center, 1600 Wilson Boulevard, 4th Floor, Arlington, VA 222092593.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

Written requests should contain the full name, Social Security Number, and current address and telephone numbers of the individual. In addition, the approximate date and location where the survey was completed should be provided.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

Written requests should contain the full name, SocialSecurity Number, and current address and telephone numbers of the individual. In addition, the approximate date and location where the survey was completed should be provided.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 220606221.

RECORD SOURCE CATEGORIES:

The survey and census information is provided by the individual; additional data obtained from Federal records are linked to individual cases in some data sets.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S330.10 DLA-KS

SYSTEM NAME:

Official Records for Host Enrollee Programs *(February 22, 1993, 58 FR 10854).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'S340.20 CAHS'.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'File contains name, Social Security Number, data pertaining to the selection, tenure, and separation of individuals, time and attendance data, training information, periodic evaluations, data on enrollee designee for emergency contact, and similar employment related information.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with 'Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.); Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93-567); Job Training Partnership (29 U.S.C. 1501, et seq.); and E.O. 9397 (SSN).'

* * * * *

STORAGE:

Delete entry and replace with 'Records are maintained in electronic and paper form.'

* * * * *

SAFEGUARDS:

Add to end of entry 'Records are secured in locked or guarded buildings, locked offices, or locked cabinets during nonduty hours.'

* * * * *

S340.20 CAHS

SYSTEM NAME:

Official Records for Host Enrollee Programs.

SYSTEM LOCATION:

Defense Logistics Agency Primary Level Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Primary Level Field Activities (PLFAs) act as hosts for individuals sponsored by local, state and federal agencies who seek work experience and training with DLA activities with or without DLA participation relative to compensation and reimbursement.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants and selectees of Host Enrollee Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains name, Social Security Number, data pertainingto the selection, tenure, and separation of individuals, time and attendance data, training information, periodic evaluations, data on enrollee designee for emergency contact, and similar employment related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.); Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93-567); Job Training Partnership (29 U.S.C. 1501, et seq.); and E.O. 9397 (SSN).

PURPOSE(S):

This information is used to assist personnel and management officials inadministering a uniform employment and training program and to make a proper evaluation of the enrollee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and paper form.

RETRIEVABILITY:

Retrieved by employee name under particular type of Host Enrollee Program.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must access the records to perform their duties. The computerized files are password protected with access restricted to authorized users. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during nonduty hours.

RETENTION AND DISPOSAL:

Records are maintained for the duration of the enrollee's program assignment. They are held for two years after separation from the program and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Primary Level Field Activities Human Resources Officers. Official mailing addresses are published as an appendix to DLA's compilation of system of records notices.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221, or the Privacy Act Officer of the particular DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221, or the particular DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, FortBelvoir, VA 220606221.

RECORD SOURCE CATEGORIES:

Information is obtained from the employee, program sponsor, educationalinstitutions, supervisors and others who contribute to the work and training experience of the enrollee while registered in the respective PLFA Host Enrollee Program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S330.40 DLA-KS

SYSTEM NAME:

Employee Assistance Program Case Record Systems *(February 22, 1993, 58 FR 10854).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'S330.40 CAHS.'

SYSTEM NAME:

Delete entry and replace with 'Employee Assistance Program Records.'

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'All DLA civilian employees in appropriated and nonappropriated fund activities and employees in agencies receiving personnel support by DLA who are referred by management or who voluntarily request counseling assistance; military service members assigned to DLA activities who voluntarily request counseling; and family members of military members or civilian employees who voluntarily request counseling.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'The file includes name, Social Security Number, address, phone numbers, and data generated in the course of counseling.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry '5 U.S.C. 7904 (Employee Assistance); 5 U.S.C. 7361, et seq. (Drug Abuse and Alcohol); and 10 U.S.C. 1090 (Drug and Alcohol Dependence).'

* * * * *

RETRIEVABILITY:

Add to entry 'Social Security Number'.

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Record subject, counselors, supervisors, medical practitioners, co-workers, and private individuals to include family members of enrollee.'

* * * * *

S330.40 CAHS

SYSTEM NAME:

Employee Assistance Program Records.

SYSTEM LOCATION:

Headquarters Defense Logistics Agency, DLA Primary Level Field Activities, and offices of contractors who provide counseling services. Official mailing addresses are published asan appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DLA civilian employees in appropriated and nonappropriated fund activities and employees in agencies receiving personnel support by DLA who are referred by management or who

voluntarily request counseling assistance; military service members assigned to DLA activities who voluntarily requestcounseling; and family members of military members or civilian employees who voluntarily request counseling.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file includes name, Social Security Number, address, phone numbers, and data generated in the course of counseling.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7904 (Employee Assistance); 5 U.S.C. 7361, et seq. (Drug Abuse and Alcohol); and 10 U.S.C. 1090 (Drug and Alcohol Dependence); 42 U.S.C. 290dd2 (Confidentiality of records); E.O. 9397 (SSN) and E.O. 12564 (Drug-Free Federal Workplace).

PURPOSE(S):

Used in the execution of the counseling function as it applies to the individual; selected information may be provided to and used by other counselors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In order to comply with provisions of 42 U.S.C. 290dd2, the DLA 'Blanket Routine Uses' do not apply to this system of records.

Records in this system may not be disclosed without the prior written consent of such patient, unless the disclosure would be:

To medical personnel to the extent necessary to meet a bona fide medical emergency;

To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner; and

If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper and electronic form.

RETRIEVABILITY:

By employee name, Social Security Number, locally assigned identifying number or by case number.

SAFEGUARDS:

Records are maintained in areas accessible only to individuals who must access the records to perform their official duties. Computer files are password protected with access restricted to authorized users. Records are secured in locked or guarded buildings, locked office, or locked cabinets during nonduty hours.

RETENTION AND DISPOSAL:

Records are destroyed 3 years after termination of counseling.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Human Resources Office, Headquarters Defense Logistics Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060-6221 and the HumanResources Officer or comparable official of the Human Resources Office servicing the activity or installation. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221, or the Privacy Act Officer of the particular DLA PLFA involved. Official mailing addresses are published as an appendix toDLA's compilation of systems of records notices.

The letter should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Fort Belvoir, VA 22060-6221, or the Privacy Act Officer of the particular DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 220606221.

RECORD SOURCE CATEGORIES:

Record subject, counselors, supervisors, medical practitioners, co-workers, and private individuals to include family members of enrollee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S380.50 DLA-K

SYSTEM NAME:

DLA Drug-Free Workplace Program Records *(February 22, 1993, 58 FR 10854).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'S380.50 CAHS'.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Defense Logistics Agency, Human Resources Operations Center, 3990 East Broad Street, Building 11, Columbus, OH 43213-5000.

Secondary locations: Executive Director, Human Resources Office, Headquarters Defense Logistics Agency, ATTN: CAHS, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221, and the Human Resources Offices of the DLA Primary Level Field Activities (PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Offices of contractors who provide collection, laboratory analysis, and medical review services. Contact system manager for mailing addresses of contractors.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'DLA employees, individuals who have applied to DLA for employment, and individuals who are provided personnel support by DLA.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Records are maintained in areas accessible only to DLA personnel who must use the records to perform their duties. The computer files are password protected with access restricted to authorized users. Records are secured in locked or guarded buildings, locked

offices, or locked cabinets during nonduty hours.'

* * * * *

RETENTION AND DISPOSAL:

Add to entry 'Records relevant to litigation or disciplinary actions should be disposed of no earlier than the related litigation or adverse action case file(s).'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Record subject; agency employees involved in the selection and notification of individuals to be tested; laboratories that test urine specimens for the presence of illegal drugs; physicians who review test results; and supervisors, managers, and other officials.'

* * * * *

S380.50 CAHS

SYSTEM NAME:

DLA Drug-Free Workplace Program Records.

SYSTEM LOCATION:

Primary location: Defense Logistics Agency, Human Resources Operations Center, 3990 East Broad Street, Building 11, Columbus, OH 43213-5000.

Secondary locations: Executive Director, Human Resources Office,Headquarters Defense Logistics Agency, ATTN: CAHS, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221, and the Human Resources Offices of the DLA Primary Level Field Activities (PLFAs). Official mailing addresses arepublished as an appendix to DLA's compilation of systems of records notices.

Offices of contractors who provide collection, laboratory analysis, and medical review services. Contact system manager for mailing addresses of contractors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA employees, individuals who have applied to DLA for employment, and individuals who are provided personnel support by DLA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to program implementation and administration, including selection, notification, and testing of individuals; collection and chain of custody documents; urine specimens and drug test results; consent forms; rebuttal correspondence; and similar records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12564, Drug-Free Federal Workplace and E.O. 9397 (SSN); Pub. L. 10071; 42 U.S.C. 290dd2 and 5 U.S.C. 7301.

PURPOSE(S):

The system is established to maintain records relating to the selection and testing of DLA employees and applicants for DLA employment for use of illegal drugs. The records will provide the basis for taking appropriate action in reference to employees who test positive for use of illegal drugs.

Records may be used by authorized contractors for the collection process; assigned Medical Review Officials; the Administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating; and agency supervisory or management officials having authority to take adverse personnel action against such an employee when test results are positive.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF THE USES:

In order to comply with provisions of 5 U.S.C. 7301, the DLA 'Blanket Routine Uses' that appear at the beginning of DLA's compilation of systems of records notices do not apply to thissystem.

Records may be disclosed to a court of competent jurisdiction when required by the United States Government to defend against a challenge to related adverse personnel action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper and electronic form.

RETRIEVABILITY:

Records are retrieved by name of activity, name of employee or applicant, position title, position description number, Social Security Number, I.D. number, or any combination of these.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who mustuse the records to perform their duties. The computer files are password protected with access restricted to authorized users. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during nonduty hours.

RETENTION AND DISPOSAL:

Records relating to test selection, scheduling, collection, handling, and results will be destroyed when 3 years old; records relating to individual notification and acknowledgment will be destroyed when the individual separates from the testing designated position. Records relevant to litigation ordisciplinary actions should be disposed of no earlier than the related litigation or adverse action case file(s).

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Human Resources Office, Defense Logistics Agency, ATTN: CAHS, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

Individuals must provide name; date of birth; Social Security Number; I.D. Number (if known); approximate date of record; and activity and position title.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Fort Belvoir, VA 22060-6221.

Individuals must provide name; date of birth; Social Security Number; I.D. Number (if known); approximate date of record; and activity and position title.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 220606221.

RECORD SOURCE CATEGORIES:

Record subject; agency employees involved in the selection and notification of individuals to be tested; laboratories that test urine specimens for the presence of illegal drugs; physicians who review test results; and supervisors, managers, and other officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–22255 Filed 8–26–99; 8:45 am]

BILLING CODE 5001–10–F

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 99–1]

Safe Storage of Fissionable Material Called ''Pits''

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice, recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 2286a(a)(5) concerning safe storage of fissionable material called ''pits.''

DATES: Comments, data, views, or arguments concerning this recommendation are due on or before September 27, 1999.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri or Andrew L. Thibadeau at the address above or telephone (202) 694–7000.

Dated: August 23, 1999.

John T. Conway,

Chairman.

[Recommendation 99–1]

Safe Storage of Fissionable Material Called ''Pits''

Dated: August 11, 1999.

Fissionable components are at the heart of all nuclear weapons, and have therefore been of central importance to that part of the nation's defense posture that relies on nuclear deterrence. Most of the defense nuclear programs of DOE and its predecessor agencies have been devoted to production of the fissionable material for these components and the working of this material into weapons parts. Most fissionable material in nuclear weapons is in components called ''pits,'' which are the primary parts of the weapons, and which have geometrical forms, dimensions, and other features which are highly classified. Pits are predominantly made of plutonium metal which by itself would corrode in an air atmosphere, causing a possibility of dispersion of this hazardous material. Therefore, pits normally have a corrosion-resistant cladding, and where possible they are kept in an inert atmosphere. The design purpose of pits and their constituent material leads them to have singular importance, both from the standpoint of national security and that of safety. In particular, when pits are stored by themselves, not incorporated in a nuclear weapon (''stand-alone'' pits), special attention is required to avoid any undue risk.

Most plutonium pits in this country were formerly made at the Rocky Flats Plant of the Department of Energy, situated between Boulder and Golden, Colorado. When manufacture of new pits was ended in 1989, a number of previously made but still unused pits existed outside of completed weapons, along with some others that had been manufactured but that required rework. Also, when weapons are dismantled, their pits are stored as stand-alone pits. In the following, the term ''pits'' will be reserved to those components not incorporated in nuclear weapons.

The number of stand-alone pits continues to grow as more nuclear weapons are dismantled in accordance with international agreements and national policy, and it is now in excess of 10,000. Most of the nation's pits are stored at this time at the Pantex Plant of the Department of Energy, near Amarillo, Texas, under conditions considered to be secure and also safe for the time being.

Current plans envisage three principal destinies for pits stored at Pantex. Some pits are to be retained in a strategic reserve, in case a decision should be made to use them in nuclear weapons at a future time. Other pits regarded as surplus to any conceivable future defense mission are to be converted from metallic form to a plutonium oxide, which is to be added to depleted uranium oxide. The combination is to serve as the fissionable material in mixed oxide fuel in certain commercial nuclear reactor plants. Plutonium from some surplus pits that will be difficult to use in this way will be disposed of.

Numerous decisions must still be made to convert such tentative plans to reality. The most basic ones would establish where certain actions and processes are to take place. They are:

1. Where is the strategic stockpile of pits to be stored?
2. Where is the conversion of metallic plutonium to plutonium oxide to take place?
3. Where is the manufacture of mixed oxide fuel to occur?
4. Where will surplus pits awaiting disposition be stored?

Current actions of DOE are consistent with storage of pits for the strategic stockpile at the Pantex Plant. Pits destined for conversion to plutonium oxide and subsequent incorporation in mixed oxide fuel must be processed into feedstock prior to fuel manufacture. DOE has announced in its Record of Decision following an Environmental Impact Statement that Savannah River is the preferred site for this conversion to feedstock. For this to take place, pits in the latter category must be shipped to the Savannah River Site from their present location at the Pantex Plant at Amarillo, Texas.

Almost as basic are decisions still awaited regarding the structures in which both medium-term and long-term storage will take place, and the nature of the storage itself including the containers that will be used for shipping and storage. For most of the pits now in storage at Pantex, the outer metallic cladding is the only reliable containment. Although the cladding of pits has rarely failed or been breached, most pits have been protected throughout their existence by the sealed atmosphere within a nuclear weapon, limiting their exposure to incompatible or corrosion-producing materials. However, most pits at Pantex are now in AL–R8 containers with a normal atmosphere, along with celotex packing material that is a potential source of moisture and chlorides. The containers are not tightly sealed, and they are kept in magazines with an atmosphere that communicates with the outside air through a normal ventilation system. The AL–R8 container is used for storage, but not for shipping pits. It is regarded as noncertifiable for shipping.

Furthermore, inspection, cleaning, and other operations associated with dismantlement of nuclear weapons makes use of chemicals that could conceivably initiate corrosion or otherwise damage a pit in the long term. The condition of pits following dismantlement is not well documented, and some long-term modes of possible degradation are not well understood. Some types of pits must be kept cool.

In 1992, as the forthcoming size of the inventory of pits came to be realized, DOE began to plan for measures to better protect them. A surveillance program was instituted. A plan was developed to place pits in sealed stainless steel containers called AT–400A, each having a sealed stainless steel insert holding a pit in an inert atmosphere. The AT–400A would have fully protected its enclosed pit, and would have been certifiable as a shipping container. As plans developed, repackaging of pits was to start in 1995 and was to have been completed in five years. However, this repackaging never became a reality. The Pantex contractor found the final weld seal on the AT–400A's insert to be very difficult, and the cost of the AT–400A was concluded to be too high. Use of the AL–R8 continued.

The design laboratories have stated in letters to DOE and to Pantex in 1995 and 1997 that pits, when in AL–R8 containers for an extended period, face a possibility of corrosion. They recommended that no pits should be stored an appreciable period of time in these containers. Further, they stated that if pits are to be stored in AL–R8s for more than five years, aggressive surveillance should be applied and humidity control should be used.

DOE has since pursued a course intermediate between continued use of the AL–R8 alone and introduction of a totally new container such as the AT–400A, and has developed a design of a stainless steel pit container with a bolted, flanged closure, to be an insert for the AL–R8. Some materials compatibility problems have been attached to the design, but these seem surmountable.

The Board has been actively following the development of plans for pit storage, and has discussed the issues with DOE and the Pantex contractor on numerous occasions during the years since 1992. On December 31, 1997, the Board sent to the Assistant Secretary for Defense Programs a comprehensive review of the matter, defining a number of steps believed to be necessary for conduct of an adequate program, and stating that it may be prudent to assign overall responsibility for the endeavor to a senior line manager within DOE to ensure success. No formal reply to the letter was made, although the issue was pursued during briefings of the Board, including some at Pantex. The next written communication on the matter occurred in a letter from the Deputy Assistant Secretary for Military Application and Stockpile Management, DOE, on October 14, 1998. The letter informed the Board that proposed use of the AT–400A container had been abandoned in favor of the AL-R8 with a sealed insert.

On November 6, 1998, a letter from the same source transmitted a copy of an Integrated Pit Storage Program Plan (IPSPP) which included up-to-date plans for interim storage of all Pantex pits (an earlier version of the IPSPP had been furnished the Board in January 1998, but that had been withdrawn). The Board responded on March 12, 1999, finding that the IPSPP did not adequately address the concerns stated in its letter of December 31, 1997. The IPSPP continued to be focused on short-term goals and did not take into account the need for informed decisions to be made regarding critical elements of the pit management system, such as the selection of pit packaging and storage facilities and preparation for eventual shipment to disposition facilities.

On April 15, 1999, the Assistant Secretary for Defense Programs responded in a letter agreeing that the IPSPP does not fully address all pit life-cycle issues. He stated that the Plan was intended to ensure safe storage in the near-term. He also promised to form a multi-disciplinary team in the summer of 1999 to identify appropriate issues and develop the desired end-states, to assign, subject to higher approval, the responsibilities for their achievement, and to identify the resources. The IPSPP would be modified accordingly.

The rate of repackaging of Pantex pits is not well predictable, but one estimate places corresponding completion of the task at no sooner than the year 2008. The Pantex contractor is seeking a means to operate two shifts within present budgets, which could mean a completion date approximately in the year 2006. Startup of a second repackaging line might speed the process by about two years. Since the original plan was to repackage all pits in AT–400A containers by the year 2000, even the most intensive of these possibilities would amount to a long delay during which pits would reside in present AL–R8 containers in conditions regarded by the design laboratories as undesirable.

There are some safety questions regarding the present design of the AL–R8 system with the sealed insert. The celotex in the outer container may constitute a chemical threat to the sealed insert because of questions of moisture and chlorides. The principal question relates to the carbon steel bolts used for the flanged closure of the sealed insert because these bolts may be more subject to corrosion, and their failure would expose the pit within to the conditions which had caused bolts to fail. The Board considers these design questions to be readily solvable.

Finally, the end product of the repackaging into the AL–R8 would be placement of all pits in containers unsuitable for shipping, and pits slated for conversion to mixed oxide for reactor fuel might not be available for repackaging in containers that could be certified for shipping until well into the 21st century. To conduct the necessary repackaging into shipping containers not yet even designed would subject personnel to additional radiation exposure. There are no present plans to avoid this situation.

Apart from possible effects of readily avoidable design problems of sealed inserts for AL–R8 containers, the Board regards the use of these sealed inserts for repackaging of pits stored at Pantex to be the basis for acceptable solution during the near term. Repackaging pits into the improved AL–R8 should adequately solve the problems that the design laboratories identified as attached to the existing system of storage. Inspection over time will tell how long such storage can be relied on.

On the other hand, the length of time foreseen for arriving at repackaging of pits into this acceptable state is not compatible with avoidance of safety problems identified by the design laboratories. The Board is also concerned regarding these potential problems. They are a legacy of past manufacture of nuclear weapons and are among the questions raised by the Board's Recommendation 94–1, which addressed the need for safe interim storage of these legacy materials.

Pits in the strategic reserve at Pantex have great value to national defense. These pits, manufactured at great cost and great effort by the Department of Energy and its forebears, are probably only second in importance to nuclear weapons in the military stockpile. In the nuclear weapons defense system, they are effectively irreplaceable. Their assured safe protection should be a vital component of national defense.

Furthermore, DOE's program plan for materials disposition is in peril regarding recycling excess pits into mixed oxide fuel, because there is no container suitable for shipping the pits from the Pantex Plant to the Savannah River Site, and no plans exist for development of such a container.

To further the safety of pits at the Pantex Plant, the Board recommends that:

1. The remaining questions of materials compatibility affecting the possibility of chemical attack on closure of sealed inserts for AL–R8 containers be settled expeditiously;

2. Action be taken to accelerate the repackaging of pits into containers suited to safe storage for the near term;

3. A system of statistical sampling for continued integrity of containers and their sealed inserts for repackaged pits be put into effect suited to forecasting the horizon for need for further repackaging; and

4. The importance of the above measures be emphasized by defining them as the specific responsibility of a designated individual of the stature, position, and technical knowledge necessary for their accomplishment, and

who is given the authority and resources required.

John T. Conway,

Chairman.

APPENDIX—Transmittal Letter to the Secretary of Energy

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

625 Indiana Avenue, NW, Suite 700, Washington, D.C. 20004–2901, (202) 694–7000

August 11, 1999.

The Honorable Bill Richardson,
Secretary of Energy 1000 Independence Avenue, SW, Washington, DC 20585–1000.

Dear Secretary Richardson: On August 11, 1999, the Defense Nuclear Facilities Safety Board (Board), in accordance with 42 U.S.C. 2286a(5), unanimously approved Recommendation 99–1, which is enclosed for your consideration. Recommendation 99–1 deals with the safe storage of fissionable material called ''pits.''

41 U.S.C. 2286d(a) requires that after your receipt of this recommendation, the Board promptly make it available to the public in DOE's regional public reading rooms. The Board believes the recommendation contains no information that is classified or otherwise restricted. To the extent this recommendation does not include information restricted by DOE under the Atomic Energy Act of 1954, 42 U.S.C. 2161–68, as amended, please arrange to have it promptly placed on file in your regional public reading rooms.

The Board will also publish this recommendation in the **Federal Register**.

Sincerely,

John T. Conway,

Chairman.

Enclosure

c: Mr. Mark B. Whitaker, Jr.

[FR Doc. 99–22278 Filed 8–26–99; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Team 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 27, 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, N.W., Room 10235, New Executive Office Building, Washington, D.C. 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 Team 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 23, 1999.

William E. Burrow,

Team Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Application for Grants under the Training Program for Federal TRIO Programs.

Frequency: Biennially.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:
Responses: 60.
Burden Hours: 2,040.

Abstract: The training program is mandated to provide training for staff and leadership personnel employed or preparing for employment in projects designed to identify individuals from disadvantaged backgrounds. It will prepare them for a program of postsecondary education, and provide special services for such students pursuing programs of postsecondary education.

Comments regarding this package may be submitted to the following electronic mailbox: TRIO@ed.gov

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, this will be the only 30-day public comment notice for this collection.

[FR Doc. 99–22271 Filed 8–26–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.017A]

Office of Postsecondary Education, International Research and Studies Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program: The International Research and Studies Program provides grants to conduct research and studies to improve and strengthen instruction in modern foreign languages, area studies, and other international fields to provide full understanding of places in which the foreign languages are commonly used.

Eligible Applicants: Public and private agencies, organizations, and institutions, and individuals.

Deadline for Transmittal of Applications: October 29, 1999.

Applications Available: September 7, 1999.

Available Funds: The estimated amount of funds available for new awards is $1,893,600, based on the Administration's request for FY 2000. The actual level of funding, if any, is contingent on final congressional action.

Estimated Range of Awards: $50,000–$150,000 per year.

Estimated Average Size of Awards: $118,350 per year.

Estimated Number of Awards: 16.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 82, 85, and 86; and (b) the regulations in 34 CFR parts 655 and 660.

For Applications or Information Contact: Jose Martinez, U.S. Department of Education, International Education and Graduate Programs Service, 400 Maryland Avenue, SW, Suite 600 Portals Building, Washington, DC 20202–5331. Mr. Martinez may be reached at e-mail address *jose martinez@ed.gov* or telephone: (202) 401–9784. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person specified in the preceding paragraph. Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. 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 any 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/index.html

Program Authority: 20 U.S.C. 1125.

Dated: August 23, 1999.

Claudio R. Prieto,

Acting Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 99–22284 Filed 8–26–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.235H]

Special Demonstration Programs Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program

To provide financial assistance to projects that expand and improve the provision of rehabilitation and other services for individuals with disabilities.

Eligible Applicants

State vocational rehabilitation agencies; community rehabilitation programs; Indian tribes or tribal organizations; and public or nonprofit agencies or organizations, including institutions of higher education.

Deadline for Transmittal of Applications: February 4, 2000.

Deadline for Intergovernmental Review: April 4, 2000.

Applications Available: October 5, 1999.

Available Funds: $3,800,000.

Estimated Range of Awards: $200,000–$275,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 14–16.

Note: The Department is not bound by any estimates in this notice.

Maximum Award: In no case does the Secretary make an award greater than $275,000 for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 369.

Priorities

Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Special Demonstrations to Increase Employment Outcomes, Especially Self-Employment, Telecommuting, or Business Ownership, for American Indians With Disabilities Who Reside on or Near Reservations or in Urban Settings

Projects that would increase the employment opportunities by providing vocational rehabilitation services to American Indians with disabilities. Projects that would provide services to American Indians, and may provide training and instruction to other nonprofit agencies to provide these services, to achieve vocational outcomes related to self-employment, telecommuting, or business ownership. Services may include, but are not limited to, technical assistance and other consultation services to conduct market analyses, develop business plans, and obtain loans, occupational licenses, tools, equipment, initial stocks and supplies for eligible individuals.

Invitational Priority 2—Programs That Demonstrate Methods of Providing Affordable Transportation Services to Individuals With Disabilities

Projects that would demonstrate methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

Invitational Priority 3—Projects Focusing on Career Advancement

Projects that would demonstrate service delivery models that would further high quality employment outcomes for individuals with disabilities. Projects that would provide services, which may include, but is not limited to, training, education, counseling, placement, and follow-up activities that would allow the individuals with disabilities to possess the knowledge and skills necessary to compete for jobs with the potential for career advancement and higher wages and benefits. Projects may also provide services to improve career advancement opportunities for individuals with disabilities who are employed.

Selection Criteria

In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

FOR FURTHER INFORMATION CONTACT: Pamela Martin or Alfreda Reeves, U.S. Department of Education, 400 Maryland Avenue, SW., room 3314, Switzer Building, Washington, DC. 20202–2650. Telephone: (202) 205–8494 or (202) 205–9361. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–

576–7734. You may also contact ED Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (ed pubs@inet.ed.gov). If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.235H.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. 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 this 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/index.html

Program Authority: 29 U.S.C. 773(b).

Dated: August 19, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–22036 Filed 8–26–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 99–24; Novel X-Ray Light Sources

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting research grant applications.

SUMMARY: The Office of Basic Energy Sciences (BES) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving grant applications for the development and application of novel, laser-based light sources operating in the X-ray spectral region.

DATES: Potential applicants are strongly encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 99–24, should be received by DOE by 4:30 P.M., E.D.T., October 1, 1999. A response to the preapplications encouraging or discouraging a formal application generally will be communicated to the applicant within 30 days of receipt.

The deadline for receipt of formal applications is 4:30 P.M., E.S.T., January 19, 2000, in order to be accepted for merit review and to permit timely consideration for award in Fiscal Year 2000.

ADDRESSES: All preapplications, referencing Program Notice 99–24, should be sent to Dr. Eric A. Rohlfing, Division of Chemical Sciences, SC–14, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290 or transmitted by facsimile to (301) 903–4110.

Formal applications referencing Program Notice 99–24 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 99–24. This address must also be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service, or when hand carried by the applicant. An original and seven copies of the application must be submitted.

FOR FURTHER INFORMATION CONTACT: Dr. Eric A. Rohlfing, Division of Chemical Sciences, SC–14, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–8165, e-mail: eric.rohlfing@science.doe.gov.

SUPPLEMENTARY INFORMATION:

In January 1999, the Basic Energy Sciences Advisory Committee (BESAC) Panel on Novel, Coherent Light Sources made a series of six recommendations to BES on the R&D plan for the development of light sources that might ultimately lead to the next-generation light-source facility. The full report from this panel is available at the following web address: *http://www.er.doe.gov/production/bes/BESAC/pubs.html*

The BESAC panel identified the specific need for research into the development and application of table-top, laser light sources in their Recommendation (3):

''There is a symbiotic relationship between future accelerator-based sources and high-powered ultrafast lasers. Future light sources will involve a complete marriage of accelerator principles and lasers. Lasers are also likely to be the avenue where the shortest pulses are attained and many new scientific experiments are developed first. The Panel recommends that DOE should support laser light source development independently and vigorously. This is best done by support of peer-reviewed proposals based on science that requires a significant component of laser source development. It is also desirable to support one or more DOE laboratory centers for laser development that can be coordinated with overall light source facility development plans.''

They also identified the need for improved X-ray detectors and optics in order to more fully utilize these novel lasers or existing synchrotron facilities in their Recommendation (6):

''Support should be provided for the development of X-ray detectors and optics, concomitant with better utilization of existing synchrotron facilities and lasers to carry out tests of potential new experiments that may be enhanced by a coherent hard X-ray source.''

This invitation for grant applications is a direct response to these two recommendations of the BESAC Panel on Novel, Coherent Light Sources. In particular, we seek applications for research in the following areas:

- Development of new light sources in the X-ray region that are based on table-top, ultrafast laser systems or combinations of such lasers systems with particle beam accelerators or existing synchrotron X-ray sources. Desirable attributes for such sources include ultrashort (femtosecond) pulses, high peak spectral brightness, and a high degree of spatial and temporal coherence. Applications are not limited to those seeking to construct new sources. Fundamental experiment or theory on the physics underlying novel generation schemes (such as high-harmonic generation) are also sought.
- Fundamental experiment and theory on the interactions of ultrafast, intense X-ray pulses with matter, including multiphoton or multiwave processes, high-field effects, and material damage studies relevant to the development of X-ray optics for next-generation light sources.

• Improved techniques for the detection and characterization of ultrafast, intense X-ray pulses.

• Applications using such X-ray sources to fundamental science that fits within the interests of the Chemical Sciences and Materials Sciences Divisions of BES. Detailed program descriptions for these two BES divisions may be found at the BES homepage: *http://www.er.doe.gov/production/bes/bes.html*

As noted in Recommendation (3) of the BESAC Panel given above, future light source facilities are likely to encompass both accelerator-based and laser-based light sources in a fully symbiotic relationship. Thus, we encourage applications in which there is a direct linkage to or collaboration with ongoing efforts in the area of X-ray free electron lasers (FELs), such as the use of laser-based systems as seeds for FEL amplifiers.

Program Funding

It is anticipated that an estimated $1.0 million will be available for grant awards during FY 2000, contingent upon the availability of appropriated funds. Multiple year funding of grant awards is expected, also contingent upon the availability of appropriated funds, progress of the research and continuing program need. Applications received by the Office of Science, Office of Basic Energy Sciences, under its current competitive application mechanisms may be deemed appropriate for consideration under this notice and may be funded under this program.

Preapplications

Preapplications are strongly encouraged but not required prior to submission of a full application. Please note that notification of a successful preapplication is not an indication that an award will be made in response to the full application.

The preapplication should identify, on the cover sheet, the institution, principal investigator name, address, telephone, fax and e-mail address, title of the project, and the field of scientific research. The preapplication should consist of no more than a three-page narrative describing the research project objectives and methods of accomplishment. These will be reviewed relative to the scope and research needs of the Novel X-Ray Light Source initiative. Formal notification of either discouragement or encouragement for submission of a full application will occur within 30 days of the deadline for receipt of the preapplications.

Full applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d).

1. Scientific and/or Technical Merit of the Project,
2. Appropriateness of the Proposed Method or Approach,
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources,
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and an agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Applicants are encouraged to collaborate with researchers in other institutions, such as universities, industry, non-profit organizations, federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories. A parallel announcement with a similar potential total amount of funds will be issued to DOE FFRDCs. All projects will be evaluated using the same criteria, regardless of the submitting institution.

Information about the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR Part 605 and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is available via the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html. On the grant face page, form DOE F 4650.2, block 15, provide the principal investigator's phone number, fax number and e-mail address. The research description must be 20 pages or less, exclusive of figure illustrations, and must contain an abstract or summary of the proposed research. Attachments should include curriculum vitae, a listing of all current and pending federal support, and letters of intent when collaborations are part of the proposed research.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, D.C. on August 18, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–22301 Filed 8–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Semi-Annual Chairs Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Semi-Annual Chairs Meeting. Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES:

Monday, September 20, 1999, 3:30 p.m.–5:30 p.m.
Tuesday, September 21, 1999, 8:00 a.m.–9:00 p.m.
Wednesday, September 22, 1999, 8:00 a.m.–6:00 p.m.
Thursday, September 23, 1999, 8:00 a.m.–1:00 p.m.

ADDRESSES: Double Tree Hanford House Hotel, 802 George Washington Way, Richland, WA, (509) 946–7611.

FOR FURTHER INFORMATION CONTACT: Fred Butterfield, Deputy Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington DC, 20585, (202) 586–5542.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities.

Tentative Agenda

Monday, September 20, 1999

3:30–5:30 p.m.: EM SSAB Chairs meet with Dr. Carolyn Huntoon, Assistant Secretary for Environmental Management (tentative)

Tuesday, September 21, 1999: Hanford Site Tour

8:00 a.m.: Bus departs hotel for Hanford Site tour (Lunch provided @ $6.00)
4:00 p.m.: Depart from Hanford Site tour to Dinner at the Yakama Indian Culture Center, Toppenish, WA

Note: Individuals must pre-register if they plan to attend; Cost: $10.00.

9:00 p.m. (approx.) Return to hotel

Wednesday, September 22, 1999: EM SSAB Chairs Meeting (Day 1)

8:00–8:30 a.m.: Registration
8:30–8:45 a.m.: Welcome by Mr. Keith Klein, Manager, DOE Richland Operations Office; and Mr. Dick French, Manager, Office of River Protection
8:45–8.50 a.m.: Introductory remarks (Martha Crosland, Acting Director, EM Office of Intergovernmental and Public Accountability)
8:50–9:00 a.m.: EM SSAB Chairs Meeting ''Rules of Engagement'' (Facilitator)
9:00–10:30 a.m.: ''Round-robin'' general issues and information exchange among local EM SSABs (SSAB Chairs)
10:30–10:45 a.m.: Break
10:45–11:30 a.m.: Open discussion on general outcomes from EM SSAB issue-specific seminars (SSAB Chairs and DOE–HQ)
11:30–1:00 p.m.: Working lunch at Hanford House: Discussion of outcomes from EM SSAB Transportation Seminar (SSAB Chairs and DOE–HQ)

Note: A luncheon buffet is available @ $14.95.

1:00–3:00 p.m.: Planning session for EM SSAB Stewardship Seminar scheduled for October 26–28, 1999, Oak Ridge, TN (Bill Pardue & Lorene Sigal, Oak Ridge SSAB)
3:00–3:15 p.m.: Break
3:15–4:15 p.m.: Introduction and discussion of Technology Management System and Site Technology Coordination Group (TBD)
4:15–4:45 p.m.: Overview of Draft Revised EM SSAB Guidance (Fred Butterfield, DOE–HQ)
4:45–5:00 p.m.: Public comment period
5:00–6:00 p.m.: Opportunities for informal gatherings of EM SSAB Chairs, SSAB Administrators/Facilitators, and DOE SSAB Federal Coordinators

Thursday, September 23, 1999: EM SSAB Chairs Meeting (Day 2)

8:00–9:00 a.m.: DOE/EM informational and status updates
- Waste Management PEIS and Disposal Records of Decision (RODs)
- PEIS Lawsuit Settlement
- Waste Isolation Pilot Plant (WIPP)
- Plutonium disposition and follow-on process for In-Tank Precipitation (ITP) at Savannah River Site
- NEPA (EIS/EA) Status Updates
- EM Integration Process
- Transportation Protocols Standardization Initiative
- DOE Field & HQ Personnel Changes

9:00–11:00 a.m.: Discussion session on the Draft Revised EM SSAB Guidance and related Board issues (Fred Butterfield & Martha Crosland, DOE/HQ)
11:00–11:30 a.m.: Public comment period/break
11:30 a.m.–12:00 p.m.: EM SSAB Chairs Meeting next steps and wrap-up (Facilitator)
12:00 p.m.: Closing Remarks/Adjourn (Martha)
1:00–5:00 p.m.: Optional: Boat Trip

Note: Individuals must pre-register if they plan to attend. Cost: $35.00; make checks payable to ''Columbia River Journeys.''

(Agenda topics may change up to the day of the meeting; please call the **FOR FURTHER INFORMATION CONTACT** in this notice for the current agenda.)

Public Participation: This meeting is open to the public. Written statements may be filed with the Board facilitator before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact the Board Chair at their specific site, or Fred Butterfield at the address listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer, Martha Crosland, and the Deputy Designated Federal Officer, Fred Butterfield, U.S. Department of Energy, are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: A written summary of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday–Friday, except Federal holidays. The meeting summary will also be available by writing the EM–SSAB Chair or Designated Deputy Federal Officer of every EM–SSAB that participated in the meeting.

Issued at Washington, DC on August 24, 1999.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–22299 Filed 8–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL). Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, September 14, 1999, 8:00 a.m.–6:00 p.m., Wednesday, September 15, 1999, 8:00 a.m.–5:00 p.m.

ADDRESSES: The Miles & Virginia Willard Fine Arts Center 498 A Street, Idaho Falls, Idaho 83402.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy Lowe, INEEL CAB Facilitator Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402, (208–522–1662) or visit the Board's internet homepage at *http://www.ida.net/users/cab;* or contact Mr. Charles Rice, INEEL CAB Chair, c/o Jason Associates Corporation.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the INEEL.

Tentative Agenda

Presentations and discussions on the following:
- Hazardous Waste Materials Act/Toxic Substances Control Act (HWMA/TSCA) permit for the Advanced Mixed Waste Treatment Plant (AMWTP);
- Sodium-Bonded Spent Nuclear Fuel Draft Environmental Impact Statement;
- Alternatives at INEEL High Level Waste and Facilities Disposition Draft Environmental Impact Statement;
- Alternative locations being considered for the placement of the INEEL Consolidated Disposal Facility;
- Proposed plan for the remediation of the Central Facilities Area (WAG 4);
- The Yucca Mountain Draft Environmental Impact Statement;
- Notifications for transportation of various types of waste;
- Activities to support preparation for the SSAB Stewardship Seminar.

Status reports on the following:

The independent safety review panel investigation into the potential for explosion at Pit 9 (pending availability of panel's report);

The Paducah Gaseous Diffusion Plant plutonium contamination issue.

Finalization of the following recommendations:

HWMA/TSCA permit for the AMWTP;

Sodium-Bonded spent Nuclear Fuel Draft Environmental Impact Statement;

Proposed plan for the remediation of the Central Facilities Area (WAG 4).

(Agenda topics may change up to the day of the meeting; please call the **FOR FURTHER INFORMATION CONTACT** in this notice for the current agenda or visit the Internet site.)

Public Participation: This meeting is open to the public. Written statements may be filed with the Board facilitator before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact the Board Chair at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Jerry Bowman, Assistant Manager for Laboratory Development, Idaho Operations Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Every individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Charles M. Rice, INEEL CAB Chair, 477 Shoup Ave., Suite 205, Idaho Falls, Idaho 83402 or by calling the Board's facilitator at (208) 522–1662.

Issued at Washington, DC on August 24, 1999.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–22300 Filed 8–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–107–000, et al.]

The Connecticut Light and Power Company, et al.; Electric Rate and Corporate Regulation Filings

August 20, 1999.

Take notice that the following filings have been made with the Commission:

1. The Connecticut Light and Power Company, Western Massachusetts Electric Company, and Northeast Generation Company

[Docket Nos. EC99–107–000 and ER99–4114–000]

Take notice that on August 17, 1999, The Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO) and Northeast Generation Company (collectively Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval of the transfer of certain jurisdictional facilities associated with the sale of certain generating facilities by CL&P and WMECO. The Applicants also tendered for filing under Section 205 of the Federal Power Act certain agreements pertaining to services related to the transfer of facilities.

The Applicants state that copies of this filing have been sent to the Connecticut Department of Public Utility Control, the Massachusetts Department of Telecommunications and Energy and the New Hampshire Public Utilities Commission.

Comment date: September 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Central Illinois Public Service Company, Union Electric Company, and Ameren Generating Company

[Docket Nos. EC99–108–000 and ER99–4115–000]

Take notice that on August 17, 1999, Central Illinois Public Service Company (AmerenCIPS), Union Electric Company (AmerenUE), and Ameren Generating Company (Genco) (Collectively, the Ameren Companies) filed an application for approval of certain agreements and transactions related to and necessitated by the transfer by AmerenCIPS of all its generating assets to Genco as part of a restructuring of the Ameren system's operations.

Comment date: September 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Wellhead Generating Company, LLC

[Docket No. EG99–176–000]

Take notice that on July 16, 1999, Wellhead Generating Company LLC, filed with the Federal Energy Regulatory Commission (Commission) a letter amendment to its Application for Determination of Exempt Wholesale Generator Status which was filed with the Commission on June 25, 1999.

Comment date: September 10, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

4. Bay State GPE, Inc.

[Docket No. EG99–214–000]

Take notice that on August 18, 1999, Bay State GPE, Inc. (Bay State GPE) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Bay State GPE is a Massachusetts corporation which was organized for the purpose of owning and operating an electric generating facility in Agawam, Massachusetts. Bay State GPE's facility is 2,200 kw net capacity cogenerating and turbo expander facility. Bay State GPE states that a rate or charge in connection with this facility was in effect under the laws of any state as of October 24, 1992 or any time thereafter.

Bay State GPE further states that copies of the application were served upon the Securities and Exchange Commission, the Massachusetts Department of Telecommunications and Energy, the Maine Public Utilities Commission, the New Hampshire Public Utilities Commission, the Connecticut Department of Public Utility Control, the Rhode Island Public Utilities Commission, the Vermont Public Service Board, and the Indiana Utility Regulatory Commission.

Comment date: September 10, 1999, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. CH Resources, Inc.

[Docket No. ER99–4109–000]

Take notice that on August 17, 1999, CH Resources, Inc. filed its quarterly report for the quarter ending June 30, 1999.

Comment date: September 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Arizona Public Service Company

[Docket Nos. OA96–153–005 and ER96–2401–003]

Take notice that on August 16, 1999, Arizona Public Service Company (APS) tendered for filing a Compliance Refund Report for refunds made in accordance with the Commission's letter of approval dated June 17, 1999 in Consolidated Docket Nos. OA96–153–000 and ER96–2401–000.

Copies of this filing have been served on the Service List and the Arizona Corporation Commission.

Comment date: September 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Energy Online, Inc., Community Electric Power Corporation

[Docket Nos. ER96–138–008, ER97–2792–005, ER97–2792–006, and ER97–2792–007]

Take notice that on August 9, 1999, the above-mentioned power marketers/or public utilities tendered for filing quarterly reports with the Commission in above-referenced proceedings for information only. These filing 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).

8. Commonwealth Energy Corporation

[Docket No. ER97–4253–006]

Take notice that on August 3, 1999, Commonwealth Energy Corporation (CEC), tendered for filing a transaction report for quarter ended June 30, 1999.

9. California Independent System Operator Corporation

[Docket Nos. ER98–1057–003, ER98–1058–002, ER98–2199–000, ER98–4106–000, ER98–4107–000, ER98–189–000, and ER99–294–000]

Take notice that on August 16, 1999, the California Independent System Operator Corporation (California ISO), tendered for filing a compliance report as required by the Commission's July 16, 1999, letter order.

Copies of the filing have been served upon each person designated on the Commission's official service list.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Pacific Energy & Development Corporation, IEP Power Marketing, LLC, Cleco Energy LLC

[Docket Nos. ER98–1824–006, ER95–802–017, and ER98–1170–004]

Take notice that on August 6, 1999, the above-mentioned power marketers/or public utilities tendered for filing quarterly reports with the Commission in above-referenced proceedings for information only. These filing 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).

11. New England Power Pool

[Docket Nos. ER99–1142–007 and ER99–2892–002]

Take notice that on August 16, 1999, the New England Power Pool (NEPOOL) Participants Committee tendered for filing a report of compliance. This report indicates that NEPOOL is in compliance with the Commission's July 16, 1999 order regarding NEPOOL governance, *New England Power Pool*, 88 FERC ¶ 61,079 (1999), by posting the NEPOOL committee bylaws on the ISO's internet home page (www.iso-ne.com), which is linked to the ISO's OASIS.

The NEPOOL Participants Committee states further that copies of these materials were sent to all persons identified in the Commission's official service lists for the captioned dockets and the Participants in the New England Power Pool.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Central Maine Power Company

[Docket Nos. ER99–3092–000 and ER99–3094–000 (not consolidated)]

Take notice that on August 16, 1999, Central Maine Power Company tendered for filing a response to the deficiency letter issued by the Director, Division of Rate Applications, Office of Electric Power Regulation, in the above-captioned dockets on July 15, 1999.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Puget Sound Energy, Inc.

[Docket No. ER99–4069–000]

Take notice that on August 12, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with LG&E Energy Marketing Inc. (LG&E).

A copy of the filing was served upon LG&E.

Comment date: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Puget Sound Energy, Inc.

[Docket No. ER99–4070–000]

Take notice that on August 12, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Los Angeles Department of Water & Power (L.A.).

A copy of the filing was served upon L.A.

Comment date: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Puget Sound Energy, Inc.

[Docket No. ER99–4068–000]

Take notice that on August 12, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Nevada Power Company (NPC).

A copy of the filing was served upon NPC.

Comment date: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Puget Sound Energy, Inc.

[Docket No. ER99–4071–000]

Take notice that on August 12, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Nebraska Public Power District (Nebraska).

A copy of the filing was served upon Nebraska.

Comment date: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Puget Sound Energy, Inc.

[Docket No. ER99–4072–000]

Take notice that on August 12, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Morgan Stanley Capital Group, Inc., (Morgan Stanley).

A copy of the filing was served upon Morgan Stanley.

Comment date: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Puget Sound Energy, Inc.

[Docket No. ER99–4073–000]

Take notice that on August 12, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement

under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Modesto Irrigation District (Modesto).

A copy of the filing was served upon Modesto.

Comment date: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Puget Sound Energy, Inc.

[Docket No. ER99–4074–000]

Take notice that on August 12, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Koch Energy Trading, Inc. (KETI).

A copy of the filing was served upon KETI.

Comment date: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Cinergy Services, Inc

[Docket No. ER99–4077–000]

Take notice that on August 13, 1999, Cinergy Services, Inc., on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc., collectively Cinergy Operating Companies (COC), tendered for filing an executed service agreement between COC and FirstEnergy Trading Services, Inc. (FETS), replacing the unexecuted service agreement filed on April 9, 1999 under Docket No. ER99–2440–000 per COC FERC Electric Cost-Based Power Sales Tariff, Original Volume No. 6–CB.

Cinergy is requesting an effective date of May 1, 1999 and the same Rate Designation as per the original filing.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Services, Inc.

[Docket No. ER99–4078–000]

Take notice that on August 13, 1999, Cinergy Services, Inc. on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc., collectively Cinergy Operating Companies (COC), tendered for filing an executed service agreement between COC and FirstEnergy Trading Services, Inc. (FETS) replacing the unexecuted service agreement filed on April 16, 1999 under Docket No. ER99–2511–000 per COC FERC Electric Market-Based Power Sales Tariff, Original Volume No. 7–MB.

Cinergy is requesting an effective date of May 1, 1999 and the same Rate Designation as per the original filing.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Portland General Electric Company

[Docket No. ER99–4079–000]

Take notice that on August 13, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Market-Based Rate Tariff, FERC Electric Tariff, First Revised Volume No. 11 (Docket No. ER99–1263–000), an executed Service Agreement for Service at Market-Based Rates with ConAgra Energy Services, Inc. Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993.

PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreement to become effective August 1, 1999.

A copy of this filing was caused to be served upon ConAgra Energy Services, Inc., as noted in the filing letter.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Niagara Mohawk Power Corporation

[Docket No. ER99–4080–000]

Take notice that on August 13, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an Interconnection Agreement between Niagara Mohawk Power Corporation and Oswego Harbor Power LLC dated as of July 30, 1999.

Niagara Mohawk Power Corporation requests an effective date of September 13, 1999 or, if later, the Closing Date of the sale of the Oswego generating facility.

Niagara Mohawk requests waiver of the Commission requirement that a rate schedule be filed not less than 60 days or more than 120 days from its effective date.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Bay State GPE, Inc.

[Docket No. ER99–4081–000]

Take notice that on August 13, 1999, Bay State GPE, Inc.(Bay State GPE), tendered for filing an application for waivers and blanket approvals under various regulations of the Commission, and for an order accepting its FERC Electric Rate Schedule No. 1 authorizing Bay State GPE to engage in wholesale sales of capacity and energy at market rates.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Cinergy Services, Inc.

[Docket No. ER99–4082–000]

Take notice that on August 13, 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 NRG Power Marketing, Inc. (NRG).

Cinergy and TEMUS are requesting an effective date of July 19, 1999.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Cleco Utility Group Inc.

[Docket No. ER99–4083–000]

Take notice that on August 13, 1999, Cleco Utility Group Inc. (formerly, Cleco Corporation) (Cleco Utility), petitioned the Commission for acceptance of Amendment No. 2 to FERC Power Sales Tariff MR–1, Original Sheet Nos. 1–10, Revision No. 1—10/18/96 in the captioned docket. In Cleco Utility's proposed amendment, Cleco Utility proposes to supersede Original Sheet Nos. 1–10, Revision No. 1—10/18/96 with Revised Sheet Nos. 1–2.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Duke Energy Corporation

[Docket No. ER99–4084–000]

Take notice that on August 13, 1999, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with The Legacy Energy Group, LLC, for Non-Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on July 31, 1999.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Duke Energy Corporation

[Docket No. ER99–4085–000]

Take notice that on August 13, 1999, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with The Legacy Energy Group, LLC for Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on July 31, 1999.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Illinois Power Company

[Docket No. ER99–4086–000]

Take notice that on August 13, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which El Paso Power Services Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1999.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Allegheny Energy Supply Company and Allegheny Power, on Behalf of Monongahela Power Company, the Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–4087–000]

Take notice that on August 13, 1999, Allegheny Energy Supply Company (AE Supply) and Allegheny Power filed a Form of Purchase and Sale Agreement for Ancillary Services pursuant to which AE Supply proposes to sell certain ancillary services to Allegheny Power at cost-based rates and at rates subject to an index-based cap, as applicable, and as more fully described in the application.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. PacifiCorp

[Docket No. ER99–4088–000]

Take notice that on August 16, 1999, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Non-Firm and Short-Term Firm Point-To-Point Transmission Service Agreements with El Paso Power Services Company (El Paso), Entergy Power Marketing Corp. (Entergy), Los Angeles Department of Water and Power (LADWP), MIECO Inc. (MIECO), New Energy Partners, LLC (New Energy) PECO Energy Company (PECO), and Reliant Energy Service, Inc. (Reliant), under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. Genesee Power Station Limited Partnership

[Docket No. ER99–4097–000]

Take notice that on August 16, 1999, Genesee Power Station Limited Partnership (Genesee), tendered for filing pursuant to Section 205 of the Federal Power Act and CFR Part 35, an Energy Purchase Agreement under Rate Schedule No. 2 which provides for sale at market-based rate of excess energy to its affiliated utility, Consumers Energy.

Genesee requests an effective date of September 1, 1999.

Copies of this filing were served upon the Michigan Public Service Commission.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Mobile Energy Services Company, L.L.C.

[Docket No. ER99–4098–000]

Take notice that on August 16, 1999, Mobile Energy Services Company, L.L.C. (Mobile Energy), tendered for filing a Master Electric Power Purchase and Sale Agreement between Mobile Energy Services, Company, L.L.C., and Southern Company Energy Marketing, L.P., in the referenced docket.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Duke Power Company—Nantahala Power and Light Company

[Docket No. OA97–450–006]

Take notice that on August 16, 1999, Duke Energy Corporation amended its filing in the above-reference docket to reflect a recent reorganization.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Tenaska Gateway Partners, Ltd.

[Docket No. ER99–4090–000]

Take notice that on August 16, 1999, Tenaska Gateway Partners, Ltd., tendered for filing with the Federal Energy Regulatory Commission, pursuant to 18 CFR 35.1 and 131.52, a Certificate of Concurrence with respect to Southwestern Electric Power Company's Rate Schedule FERC No. 121.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. Wisvest-Connecticut, L.L.C.

[Docket No. ER99–4091–000]

Take notice that on August 16, 1999, Wisvest-Connecticut, L.L.C. (Wisvest-Connecticut), tendered for filing a proposed notice of cancellation of Service Agreement No. 7 on file with the Commission. Service Agreement No. 7 is a power sales agreement between Wisvest-Connecticut and PECO Energy—Power Team which expired by its terms on April 30, 1999.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. Illinois Power Company

[Docket No. ER99–4092–000]

Take notice that on August 16, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which TransAlta Energy Marketing (U.S.) Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1999.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. Illinois Power Company

[Docket No. ER99–4093–000]

Take notice that on August 16, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Southwestern Public Service Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1999.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

39. Illinois Power Company

[Docket No. ER99–4094–000]

Take notice that on August 16, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which West Penn Power Company d/b/a Allegheny Energy will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1999.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

40. Illinois Power Company

[Docket No. ER99–4095–000]

Take notice that on August 16, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Louisville Gas & Electric will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1999.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

41. Grayling Generating Station—Limited Partnership

[Docket No. ER99–4096–000]

Take notice that on August 16, 1999, Grayling Generating Station Limited Partnership (Grayling), tendered for filing pursuant to Section 205 of the Federal Power Act and CFR Part 35, an Energy Purchase Agreement under Rate Schedule No. 2 which provides for sale at market-based rate of excess energy to its affiliated utility, Consumers Energy.

Grayling requests an effective date of September 1, 1999.

Copies of this filing were served upon the Michigan Public Service Commission.

Comment date: September 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–22261 Filed 8–26–99; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6429–9]

Agency Information Collection Activities: Proposed Collection; Comment Request; Assess Compliance with EPCRA Section 312 Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Assess Compliance with EPCRA section 312 Reporting Requirements, EPA ICR number 1909.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 26, 1999.

ADDRESSES: Environmental Protection Agency, 401 ''M'' Street, Office of Compliance, Chemical, Commercial Services and Municipal Division, mail code 2224A, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Mason, at: tel. (202) 564–7037, FAX: (202) 564–0009, or E-mail: mason.john@epa.gov

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those states which have received Tier II reporting forms required to be submitted annually to the State Emergency Response Commissions (SERC) and the Local Emergency Response Committees (LEPC) by persons who use chemicals subject to Occupational Safety and Health Act (OSHA) for the past 4-year reporting period.

Title: Assess Compliance with EPCRA Section 312 Reporting Requirements.

Abstract: The information sought with this ICR is who among selected sectors that produce, use, or store hazardous chemicals (as defined by the Occupational Safety and Health Act of 1970) submitted Tier II forms to the SERC and/or the LEPC, and when did they submit them. This information is being sought to assess compliance with the requirements of EPCRA section 312.

The Emergency Planning and Community Right-to-Know Act (EPCRA) section 312 requires facilities which are required to prepare or have available Material Safety Data Sheets (MSDS) as required by OSHA to submit an annual emergency and hazardous chemical inventory form containing the amount and location of hazardous chemicals stored at the facility. Although EPCRA section 312 is a federal requirement, State Emergency Response Commissions, and Local Emergency Planning Committees are the main recipients and benefactors of this information. The inventory reports allow ''first responders'' (e.g. local fire departments) to be informed about the presence of hazardous chemicals in the community and help facilitate development of the local emergency response plan. They also enhance community awareness of chemical hazards in the local area.

EPA has initiated compliance projects among a number of industrial, service and/or government sectors including: the iron and steel industry, the primary nonferrous metals industry, metal services (electroplating and coating), the chemical preparation industry, pulp and paper mills, the telecommunications industry, coal-fired power plants, the automobile servicing industry, mining, the petroleum refineries, organic chemical manufacturers, and municipalities. These projects include, in some cases, efforts to enhance compliance with EPCRA section 312.

EPA will be working with states and facilities to assure and confirm compliance with EPCRA requirements. In particular, EPA will ask the states whether the facilities submitted their Tier II forms and when during the

reporting year the forms were submitted.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. The Agency has committed through its Strategic Plan, Goal 9 to provide a credible deterrent to pollution and greater compliance with the law. By ensuring compliance through an array of traditional and innovative approaches, EPA is working to mitigate and avoid risks to human health and the environment, and help the regulated community understand and fully comply with environmental and statutory requirements. The information on facilities that did not submit their Tier II forms will be forwarded to EPA Regional offices for appropriate follow-up.

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used. The reporting form has been discussed with Regional and headquarters EPCRA section 312 coordinators. Although there is variability among the states' ability to respond to this request, EPA Regions were asked to determine how long it would take each state in their Region to retrieve, review, and provide the information requested based on a list of specific facilities located in that state. Some of the Regional offices conducted some preliminary review of the requested information which was used to estimate burden hours. EPA has determined that three states and some California LEPCs have this information in automated files which would require minimum resources to access. This information was also considered in determining burden hours.

(iii) Enhance the quality, utility, and clarity of the information to be collected. These projects have an anticipated length through September 30, 2001. However, we anticipate that if the information reveals any non-compliance, some follow-up with the states may be necessary. The information sought was kept to an absolute minimum to avoid any problems with data identification or retrieval.

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. To the extent possible, the Agency will collect the information through automated data systems.

Burden Statement: This information collection involves responses from 50 states, two territories (Puerto Rico and the Virgin Islands), and the District of Columbia, for a total of 53 respondents.

The requested information will be collected as part of this specific one-time only Agency initiative for each relevant sector. EPA does not anticipate any capital or start-up costs. Since the states collect and retain the requested information as part of their state EPCRA section 312 program, EPA does not anticipate any operations or maintenance costs associated with this request. EPA Regional or Headquarters activities are considered as part of program oversight and will not be included as burden hours.

The estimated maximum burden for the respondents is estimated to be approximately 4440 hours at a cost of approximately $78,125 (The cost of purchasing contract services, if needed, is estimated to be $7500). This estimate is based on records review and recording time plus some oversight for three of the largest sectors (i.e. greatest number of facilities). The review may be conducted for more than three sectors but at fewer than all 53 respondents. The response cost is calculated using labor rates of $17.48 per hour for clerical review and response time and $30.34 for supervisory time. The source of labor rates is the United States Department of Commerce, Bureau of Labor Statistics, March 1998, Table 4: Employment Costs of State and Local Government. This estimate includes the time needed to review the instructions, retrieve the records and record the results of the questionnaire.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: August 19, 1999.

Bruce R. Weddle,

Acting Director, Office of Compliance, Office of Enforcement and Compliance Assurance.

[FR Doc. 99–22325 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6430–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings

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 EPA is planning to submit for renewal the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): ''Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings,'' EPA No. 1765.01, OMB No. 2060–0353, expires January 31, 2000. Before submitting the ICR to OMB for review and approval, the EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 26, 1999.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–95–18, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Docket. Information on the ICR and the Automobile Refinish Coatings Rule can be obtained from the docket (above) and is also available for downloading from the EPA's internet website for this rule at ''http://www.epa.gov/ttn/uatw/183e/arc/arcpg.html.'' The docket is available for public inspection and copying between 8:30 am and 5:30 pm, Monday through Friday, at the EPA's Air and Radiation Docket and

Information Center, Waterside Mall, Room M–1500, 1st Floor, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–7548, FAX (202) 260–4400. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Morris at (919) 541–5416, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, e-mail (morris.mark@epa.gov).

SUPPLEMENTARY INFORMATION: Affected entities: Entities potentially affected by this action are those which manufacture or import automobile refinish coatings or coating components for sale or distribution in the United States, including the District of Columbia and all United States territories.

Title: National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings; OMB Control No 2060–0353; EPA ICR No. 1765.01; expires January 31, 2000.

Abstract: The information collection includes initial and periodic reporting necessary for the EPA to ensure compliance with Federal standards for volatile organic compounds in automobile refinish coatings. Respondents are manufacturers and importers of automobile refinish coatings and coating components. Responses to the collection are mandatory under 40 CFR part 59, subpart B—National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Burden Statement: 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. Total industry burden is estimated to be 22 hours per year, at a total labor cost of $1,100 per year. Labor costs were estimated based on Table 2 of the Bureau of Labor Statistics (BLS) Employment Cost Trends. After adding overhead costs of 100 percent to the BLS figures, the resulting hourly rates for management, technical, and clerical labor are $69, $48, and $32 respectively. There are no capital costs associated with this collection. Burden was calculated based on the following assumptions:

(i) Initial Notification Reports will have been submitted by all regulated entities (approximately 30) prior to expiration of the existing ICR. Therefore, the burden calculation is based on one new initial notification per year by a new regulated entity.

(ii) Reading the rule to obtain the recordkeeping and reporting instructions would require 2 hours.

(iii) Completion of the Initial Notification Report would require 2 hours.

(iv) Notification of a change in date coding systems would require 2 hours.

Dated: August 15, 1999.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 99–22327 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6429–7]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). 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.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at (202) 260–2740, or E-mail at ''farmer.sandy@epa.gov'', and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1789.02; NESHAP for Source Category: Natural Gas Transmission and Storage; in 40 CFR part 63, subpart HHH; was approved 07/22/99; OMB No. 2060–0418; expires 07/31/2002.

EPA ICR No. 1821.02; National Emission Standards for Hazardous Air Pollutants for Steel Pickling, HCl Process Facilities and Hydrochloric Acid Regeneration; in 40 CFR part 63, subpart CCC; was approved 07/22/99; OMB No. 2060–0414; expires 07/31/2002.

EPA ICR No. 1811.02; National Emission Standards for Hazardous Air Pollutants for Polyester Polyols Production; in 40 CFR part 63, subpart PPP; was approved 07/22/99; OMB No. 2060–0415; expires 07/31/2002.

EPA ICR No. 1788.02; NESHAP for Source Category: Oil and Gas Production; in 40 CFR part 63, subpart HH; was approved 07/22/99; OMB No. 2060–0417; expires 07/31/2002.

EPA ICR No. 1856.02; National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelters; in 40 CFR part 63, subpart TTT; was approved 07/22/99; OMB No. 2060–0419; expires 07/31/2002.

EPA ICR No. 1888.01; National Roster for Environmental Dispute Resolution

and Consensus-Building Professional; was approved 07/29/99; OMB No. 2010–0030; expires 07/31/2002.

EPA ICR No. 1801.02; National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing; in 40 CFR part 63, subpart LLL; was approved 08/06/99; OMB No. 2060–0416; expires 08/31/2002.

EPA ICR No. 0161.08; Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides; in 40 CFR part 168, subpart D; was approved 08/16/99; OMB No. 2070–0027; expires 08/31/2002.

EPA ICR No. 1081.06; NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants; in 40 CFR part 61, subpart N; was approved 08/16/99; OMB No. 2060–0043; expires 08/31/2002.

EPA ICR No. 1054.07; NSPS for Petroleum Refineries; in 40 CFR part 60, subpart J; was approved 08/17/99; OMB No. 2060–0022; expires 08/31/2002.

EPA ICR No. 0746.04; NSPS for Calciners and Dryers in Mineral Industries; in 40 CFR part 60, subpart UUU; was approved 08/18/99; OMB No. 2060–0251; expires 08/31/2002.

EPA ICR No. 1057.08; NSPS for Sulfuric Acid Plants; in 40 CFR part 60, subpart H, was approved 08/18/99; OMB No. 2060–0041, expires 08/31/2002.

Extensions of Expiration Dates

EPA ICR No. 0095.10; Precertification and Testing Exemption Reporting and Recordkeeping Requirements; in 40 CFR part 85, subparts R and P, part 89, subpart G, and part 90, subpart J; OMB No. 2060–0007; on 07/26/99 OMB extended the expiration date through 01/31/2000.

EPA ICR No. 1619.02; EPA Indoor Environmental Quality Questionnaire; OMB No. 2060–0244; on 07/27/99 OMB extended the expiration date through 11/30/99.

EPA ICR No. 1131.05; NSPS for Glass Manufacturing Plants; in 40 CFR part 60, subpart CC; OMB No. 2060–0054; on 07/30/99 OMB extended the expiration date through 09/30/99.

EPA ICR No. 0983.05; NSPS for Petroleum Refineries; in 40 CFR part 60, subpart GGG; OMB No. 2060–0067; on 08/10/99 OMB extended the expiration date through 11/30/99.

EPA ICR No. 1696.02; Registration of Fuels and Fuel Additives: Health-Effects Research Requirements for Manufacturers; in 40 CFR part 79, subpart F; OMB No. 2060–0297; on 07/29/99 OMB extended the expiration date through 10/31/99.

OMB's Comments Filed

EPA ICR No. 1915.01; Pesticides: Tolerance Processing Fees (Proposed Rule); OMB filed comments 08/16/99.

Actions Withdrawn

EPA ICR No. 1892.01; Children's Total Exposure to Persistent Pesticides and Other Persistent Organic Pollutants; EPA withdrew this collection from OMB on 07/30/99.

EPA ICR No. 1861.01; Collection of Information for Atmospheric Pollution Prevention Division Programs; Request for Generic Clearance; EPA withdrew this collection from OMB on 08/05/99.

Dated: August 23, 1999.

Richard T. Westlund,

Acting Division Director, Regulatory Information Division.

[FR Doc. 99–22323 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6429–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Industry Detailed Questionnaire: Phase II Cooling Water Intake Structures

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: Industry Detailed Questionnaire: Phase II Cooling Water Intake Structures, EPA ICR No. 1838.01. The ICR describes the nature of the information collection and its expected burden and cost; and in this case, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 27, 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. 1838.01.

SUPPLEMENTARY INFORMATION:

Title: Industry Detailed Questionnaire: Phase II Cooling Water Intake Structures (EPA ICR No. 1838.01). This is a new collection.

Abstract: In accordance with the Paperwork Reduction Act (''PRA'') (44 U.S.C. 3501, *et seq.*), this notice announces the submission of an Information Collection Request (ICR) entitled, ''Industry Detailed Questionnaire: Phase II Cooling Water Intake Structures'', from the U.S. Environmental Protection Agency (EPA or the ''Agency'') to the Office of Management and Budget (OMB) for review and approval. EPA requests approval to conduct a survey of facilities potentially subject to section 316(b) of the Clean Water Act (CWA), 33 U.S.C. 1326(b). Section 316(b) provides that any standard established pursuant to sections 301 or 306 of the CWA and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impact. Such impacts occur as a result of impingement (where fish and other aquatic life are trapped on technologies at the entrance to cooling water intake structures) and entrainment (where aquatic organisms, eggs, and larvae are taken into the cooling system, passed through the heat exchanger, and then pumped back out with the discharge from the facility). The detailed industry questionnaire is the second step of a two-step regulatory information collection effort. The screener questionnaire represented the first step. On December 24, 1998, OMB approved the Industry Screener Questionnaire: Phase I Cooling Water Intake Structures (OMB number 2040–0203). EPA will use the information collected from the detailed questionnaire to better characterize the design, location, construction, capacity, and operation of cooling water intake structures at facilities throughout the United States and to assess economic impacts from any regulatory effort affecting those facilities. The baseline technical data will help EPA frame regulatory options and define further research needs regarding the relationship of cooling water intake structures, intake technologies, and environmental impacts. The survey will also collect economic data on facility ownership, major activities, markets and finances. The Agency will use this information to assess facility-level and firm-level impacts of complying with the proposed cooling water intake structure regulations. In order to fully evaluate costs associated with a proposed section 316(b) regulation, EPA will consider the costs associated with performing section 316(b) demonstration studies, additions

and modifications to cooling water intake structures and equipment, and operating and monitoring costs associated with the regulation. The economic data will also enable EPA to carry out required economic analyses, including a Regulatory Impact Analysis (RIA), cost/benefits analyses, and adverse impact analyses on small business entities. EPA is developing proposed regulations implementing section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b) pursuant to a Consent Decree entered on October 10, 1995. EPA has the authority to collect this information under section 308 of the CWA (33 U.S.C. 1318). Accordingly, responses to the detailed questionnaire are mandatory. In accordance with 40 CFR part 2, subpart B, section 2.203, the survey will inform respondents of their right to claim information as confidential. The survey provides instructions on the procedures for making Confidential Business Information (CBI) claims, and the respondents will also be informed of the terms and rules governing protection of CBI obtained under the CWA. 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 1/26/98 (63 FR 3738); 363 comments were received. Based on these comments and the pretest results, EPA significantly modified the questionnaire.

Burden Statement: The annual public reporting and recordkeeping burden for the detailed questionnaire is estimated to average 156 hours per response. The public reporting and recordkeeping burden for the Short Technical Industry Questionnaire, the Watershed Case Study Short Questionnaire, and the Voluntary and Supplemental Information Questionnaire is estimated to average 10 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Traditional Steam Electric Utilities, Nonutility Power Producers, and Manufacturing Facilities.

Estimated Number of Respondents: 1,836.

Frequency of Response: One-time submission.

Estimated Total Annual Hour Burden: 128,736 hours.

Estimated Total Annualized Cost Burden (non-labor costs): $13,635.

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. 1838.01 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 23, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–22320 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6429–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Notification of Regulated Waste Activity and RCRA Hazardous Waste Permit Application and Modification, Part A

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 Requests (ICRs) have been forwarded to the Office of Management and Budget (OMB) for review and approval: Notification of Regulated Waste Activity, OMB Control Number 2050–0028, expiring on October 31, 1999; and RCRA Hazardous Waste Permit Application and Modification, Part A, OMB Control Number 2050–0034, expiring on October 31, 1999. These ICRs describe the nature of the information collection and their expected burden and cost; where appropriate, they include the actual data collection instrument.

DATES: Comments must be submitted on or before September 27, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download a copy of the ICRs off the Internet at http://www.epa.gov/icr and refer to EPA ICR Nos. 261.13 and 262.09.

SUPPLEMENTARY INFORMATION:

Title: Notification of Regulated Waste Activity, EPA ICR #261.13, OMB Control Number 2050–0028, expiring on October 31, 1999; and RCRA Hazardous Waste Permit Application and Modification, Part A, EPA ICR #262.09, OMB Control Number 2050–0034, expiring on October 31, 1999. This is a request for extension of currently approved collections.

Abstract: Section 3010 of subtitle C of RCRA, as amended, requires any person who generates or transports regulated waste or who owns or operates a facility for the treatment, storage, or disposal (TSD) of regulated waste to notify EPA of their activities, including the location and general description of activities and the regulated wastes handled. Section 3005 of subtitle C of RCRA requires TSDs to obtain a permit. To obtain the permit, the TSD must submit an application describing the facility's operation. There are two parts to the RCRA permit application—part A and part B. Part A defines the processes to be used for treatment, storage, and disposal of hazardous wastes; the design capacity of such processes; and the specific hazardous wastes to be handled at the facility. 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 these collections of information was published on May 14, 1999 (64 FR 26407); one comment was received.

Burden Statement: The estimated average burden for renewing the existing notification ICR is 4.25 hours per respondent for initial notifications and 2.10 hours per respondent for subsequent notifications. These estimates for the notification ICR include all aspects of the information collection including time for reviewing instructions, searching existing data sources, gathering data, and completing and reviewing the form.

The estimated average burden for renewing the existing part A ICR is approximately 27 hours per respondent for submitting a new part A permit application and approximately14 hours for submitting a revised part A permit application. The burden estimates for the part A ICR includes time for reading the regulations, preparing and submitting initial and revised part A permit applications, preparing and submitting justifications for changes and preparing and submitting subpart H compliance demonstrations.

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: Owners or operators of hazardous waste facilities.

Estimated Number of Respondents: For notifications, 31,125; for part A applications, 59.

Frequency of Response: Occasional.

Estimated Total Annual Hour Burden: 100,137 hours for notifications; 945 hours for part A applications.

Estimated Total Annualized Cost: $130,725 for notifications; $424 for part A applications.

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 Nos. 261.13 (notifications) and 262.09 (part A) and OMB Control Nos. 2050–0028 and 2050–0034, respectively, 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 23, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–22321 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6429–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NSPS Equipment Leaks of VOC in Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS subpart GGG Equipment Leaks of VOC in Petroleum Refineries; OMB Control Number 2060–0067; expires November 30, 1999. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 27, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 0983.06.

SUPPLEMENTARY INFORMATION:

Title: NSPS subpart GGG Equipment Leaks of VOC in Petroleum Refineries (OMB Control No. 2060–0067; EPA ICR No. 0983.06) expiring November 30, 1999. This is a request for extension of a currently approved collection.

Abstract: The New Source Performance Standards (NSPS) for Equipment Leaks of VOC (Volatile Organic Compound) in Petroleum Refineries were proposed on January 4, 1983 and promulgated on May 30, 1984. These standards apply to the following facilities in petroleum refineries: compressors and the group of all equipment (e.g., valves pumps, flanges, etc.) within a process unit in VOC service, commencing construction, modification or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subpart GGG.

Owners or operators of the affected facilities described must make one-time-only notifications. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to Equipment Leaks of VOC in Petroleum Refineries provide information on which components are leaking VOCs. NSPS GGG references the compliance requirements of NSPS VV. Owners or operators are required to periodically (time period varies depending on equipment type and leak history) record information identifying leaking equipment, repair methods used to stop the leaks and dates of repair. Semiannual reports are required to measure compliance with the standards of NSPS subpart VV as referenced by NSPS subpart GGG . These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NSPS. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports, and records.

All reports are sent to the delegated State or Local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Responses to this information collection are mandatory. Section 111 of the Clean Air Act as Amended provide EPA with the authority for NSPS standards; 40 CFR part 60, NSPS subpart GGG, requires the collection of the emissions data. 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 6/4/99 (64 FR 30020); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 57 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of Petroleum Refineries.

Estimated Number of Respondents: 48.

Frequency of Response: Initial, weekly, monthly, quarterly, semiannual.

Estimated Total Annual Hour Burden: 6,137 hours.

Estimated Total Annualized Capital, O&M 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. 0983.06 and OMB Control No. 2060–0067 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 23, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–22322 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6245–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements

filed August 16, 1999 through August 20, 1999

pursuant to 40 CFR 1506.9.

EIS No. 990294, Draft EIS, FHW, AK, C Street Project, Improvements between O'Malley Road to International Airport Road, Funding, NPDES Permit and COE Section 404 Permit, Municipality of Anchorage, AK, Due: October 12, 1999, Contact: Jim Bryson (907) 586–7428.

EIS No. 990295, Final EIS, FHW, GA, Harry S. Truman Parkway, Construction from the Abercorn Street Extension (GA–204) to Derenne Avenue, COE Section 404 Permit and U.S. Coast Guard Permit, Chatham County, GA, Due: September 27, 1999, Contact: Jennifer Kittle (404) 562–3633.

EIS No. 990296, Final EIS, NPS, OR, MO, IL, NB, WY, CA, IA, KS, CO, ID, WA, NV, UT, Oregon, California, Mormon Pioneer and Pony Express National Historic Trails, Implementation, Comprehensive Management and Use Plan, OR, CA, MO, IA, IL, KS, NB, CO, WY, ID, WA, UT and NV, Due: September 27, 1999, Contact: Jere L. Krakow (801) 539–4095.

EIS No. 990297, Second Final Supplement, AFS, ID, Payette National Forest, Land and Resource Management Plan, Implementation, Adams, Idaho, Valley and Washington Counties, ID, Due: September 27, 1999, Contact: Dautis Pearson (208) 253–0134.

EIS No. 990299, Draft EIS, BIA, WA, White River Amphitheatre Project, Construction and Operation an 20,000 Seat Open-Air Amphitheatre on the Muckleshoot Indian Reservation, COE Section 404 Permit and NPDES Permit, Seattle-Tacoma, WA, Due: October 12, 1999, Contact: June Boynton (503) 231–6749.

EIS No. 990300, Draft EIS, DOE, FL, JEA Circulating Fluidized Bed (CFB) Combustor Project, 300 Megawatt-Electric, Coal and Petroleum Coke-Fired, CFB Combustor and Boiler to Repower an existing Steam Turbine at JEA's North-side Generating Station Construction and Operation, Funding, Jacksonvile, Duval County, FL, Due: October 15, 1999, Contact: Lisa K. Hollingsworth (304) 285–4992.

EIS No. 990301, Draft EIS, MMS, FL, MI, AL, LA, Destin Dome 56 Unit Development and Production Plan, Right-of-Way Pipeline Application, NPDES Permit and COE Permit, Gulf of Mexico Outer Continental Shelf, FL, AL, MI and LA, Due: October 19, 1999, Contact: Maureen Bornholdt (703) 787–1739.

Amended Notices

EIS No. 990229, Draft EIS, AFS, MT, NB, WY, ND, SD, Dakota Prairie Grasslands, Nebraska National Forest Units and Thunder Basin National Grassland, Land and Resource Management Plans 1999 Revisions, Implementation, MT, NB, WY, ND and SD, Due: November 29, 1999, Contact: Pam Gardner (308) 432–0300. Published FR 07–16–99—Review

Period extended from 10–13–99 to 11–29–99.

EIS No. 990254, Final EIS, FHW, VA, ADOPTION—Grundy Flood Damage Reduction/Highway Upgrade Project, Implementation, Town of Grundy, Buchanan County, VA, Due: August 30, 1999, Contact: Edward S. Sundra (804) 775–3338. Published FR–07–30–99—Correction to Title, Contact Person Name and Telephone.

Dated: August 24, 1999.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–22366 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6430–1]

Final NPDES Permit for Aquaculture Facilities and Associated, On-Site Fish Processing Facilities Operating in Idaho (ID–G13–0000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final NPDES general permit.

SUMMARY: The Director, Office of Water, EPA Region 10, is publishing notice of the availability of the National Pollutant Discharge Elimination System (NPDES) general permit (number ID–G13–0000) for coverage of aquaculture facilities and associated, on-site fish processing facilities operating in Idaho, pursuant to the provisions of the Clean Water Act, 33 U.S.C. 1251 *et seq.* The general NPDES permit authorizes wastewater

discharges from these facilities to surface waters of the United States throughout Idaho, once a notification of coverage by the permit is received by the facilities from the Agency. The aquaculture facilities authorized to discharge under this general permit raise fish (rainbow trout, steelhead trout, chinook salmon, catfish, tilapia and other fish) for market as food products or for the enhancement of salmonid populations, and they discharge rearing wastewater containing fish excreta, excess fish feed, dissolved and suspended solid biological pollutants, nutrients, and residual disease control chemicals. The fish processing facilities authorized to discharge under this general permit butcher fish (rainbow trout, steelhead trout, chinook salmon, catfish, tilapia and other fish) for market as food products, and they discharge processing wastewater containing dissolved and suspended solid biological pollutants, oxygen demanding materials, nutrients, and residual disinfectants.

The aquaculture facilities authorized by the general NPDES permit are required to develop best management practices plans, supported by mass balance assessments of their operations, and to restrict their discharges below specific technology-based limitations for total suspended solids (TSS) and settleable solids (SS) and total phosphorus. The TSS and SS limits are based on the same effluent guidelines as previous aquaculture NPDES permits with an exception for the monitoring frequency. In addition, specific water quality-based limitations from the State's total maximum daily load (TMDL) for total phosphorus apply to dischargers to the Middle Snake River and its tributaries. These TMDL total phosphorus limits must be met by the fifth year of the permit.

The fish processing facilities authorized by the general NPDES permit are also required to develop best management practices plans, supported by mass balance assessments of their operations, and to restrict their discharges below specific technology-based limitations. Technology-based effluent limitations are required for TSS, five-day biochemical oxygen demand (BOD_5), oil and grease, and pH. Specific water quality-based limitations are also required for total residual chlorine and pH. Discharges of hazardous materials, sludge, grit and accumulated solid residues, and untreated cleaning wastewaters are prohibited under this permit.

The general NPDES permit contains effluent monitoring requirements which (1) support the detailed characterization of pollutants discharged during the first year of the permit term and (2) evaluate compliance with permit limitations throughout the five-year term of the permit. In addition to the limited pollutants, effluent monitoring is also required for nitrate-nitrite, total ammonia, total Kjeldahl nitrogen, dissolved oxygen, temperature, and total residual chlorine. The largest facilities (producing more than one million pounds of fish per year and, collectively, discharging more than one half of the pollution produced by this industry) are required to monitor the efficiency of their best management practices and waste treatment, and conduct whole effluent toxicity. The whole effluent toxicity data will be used to assess the environmental impacts of aquaculture discharges and ensure the protection of Idaho Water Quality Standards.

SUPPLEMENTARY INFORMATION: The EPA is publishing the general NPDES permit pursuant to its authority under sections 301(b), 304, 306, 307, 308, 401, 403 and 501 of the Clean Water Act. The fact sheet for the draft permit, the response to comments document, the biological assessment, and the 401 certification issued by the State of Idaho set forth the principal facts and the significant factual, legal and policy questions considered in the development of the terms and conditions of the final permit.

The permit was prepared with considerable consultation with the Idaho Division of Environmental Quality, Twin Falls Regional Office. The majority of aquaculture facilities are located in the Twin Falls Regional Office proper and are point sources identified in The Middle Snake Watershed Management Plan, Phase 1 TMDL.

Public Comment

Pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1342, EPA proposed and solicited comment on the draft general permit in the **Federal Register** (59 FR 38473, April 10, 1998), the Times-News (Twin Falls), and the Idaho Statesman. A public meeting and hearing was held by EPA on May 12, 1998.

Changes have been made to the final permit in response to comments received from facility representatives, concerned citizens, environmental groups, the U.S. Fish and Wildlife Service, and the State of Idaho. The changes address grammatical/structural clarification, monitoring frequency, and limitations supported by industry data. Changes made to the general permit in response to public comments are addressed in a document entitled ''Response to Public Comments on the Proposed Issuance of the general National Pollutant Discharge Elimination System (NPDES) permit for Aquaculture Facilities in Idaho and Associated, On-site Fish Processors.'' This document was provided to all commenters, current permittees and applicants and is available at the address below or from the EPA Region 10 website.

FOR FURTHER INFORMATION: Copies of the general NPDES permit, supporting fact sheet for the draft general NPDES permit, response to public comments, and today's publication are available from the EPA Region 10 Public Environmental Resource Center at 1–800–424–4EPA (4372). All documents can also be downloaded from EPA Region 10's Office of Water website under ''Public Notices'' at www.epa.gov/r10earth/offices/water/ow.htm. Copies are also available from the EPA Idaho Operations Office at 1435 N Orchard, Boise, Idaho 83706; Idaho Division of Environmental Quality (IDEQ)-Twin Falls Regional Office at 601 Pole Line Road, Suite 2, Twin Falls, Idaho 83301; IDEQ-Boise Regional Office at 1445 N. Orchard, Boise, Idaho 83706–2239; IDEQ-Pocatello Regional Office at 224 S. Arthur, Pocatello, Idaho 83204; IDEQ-Lewiston Regional Office at 1118 F St., Lewiston, Idaho 83501; IDEQ-Coeur d'Alene Regional Office at 2110 Ironwood Pkwy, Coeur d'Alene, Idaho 83814; and IDEQ-Idaho Falls Regional Office at 900 N. Skyline, Idaho Falls, Idaho 83402.

ADMINISTRATIVE RECORD OR FURTHER INFORMATION: The complete administrative record for the general NPDES permit is available for public review by contacting Carla Fromm. Unless otherwise noted in the permit, all other correspondence or questions regarding this permit should be sent to Carla Fromm, EPA Region 10, Idaho Office, 1435 North Orchard Street, Boise, Idaho 83706; (208) 378–5755; fromm.carla@epa.gov. For those with impaired hearing or speech, please contact EPA's telecommunication device for the deaf (TDD) at (206) 553–1698.

Legal Requirements

Endangered Species Act

Consultation under the Endangered Species Act was conducted with the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service has issued a Biological Opinion on the effects of the general permit as well as eight other individual NPDES permits that authorize discharge into the Middle Snake River. The Opinion concludes

that the action is not likely to jeopardize the continued existence of listed snail species in the action area. The opinion also includes an ''Incidental Take Statement.'' Under the terms of section 7(b)(4) and section 7(o)(2) of the Endangered Species Act, take of species that is incidental to an agency's action is not prohibited provided that such taking is in compliance with the terms and conditions of the Incidental Take Statement. The Service identified eight ''reasonable and prudent measures'' that have been addressed by EPA in order to minimize incidental take. Two revisions to the NPDES permit were necessary to address the conditions of the Biological Opinion. One of the measures requires the permittee to orally report conditions that endanger listed snail species to both EPA and the U.S. Fish and Wildlife Service within 24 hours from the time a permittee becomes aware of the circumstances. The other measure requires that written reports on noncompliance occurrences that endanger listed Snake River snails be sent to the Service.

State Water Quality Standards and State Certification

The State of Idaho, Division of Environmental Quality, has certified under section 401 of the Clean Water Act, that the subject discharges comply with the Idaho State Water Quality Standards and sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act.

Executive Order 12866

EPA has determined that this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

Paperwork Reduction Act

The information collection requirements of this permit were previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. The permit issued today, however, is not a ''rule'' subject to the requirements of 5 U.S.C. 553(b) and is therefore not subject to the Regulatory Flexibility Act.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' (defined to be the same as ''rules'' subject to the RFA) on tribal, state, and local governments and the private sector. The permit issued today, however, is not a ''rule'' subject to the RFA and is therefore not subject to the requirements of UMRA.

Appeal of Permit

Within 120 days following the date of permit issuance of EPA's final permit decision under 40 CFR 124.15, any interested person may appeal the general permit in the Federal Court of Appeal in accordance with section 509(b)(1) of the Clean Water Act. The date of permit effectiveness is defined at 40 CFR 23.2 to be at 1:00 pm eastern time, two weeks after the date of publication in the **Federal Register**. Persons affected by a general NPDES permit may not challenge the conditions of the permit as a right of further EPA proceedings. Instead, they may either challenge the permit in court or apply for an individual NPDES permit and then request a formal hearing on the issuance or denial of an individual NPDES permit.

Effective Date

The general NPDES permit shall become effective on September 13, 1999. The general permit and the authorization to discharge shall expire at midnight on September 13, 2004.

Dated: August 19, 1999.

Randall F. Smith,

Director, Office of Water, Region 10.

[FR Doc. 99–22324 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–1558]

ELIMINATION OF EXISTING SERVICE REQUIREMENT

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the elimination of the requirement that carriers making accounting rate filings serve every carrier that provides service on the international route. The Commission found that the International Bureau's new electronic filing system is an adequate substitute for this requirement. With this action, carriers will no longer have to serve other carriers with a copy of their filing with the Commission.

FOR FURTHER INFORMATION CONTACT: Lisa Choi or Jackie Ruff, Attorney-Advisors, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION:

The International Bureau announces on August 6, 1999 its implementation of the Commission's decision to eliminate the requirement that carriers making accounting rate filings with the Commission serve every carrier that provides service on the international route with a copy of the filing. We strongly encourage carriers in lieu of this requirement to file a copy of their accounting rate filing electronically over the International Bureau Electronic Filing System (IBFS) in order to assist with the Commission's processing of these filings. Interested parties and carriers making filings may access copies of accounting rate filings from the IBFS which can be found on the internet.

The Commission eliminated the requirement in § 64.1001(k) that carriers serve a copy of accounting rate filings to every carrier serving the international route in question in the *1998 Biennial Regulatory Review: Reform of the International Settlements Policy*, IB Docket No. 98–148, CC Docket 90–337 (Phase II), IB Docket 95–22, Report and Order and Order on Reconsideration, FCC 99–73 (rel. May 6, 1999), 64 FR 34734 (June 29, 1999). In that order, the Commission found that the International Bureau's new electronic filing system would be an adequate substitute for the existing service requirement and directed the International Bureau to implement the Commission's elimination of the requirement within three months of the release of the order.

On February 10, 1999, the International Bureau unveiled the IBFS to the public. The IBFS is an internet-based system that allows its users to electronically file 15 different types of applications and run a host of reports and customized queries. Among the many filing options users have is an electronic form for filing accounting rate change requests. We strongly encourage parties to file accounting rate change requests using IBFS, but we note such electronic filing is not mandatory at this time. Entities interested in filing electronically should contact the IBFS Information Line at (202) 418–2222 or visit the IBFS Homepage at *http://ibfsweb.fcc.gov/webreports*.

To facilitate the electronic submission of such accounting rate filings and

retrieval of information, the International Bureau will hold IBFS training courses for interested parties and carriers making accounting rate change requests. Course dates and times will be announced in a later notice.

For additional information about this implementation, please contact Lisa Choi or Jackie Ruff, Telecommunications Division, International Bureau, (202) 418–1460. For additional information about the IBFS, please contact Jacqueline Ponti, International Bureau, (202) 418–1460.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–22305 Filed 8–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, August 31, 1999, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Final amendment to Part 348—Management Official Interlocks.

Memorandum and resolution re: Proposed amendment to the Corporation's Rules and Regulations concerning restrictions on the purchase of assets from the Federal Deposit Insurance Corporation.

Discussion Agenda:

Memorandum and resolution re: Proposed amendment to Part 360—Resolution and Receivership Rules and withdrawal of related proposed statement of policy.

Memorandum and resolution re: Proposed amendments to Part 327—Assessments.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: August 24, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–22398 Filed 8–25–99; 10:09 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY:

Background. Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section--Mary M. West--Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829); OMB Desk Officer--Alexander T. Hunt--Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860).

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Report

1. Report title: Report of Condition for Foreign Subsidiaries of U.S. Banking Organizations and Financial Information for Foreign Subsidiaries of U.S. Banking Organizations.

Agency form number: FR 2314 a, b, and c.

OMB control number: 7100-0073.

Frequency: Quarterly and annually.

Reporters: Foreign subsidiaries of U.S. banks, bank holding companies, and Edge and agreement corporations.

Annual reporting hours: 6,825 burden hours.

Estimated average hours per response: 1.5 to 10.5 hours.

Number of respondents: 1,362. Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 324, 602, 625, and 1844(c)) data are exempt from disclosure pursuant to Sections (b)(4) and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (8)).

Abstract: The FR 2314 is the only source of comprehensive and systematic data on the assets, liabilities, and earnings of the foreign bank and nonbank subsidiaries of U.S. banking organizations and is used to monitor the growth, profitability, and activities of these foreign companies. The FR 2314a collects information on assets and liabilities and includes several memoranda items on contingent liabilities and twelve supporting schedules. The supporting schedules provide detail on cash and balances due from depository institutions, securities, loans and lease financing receivables, other assets, claims on related organizations, deposits, other liabilities, liabilities to related organizations, changes in capital and reserve accounts, income and expenses, assets held in trading accounts, and past due and nonaccrual loans and leases. The FR 2314b collects somewhat less information on assets and liabilities, off-balance-sheet items, income and expenses, and securities. The FR 2314c is a brief one-page report that collects information on total assets, equity capital, net income, and off-balance-sheet items.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revisions, of the Following Reports

1. Report title: Domestic Finance Company Report of Assets and Liabilities.

Agency form number: FR 2248.

OMB control number: 7100-0005.

Frequency: Monthly.

Reporters: Domestic finance companies.

Annual reporting hours: 800 burden hours.

Estimated average hours per response: 40 minutes.

Number of respondents: 100

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 225(a)). Individual respondents data are confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Abstract: The FR 2248 collects balance sheet data on major categories of consumer and business credit receivables and on major short-term liabilities. For quarter-end months (March, June, September, and December), the report collects information on other assets and liabilities outstanding as well as information on capital accounts in order to provide a full balance sheet. The Federal Reserve reduced the authorized size of the FR 2248 reporting panel from 120 finance companies to 100 finance companies.

2. Report title: Financial Statements for a Bank Holding Company Subsidiary Engaged in Bank-Ineligible Securities Underwriting and Dealing.

Agency form number: FR Y-20.

OMB control number: 7100-0248.

Effective date: September 30, 1999.

Frequency: Quarterly.

Reporters: Bank holding companies.

Annual reporting hours: 2,568 burden hours.

Estimated average hours per response: 12.35 hours.

Number of respondents: 52.

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). Individual respondents data are confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Abstract: The FR Y-20 report is filed by bank holding companies that have received the Board's approval by Order to engage in limited underwriting and dealing in securities, including all types of debt and equity securities that a bank may not underwrite or deal in directly. The FR Y-20 report contains a balance sheet (Schedule SUD), a supporting schedule of securities owned, including money market obligations (Schedule SUD-A), a statement of income (Schedule SUD-I), and a statement of changes in stockholders' equity (Schedule SUD-SE). Several of these schedules also include various memoranda items, such as intercompany liabilities, off-balance sheet items, and year-to-date income and expenses.

Current Actions: The Federal Reserve is making several limited changes to the FR Y-20. The first is amending the cover page of the report to include a structure indicator box to denote if the report is prepared on a consolidated or unconsolidated basis of accounting. The Federal Reserve is also making the following changes to the report's balance sheet: (1) the inclusion of a line item for Loans and leases held for trading (line item 11), and (2) the inclusion of a contra-asset line item, Allowance for losses from loans and leases held for trading (line item 11.a). In addition, the Federal Reserve is changing the statement of income by: (1) adding a structure indicator box on the first page to denote whether a consolidated, unconsolidated or parent-only statement of income is being submitted and (2) amending expense line item 16 to include exchange fees. The FR Y-20 instructional changes include providing organizational reporting structure guidance and revising the instructions due to changes in Board Orders and Board Legal Division opinions, changes in accounting standards, and guidance promulgated by the Financial Accounting Standards Board and the American Institute of Certified Public Accounts. The instructions also include other clarifications and minor editorial changes.

Discontinuance of the Following Report Under OMB Delegated Authority

1. Report title: Report of Broker Carrying Margin Accounts.

Agency form number: FR 2240.

OMB control number: 7100-0001.

Effective Date: Wednesday, June 30, 1999.

Frequency: Annual.

Reporters: Member firms of the New York or American Stock Exchange that carry customer margin accounts as of the end of June.

Annual reporting hours: 246 burden hours.

Estimated average hours per response: 2.7 hours.

Number of respondents: 91.

Small businesses are affected.

General description of report: The Board's Legal Division previously has determined that this report is authorized by law (15 U.S.C. 78q(g)). Individual respondent data are regarded as confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Abstract: The FR 2240 collects certain balance sheet information from securities brokers and dealers carrying margin accounts in order to regulate margin credit.

Current Actions: The Division of Research and Statistics is discontinuing the FR 2240. The report has become unnecessary because the vast majority of reporters already submits margin credit data to the New York Stock Exchange, which makes the data available on an aggregate basis to the Board of Governors and the general public.

Board of Governors of the Federal Reserve System, August 23, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–22262 Filed 8–26–99; 8:45am]

Billing Code 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (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 20, 1999.

A. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community Bancshares of Mississippi, Inc., Brandon, Mississippi; to acquire 100 percent of the voting shares of Community Bank, Meridian, Mississippi (in organization).

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice

President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. UMB Financial Corporation, Kansas City, Missouri, and First Sooner Bancshares, Inc, Oklahoma City, Oklahoma; to acquire 100 percent of the voting shares of Charter Bancshares, Inc., Oklahoma City, Oklahoma, and thereby indirectly acquire Charter National Bank, Oklahoma City, Oklahoma.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Doss, Ltd., Weatherford, Texas (in formation); to become a bank holding company by acquiring 49.15 percent of the voting shares of M & F Bancshares, Inc., Weatherford, Texas, and thereby indirectly acquire M & F Financial Corp., Wilmington, Delaware; Texas Bank, Weatherford, Texas; and Texas Bank, Brownwook, Texas.

Board of Governors of the Federal Reserve System, August 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–22281 Filed 8–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 10, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. J.P. Morgan & Co. Incorporated, New York, New York; to acquire up to approximately 25 percent of the voting shares of TP Group Limited, Grand Cayman, Cayman Islands, and thereby indirectly acquire additional voting shares in its subsidiary, Tradepoint Financial Networks plc, London, United Kingdom, and thereby engage in securities brokerage services and other agency transactional services for customer investments, pursuant to § 225.28(b)(7) of Regulation Y.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. GreatBanc Inc., Aurora, Illinois; to acquire ANB Financial Services, Inc., Aurora, Illinois, and thereby engage in making, acquiring, brokering and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, August 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–22282 Filed 8–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, September 1, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: August 25, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–22399 Filed 8–25–99; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State Plan for Foster Care and Adoption Assistance—Title IV–E

OMB No.: 0980–0141

Description: A State plan for foster care and adoption assistance is required by section 471 of the Social Security Act from any State wishing to claim federal financial participation for foster care and adoption assistance. States may use a preprinted format or may develop their own format which meets the requirements of the law. The Plan is submitted only once and amended as necessary. Our experience is that a State will amend a Plan once every 4 years; approximately 12 per year.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Plan for Foster Care and Adoption Assistance Title IV–E.	12	1	15	180

Estimated Total Annual Burden Hours. 180

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W.; Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: ACF Desk Officer.

Dated: August 23, 1999.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 99–22303 Filed 8–26–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2100]

Agency Information Collection Activities; Announcement of OMB Approval; Survey of Manufacturers of Computer-Controlled, Potentially High-Risk Medical Devices Regarding Year 2000 Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Study of Manufacturers of Computer-Controlled, Potentially High-Risk Medical Devices Regarding Year 2000 Status'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Stewart Crumpler, Center for Devices and Radiological Health (HFZ–340), 2094 Gaither Rd., Rockville, MD 20850, 301–594–4659, ext. 119.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 2, 1999 (64 FR 36019), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0411. The approval expires on January 31, 2000. A copy of the supporting statement for this information collection is available on the Internet at ''http://www.fda.gov/ohrms/dockets''.

Dated: August 19, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–22315 Filed 8–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2635]

Draft Guidance for Industry on ANDA's: Blend Uniformity Analysis; 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 ''ANDA's: Blend Uniformity Analysis.'' This draft guidance is intended to provide recommendations to holders of abbreviated new drug applications (ANDA's) on establishing in-process acceptance criteria related to blend uniformity analysis (BUA) for the manufacture of some drug products.

DATES: Written comments may be submitted on the draft guidance by October 26, 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''. Written requests for single copies of the draft guidance for industry should be submitted 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 the office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Devinder S. Gill, Office of Generic Drugs (HFD–623), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5848.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled ''ANDA's: Blend Uniformity Analysis.'' This draft guidance is intended to provide recommendations on when BUA should be performed. The recommendations, when applicable, apply to original ANDA's and supplemental ANDA's for formulation and process changes.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on BUA for ANDA's. 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 statutes, 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 20, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–22317 Filed 8–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2777]

Guidance for Industry on Possible Dioxin/PCB Contamination in Drugs and Biological Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Possible Dioxin/PCB

Contamination in Drugs and Biological Products.'' During January through June 1999, some poultry, swine, and ruminants in several European Union (EU) countries were fed with animal feed of Belgian origin contaminated with dioxins and polychlorinated biphenyls (PCB's). Manufacturers who are using materials derived from such animal sources in the manufacture of their products should verify that the materials they are using are not derived from animals affected during the contamination incident, or conduct suitable testing of the materials.

DATES: Written comments on this guidance may be submitted at any time. General comments on agency guidances are welcome at any time.

ADDRESSES: Submit written comments to:

1. Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Submit written requests for copies of this guidance to:

2. Office of Training and Communications, Division of Communications Management, Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, http://www.fda.gov/cder/guidance/index.htm; or

3. Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448; http://www.fda.gov/cber/guidelines.htm; FAX: 1–888–CBERFAX or 301–827–3844, or call the Voice Information System at 800–835–4709 or 301–827–1800; or

4. Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), 7500 Standish Pl., Rockville, MD 20855; 301–594–1755, http://www.fda.gov/cvm.

FOR FURTHER INFORMATION CONTACT:

Eric P. Duffy, Center for Drug Evaluation and Research (HFD–325), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–0098;

Christopher C. Joneckis, Center for Biologics Evaluation and Research (HFM–20), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–5318; or

John C. Matheson, Center for Veterinary Medicine (HFV–200), Food and Drug Administration, Center for Veterinary Medicine, 7500 Standish Pl., Rockville, MD 20855, 301–827–6649.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''Possible Dioxin/PCB Contamination in Drugs and Biological Products.'' During January through June 1999, some poultry, swine, and ruminants in several EU countries were fed with animal feed of Belgian origin contaminated with dioxins and PCB's. As a result, animals that received the contaminated feed have become contaminated with dioxins and PCB's. Manufacturers who are using materials derived from these animal sources in the manufacture of animal or human drug products or biological products should verify that the materials they are using are not derived from animals affected during the contamination incident, or conduct suitable testing of the materials.

This guidance document is being issued as a Level 1 guidance consistent with FDA's good guidance practices (62 FR 8961), February 27, 1997). It is being implemented immediately without prior public comment because of the potential hazard to the public health.

This guidance document may contain collections of information that require OMB clearance under the Paperwork Reduction Act of 1995. FDA will seek such approval and provide an opportunity for comment, as appropriate.

The guidance represents the agency's current thinking on the implications of dioxin/PCB contamination in animal and human drug products 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.

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 are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 19, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–22316 Filed 8–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0495]

Prescription Drug User Fee Act (PDUFA) II Five-Year Plan Revision; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an internal planning document entitled ''PDUFA II Five–Year Plan: FY 1999 Revision.'' This revised plan updates FDA's anticipated prescription drug user fee revenues and planned expenditures of the fee revenues over the 5-year period from 1998 to 2002. The revised plan to achieve the new goals for the drug review process under the Prescription Drug User Fee Act of 1992 (PDUFA), which was amended and extended through the year 2002 by the Food and Drug Administration Modernization Act of 1997, takes into account changes in revenue projections and work load based on actual revenue and application receipts in fiscal year (FY) 1998. The amended and extended PDUFA is referred to as PDUFA II.

DATES: Written comments on the revised plan may be submitted at any time and will be considered as the agency makes annual adjustments to the revised plan in the second quarter of each FY.

ADDRESSES: Copies of this revised plan are available on the Internet at ''www.fda.gov/oc/pdufa2/5yrplan.html''. For those without Internet access, single copies of this revised plan may be obtained from the Office of Management and Systems (HFA–20), Attention: Frank P. Claunts, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Please send a self-addressed adhesive label to assist that office in processing your request. Submit written comments on the revised plan to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Frank P. Claunts, Office of Management Systems (HFA–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4427.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of an internal planning document entitled ''PDUFA II Five–Year Plan: FY 1999 Revision.'' PDUFA was amended and

extended through the year 2002 by the Food and Drug Administration Modernization Act of 1997. The amended and extended PDUFA is referred to as PDUFA II. PDUFA II authorizes appropriations and fees that will provide FDA with resources to sustain the drug review staff developed through FY 1997 and to achieve the even more stringent new goals.

The revised plan begins with a statement of purpose, provides background information on PDUFA and a summary of the new goals, and discusses the 10 major assumptions on which the revised plan is based and how those assumptions have changed since the original plan was issued last year. Included is the assumption that this revised plan is dynamic, and it will be reassessed each FY through 2002. This is the first revision of the plan since it was initially published last year. The individual plans of agency components with major PDUFA responsibilities are summarized, followed by a summary of associated expenditures and an agency summary. Attachments include: Estimates of PDUFA fees and revenues, the **Federal Register** notice of December 22, 1998, establishing prescription drug user fee rates for FY 1999, and the revised ''PDUFA II Information Management Five–Year Plan.''

In FDA's continuing efforts to maximize the availability and clarity of information about the agency's review processes and plans, FDA is sharing this revised plan with all who have an interest, and the agency is making it available on the Internet. The agency welcomes comments, and it will consider them in the future as annual adjustments are made to the plan.

Interested persons may submit written comments on the revised plan 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 revised plan and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–22311 Filed 8–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–295]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the Information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. The Agency cannot reasonably comply with the normal clearance procedures because public harm is likely to result due to the possibility of Medicare beneficiaries receiving incomplete information. This information is needed to help beneficiaries have and make informed choices about health plans. Research conducted with Medicare beneficiaries in the course of this disenrollment survey development, confirms that beneficiaries want to know the reasons behind the disenrollment rates when selecting a plan and could not make much sense of the rates alone. The reasons for the disenrollments can only be supplied by this survey. In addition, the Balanced Budget Act (BBA) of 1997, requires the calculation and presentation of ''(I) disenrollment rates for Medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area)''; and ''(ii) information on Medicare enrollee satisfaction.'' Under the BBA, HCFA is required to provide a wealth of general and plan comparative information to beneficiaries that will help them make more informed health plan choices. This survey will do that.

HCFA is requesting OMB review and approval of this collection by September 27, 1999, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by September 23, 1999. During this 180-day period, we will publish a separate Federal Register notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: New Collection;

Title of Information Collection: Medicare CAHPS Disenrollment Survey;

Form No.: HCFA–R–295 (OMB# 0938–NEW);

Use: This survey will be used to collect information from Medicare beneficiaries who have disenrolled from their health plans during the past year. The purpose of this information is to obtain their ratings of their former plans and the reasons why they left. The survey results will be reported to all beneficiaries in print and on the Internet for the purpose of informed choices.;

Frequency: Annually;

Affected Public: Individuals or Households;

Number of Respondents: 90,000;

Total Annual Responses: 72,000;

Total Annual Hours: 23,760.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of Information requirements. However, as noted above, comments on these Information collection and recordkeeping requirements must be

mailed and/or faxed to the designees referenced below, by September 23, 1999:

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

And

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer.

Dated: August 19, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–22266 Filed 8–26–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1077–N]

Medicare Program; September 23, 1999, Meeting of the Competitive Pricing Demonstration Area Advisory Committee, Maricopa County

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

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Competitive Pricing Demonstration Area Advisory Committee (AAC), Maricopa County, Arizona on September 23, 1999.

The Balanced Budget Act of 1997 (BBA) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. The BBA requires the Secretary to appoint an AAC in each designated demonstration area to advise on implementation of the project, including the marketing and pricing of the plan and other factors. The AAC meetings are open to the public.

DATES: The meeting is scheduled for September 23, 1999, from 9:00 a.m. until 5:30 p.m., m.s.t.

ADDRESSES: The meeting will be held at the YWCA of the USA, Leadership Development Conference Center, 9440 North 25th Avenue, Phoenix, AZ 85021, (602) 944–0569.

FOR FURTHER INFORMATION CONTACT: Joseph Tilghman, Acting Regional Administrator, Health Care Financing Administration, 75 Hawthorne Street, 4th Floor, San Francisco, CA 94105, (415) 744–3501.

SUPPLEMENTARY INFORMATION:

Section 4011 of the Balanced Budget Act of 1997 (BBA) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology.

Section 4012(a) of the BBA requires the Secretary to appoint a Competitive Pricing Advisory Committee (the CPAC) to make recommendations to the Secretary concerning the designation of areas for inclusion in the project and appropriate research designs for implementing the project. Once an area is designated as a demonstration site, section 4012(b) of the BBA requires the Secretary to appoint an Area Advisory Committee (AAC) to advise on the marketing and pricing of the plan in the area and other factors. Thus far, the Kansas City, MO Metropolitan Area and Maricopa County, AZ have been designated as demonstration sites.

The Maricopa County AAC has previously met on March 31, 1999, April 20, 1999, May 18 and 19, 1999, June 7 and 8, 1999, June 30, 1999, and July 1, 1999. The Maricopa County AAC is composed of representatives of health plans, providers, employers, and Medicare beneficiaries in the area. The members are: Joseph Anderson, Schaller Anderson Inc.; Rick Badger, Pacificare of Arizona; Reginald Ballantyne III, PMH Health Resources, Inc.; Donna Buelow, Arizona State Retirement System; Charles Cohen, Arizona Department of Insurance; John Hensing, M.D., Samaritan Health Systems; Mary Lynn Kasunic, Area Agency on Aging; Anne Lindeman, Governor's Advisory Council on Aging; Ben Lopez, Honeywell Corp.; Thomas Marreel, William M. Mercer Associates; Anthony Mitten, Maricopa County Medical Society; Edward Munno, Jr., Intergroup of Arizona; Erik Olsen, D.D.S., American Association of Retired Persons; Leland Peterson, Sun Health Corp.; Donna Redford, Arizona Bridge to Independent Living; Herb Rigberg, M.D., Health Services Advisory Group; Martha Taylor, Arizona SHIP; Clyde Wright, M.D., Cigna of Arizona; Arthur Pelberg, M.D., Schaller Anderson Inc.; Joseph Hanss, M.D., physician; and Phyllis Biedess, Director, AHCCCS.

This notice announces the September 23, 1999, meeting of the Maricopa County AAC. This meeting will be held from 9:00 a.m. until 5:30 p.m., m.s.t. at the YWCA of the USA, Leadership Development Conference Center in Phoenix, AZ.

The agenda for the September 23, 1999, meeting will include the following:

- A discussion of the timeline for implementation of the competitive pricing demonstration.
- A finalization of the benefit package for plan bidding, which will include a report on the results of the local public testing of the proposed basic benefit package.
- Reports from the AAC subcommittees.
- Results of the town hall meeting.
- Any outstanding issues.

Individuals or organizations that wish to make 5-minute oral presentations on the agenda issues should contact the San Francisco Acting Regional Administrator, by 12 noon, September 16, 1999. Anyone who is not scheduled to speak may submit written comments to the San Francisco Acting Regional Administrator, by COB, September 20, 1999.

These meetings are open to the public, but attendance is limited to space available.

Authority: Section 4012 of the Balanced Budget Act of 1997, Public Law 105–33 (42 U.S.C. 1395w–23 note) and section 10(a) of Public Law 92–463 (5 U.S.C. App.2, Section 10(a)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program.)

Dated: August 20, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

[FR Doc. 99–22302 Filed 8–26–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–34]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing-and speech-impaired (202) 708–2565 (these telephone number are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized building and real property controlled by such agencies or by GSA regarding its inventory of excess and surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/ to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or make available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Mr. Jeff Holste, U.S. Army Center for Public Works, Installation Support Center, Facilities Management, 7701 Telegraph Road, Alexandria, VA 22315–3862; (703) 428–6318, ENERGY: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 586–0426; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; INTERIOR: Mr. Al Barth, Property Management, Department of the Interior, 1849 C Street, NW, mail Stop 5512–MIB, Washington, DC 20240; (202) 208–7283; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: August 18, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V. FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 8/27/99

Suitable/Available Properties

Buildings (by State)

Alaska

Bldg. 263
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 2119993011
Status: Excess
Comment: 13056 sq. ft., most recent use—housing, off-site use only

Bldg. 636
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 2119993012
Status: Excess
Comment: 33,726 sq. ft., concrete block, most recent use—library, off-site use only

Bldg. 736
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 2119993013
Status: Excess
Comment: 7090 sq. ft., most recent use—admin., off-site use only

Bldg. 786
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 2119993014
Status: Excess
Comment: 2242 sq. ft., most recent use—driver's testing facility, off-site use only

Bldg. 978
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 2119993016
Status: Excess
Comment: 2411 sq. ft., concrete block, most recent use—training, off-site use only

Bldg. 980
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army

Property Number: 2119993017
Status: Excess
Comment: 11,651 sq. ft., concrete block, most recent use—vehicle maintenance, off-site use only

Bldg. 58780
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930118
Status; Excess
Comment: 3230 sq. ft., most recent use—admin., off-site use only

California

Calexico Border Patrol Station
813 Andrade Avenue
Calexico Co: CA 00000–
Landholding Agency: GSA
Property Number: 54199930007
Status: Excess
Comment: 7420 sq. ft.,
GSA Number: 9–J–CA–1539

Georgia

Bldg 39720
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199930119
Status: unutilized
Comment: 1520 sq. ft., concrete block, possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. 492
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930120
Status: Unutilized
Comment: 720 sq. ft., most recent use—admin/maint, off-site use only

Bldg. 880
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930121
Status: Unutilized
Comment: 57,110 sq. ft., most recent use—instruction, off-site use only

Bldg. 1370
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930122
Status: Unutilized
Comment: 5204 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2288
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930123
Status: Unutilized
Comment: 2481 sq. ft., most recent use—admin., off-site use only

Bldg. 2290
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930124
Status: Unutilized
Comment: 455 sq. ft., most recent use—storage, off-site use only

Bldg. 2293
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930125
Status: Unutilized
Comment: 2600 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2297
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930126
Status: Unutilized
Comment: 5156 sq. ft., most recent use—admin., off-site use only

Bldg. 2505
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930127
Status: Unutilized
Comment: 10,257 sq. ft., most recent use—repair shop, off-site use only

Bldg. 2508
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930128
Status: Unutilized
Comment: 2434 sq. ft., most recent use—storage, off-site use only

Bldg. 2815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930129
Status: Unutilized
Comment: 2578 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 3815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930130
Status: Unutilized
Comment: 7575 sq. ft., most recent use—storage, off-site use only

Bldg. 3816
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930131
Status: Unutilized
Comment: 7514 sq. ft., most recent use—storage, off-site use only

Bldg. 4555
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930132
Status: Unutilized
Comment: 18,240 sq. ft., most recent use—maint. shop, off-site use only

Bldg. 5886
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930134
Status: Unutilized
Comment: 67 sq. ft., most recent use—maint/storage, off-site use only

Bldg. 5974–5978
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930135
Status: Unutilized
Comment: 400 sq. ft., most recent use—storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930136
Status: Unutilized
Comment: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 5994
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930137
Status: Unutilized
Comment: 2016 sq. ft., most recent use—storage, off-site use only

Hawaii

Bldg. P–144
Tripler Army Medical Center
Hawaii Co: HI 96857–
Landholding Agency: Army
Property Number: 21199930138
Status: Unutilized
Comment: 857 sq. ft., most recent use—service station, off-site use only

Kansas

Bldg. P–71
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930139
Status: Unutilized
Comment: 180 sq. ft., most recent use—storage, off-site use only

Bldg. P–75
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930140
Status: Unutilized
Comment: 12,129 sq. ft., most recent use—storage, off-site use only

Bldg. P–76
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930141
Status: Unutilized
Comment: 180 sq. ft., most recent use—storage, off-site use only

Bldgs. P–26, P–27
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930142
Status: Unutilized
Comment: 84 sq. ft., most recent use—utility, off-site use only

Bldgs. P–110, P–114, P–115
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930143
Status: Unutilized
Comment: 85–92 sq. ft., most recent use—utility, off-site use only

Bldg. P–118
Fort Leavenworth

Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930144
Status: Unutilized
Comment: 117 sq. ft., most recent use—storage, off-site use only

Bldgs. P–160, P–161, P–165
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930145
Status: Unutilized
Comment: 86–88 sq. ft., most recent use—utility, off-site use only

Bldg. P–223
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930146
Status: Unutilized
Comment: 7,174 sq. ft., most recent use—storage, off-site use only

Bldg. T–236
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930147
Status: Unutilized
Comment: 4563 sq. ft., most recent use—storage, off-site use only

Bldg. P–241
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930148
Status: Unutilized
Comment: 5920 sq. ft., most recent use—storage, off-site use only

Bldg. T–257
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930149
Status: Unutilized
Comment: 5920 sq. ft., most recent use—storage, off-site use only

Bldg. P–309
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930150
Status: Unutilized
Comment: 71 sq. ft., most recent use—storage, off-site use only

Maryland

Bldg. 00307
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930152
Status: Unutilized
Comment: 4071 sq. ft., most recent use—Admin., off-site use only

Bldg. 00646
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930153
Status: Unutilized
Comment: 880 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 01110
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930154
Status: Unutilized
Comment: 396 sq. ft., most recent use—magazine, off-site use only

Bldg. 01195
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930155
Status: Unutilized
Comment: 120 sq. ft., most recent use—storage, off-site use only

Bldg. E3264
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930156
Status: Unutilized
Comment: 64 sq. ft., most recent use—access control facility, off-site use only

Bldg. E3333
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930157
Status: Unutilized
Comment: 64 sq. ft., most recent use—access control facility, off-site use only

Mississippi

Quarters 163
Natchez Trace Parkway
Ridgeland Co: Madison MS 39157–
Landholding Agency: Interior
Property Number: 61199910003
Status: Excess
Comment: 1121 sq. ft., most recent use—residential, presence of asbestos, off-site use only

Quarters 183
Natchez Trace Parkway
Kosciusko Co: Attala MS 39090–
Landholding Agency: Interior
Property Number: 61199910004
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters 190
Natchez Trace Parkway
Port Gibson Co: Claiborne MS 39150–
Landholding Agency: Interior
Property Number: 61199910005
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters 194
Natchez Trace Parkway
Ackerman Co: Choctaw MS 39725–
Landholding Agency: Interior
Property Number: 61199910006
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters 258
Natchez Trace Parkway
Carlisle Co: Claiborne MS 39049–
Landholding Agency: Interior
Property Number: 61199910007
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Missouri

Bldg. 493
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 21199930158
Status: Unutilized
Comment: 26,936 sq. ft., concrete, presence of asbestos/lead paint, most recent use—store, off-site use only

New Mexico

Roberts, Thomas A
#70, County Rd. 2900
Aztec Co: San Juan NM 87410–
Landholding Agency: Interior
Property Number: 61199910017
Status: Excess
Comment: 2895 sq. ft., most recent use—residential, off-site use only

Oklahoma

Bldg. S–7960
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199930159
Status: Unutilized
Comment: 120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–7961
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199930160
Status: Unutilized
Comment: 36 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Tennessee

01–200
Stones River Natl Battlefield
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61199910018
Status: Excess
Comment: 1596 sq. ft., most recent use—residential, off-site use only

01–201
Stones River Natl Battlefield
2042 Mansion Pike
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61199910019
Status: Excess
Comment: 3196 sq. ft., most recent use—residential, off-site use only

Texas

Tract 105–79
9047 Espada Rd,
San Antonio Co: Bexar TX 78214–
Landholding Agency: Interior
Property Number: 61199910013
Status: Unutilized
Comment: 712 sq. ft., most recent use—residence, off-site use only

Utah

Bldg. 35
S.A. Douglas AFRC
Salt Lake City Co: UT 84113–

Landholding Agency: Army
Property Number: 21199930161
Status: Excess
Comment: 57,244 sq. ft., possible asbestos, most recent use—storage, off-site use only

Bldg. 110
S.A. Douglas AFRC
Salt Lake City Co: UT 84113–
Landholding Agency: Army
Property Number: 21199930162
Status: Excess
Comment: 3600 sq. ft., most recent use—storage, off-site use only

Bldg. 111
S.A. Douglas AFRC
Salt Lake City Co: UT 84113–
Landholding Agency: Army
Property Number: 21199930163
Status: Excess
Comment: 2535 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 128
S.A. Douglas AFRC
Salt Lake City Co: UT 84113–
Landholding Agency: Army
Property Number: 21199930164
Status: Excess
Comment: 2535 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 129
S.A. Douglas AFRC
Salt Lake City Co: UT 84113–
Landholding Agency: Army
Property Number: 21199930165
Status: Excess
Comment: 96 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Land (by State)

Arizona

Harry B. Christman Property
N. of Missile Base Road
Case No. 91–012
Marana Co: Pinal AZ 85245–
Landholding Agency: Interior
Property Number: 61199910012
Status: Unutilized
Comment: 2.97 acres of vacant desert

Maryland

13 acres
Fort George G. Meade
west side of Rt 175
Ft. Meade Co: Anne Arundel MD 20755–5111
Landholding Agency: Army
Property Number: 21199930151
Status: Underutilized
Comment: small paved area, remainder wooded

Suitable/Unavailable Properties

Buildings (by State)

Alaska

Bldg. 806
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930115
Status: Excess
Comment: 93,178 sq. ft., concrete block, most recent use—storage, off-site use only

California

Visitor Motel—Upper Kaweah
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720007
Status: Unutilized
Comment: 39,403 sq. ft., wood, 2-story, needs repair, presence of asbestos/lead paint, off-site use only

Idaho

Bldg. CFA–613
Central Facilities Area
Idaho National Engineering Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199630001
Status: Unutilized
Comment: 1,219 sq. ft., most recent use—sleeping quarters, presence of asbestos, off-site use only

Maryland

Former Physioc Property
NPS Tract 402–29
Jugtown Co: Washington MD 21713–
Landholding Agency: Interior
Property Number: 61199820005
Status: Excess
Comment: 227 sq. ft. stone cabin, off-site use only

Massachusetts

Ziegler House
National Park, Virginia Road
Lincoln Co: Middlesex MA 10773–
Landholding Agency: Interior
Property Number: 61199830001
Status: Unutilized
Comment: 1,661 sq. ft., residential

Unsuitable Properties

Buildings (by State)

California

Bldg. 913
Sandia National laboratories
Livermore Co: Alameda CA 94550–
Landholding Agency: Energy
Property Number: 41199830007
Status: Excess
Reason: Secured Area

Castle Area Shops
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720004
Status: Unutilized
Reason: Extensive deterioration

Giant Forest Village
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720006
Status: Unutilized
Reason: Extensive deterioration

Cabins 90–92, 100V–146
Sequoia National Park
Three Rivers CA 932371–
Landholding Agency: Interior
Property Number: 61199720008
Status: Unutilized
Reason: Extensive deterioration

Lower Kaweah 514–549, 594
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720009
Status: Unutilized
Reason: Extensive deterioration

Lower Kaweah Cabins—various
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720010
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4190 & Outbuilding
Yosemite National Park
Wawona Co: Madera CA 95389–
Landholding Agency: Interior
Property Number: 61199910002
Status: Unutilized
Reasons: Extensive deterioration

Colorado

Bldg. 34
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540001
Status: Underutilized
Reasons: Contamination; Secured Area

Bldg. 35
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540002
Status: Underutilized
Reasons: Contamination; Secured Area

Bldg. 36
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540003
Status: Underutilized
Reasons: Contamination; Secured Area

Bldg. 2
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610039
Status: Unutilized
Reasons: Contamination; Secured Area

Bldg. 7
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610040
Status: Unutilized
Reasons: Contamination; Secured Area

Bldg. 31–A
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610041
Status: Unutilized
Reasons: Contamination; Secured Area

Bldg. 33
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610042
Status: Unutilized
Reasons: Contamination; Secured Area

Bldg. 727
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 729
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 779
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 780
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 780A
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 780B
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 782
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 783
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 784 (A–D)
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 785
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 786
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 787 (A–D)
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 875
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 800
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 886
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 308A
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 788
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Connecticut

Bldgs. 25 and 26
Prospect Hill Road
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199440003
Status: Excess
Reasons: Secured Area

9 Bldgs.
Knolls Atomic Power Lab, Windsor Site
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199540004
Status: Excess
Reasons: Secured Area

Bldg. 8, Windsor Site
Knolls Atomic Power Lab
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199830006
Status: Unutilized
Reason: Extensive deterioration.

Idaho

Bldg. PBF–621
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610001
Status: Unutilized
Reason: Secured Area

Bldg. CPP–1609
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610002
Status: Unutilized
Reason: Secured Area

Bldg. CPP–691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610003
Status: Unutilized
Reason: Secured Area

Bldg. CPP–625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610004
Status: Unutilized
Reason: Secured Area

Bldg. CPP–650
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610005
Status: Unutilized
Reason: Secured Area

Bldg. CPP–608
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610006
Status: Unutilized
Reason: Secured Area

Bldg. Bldg. TAN–660
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610007
Status: Unutilized
Reason: Secured Area

Bldg. TAN–636
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610008
Status: Unutilized
Reason: Secured Area

Bldg. TAN–609
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610009
Status: Unutilized
Reason: Secured Area

Bldg. TAN–670
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610010
Status: Unutilized
Reason: Secured Area

Bldg. TAN–661

Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610011
Status: Unutilized
Reason: Secured Area

Bldg. TAN–657
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610012
Status: Unutilized
Reason: Secured Area

Bldg. TRA–669
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610013
Status: Unutilized
Reason: Secured Area

Bldg. TAN–637
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610014
Status: Unutilized
Reason: Secured Area

Bldg. TAN–635
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610015
Status: Unutilized
Reason: Secured Area

Bldg. TAN–638
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610016
Status: Unutilized
Reason: Secured Area

Bldg. TAN–651
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610017
Status: Unutilized
Reason: Secured Area

Bldg. TRA–673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reason: Secured Area

Bldg. PBF–620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reason: Secured Area

Bldg. PBF–616
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610020
Status: Unutilized
Reason: Secured Area

Bldg. PBF–617
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610021
Status: Unutilized
Reason: Secured Area

Bldg. PBF–619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reason: Secured Area

Bldg. PBF–624
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610023
Status: Unutilized
Reason: Secured Area

Bldg. PBF–625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610024
Status: Unutilized
Reason: Secured Area

Bldg. PBF–629
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610025
Status: Unutilized
Reason: Secured Area

Bldg. PBF–604
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610026
Status: Unutilized
Reason: Secured Area

Bldg. CF–673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610027
Status: Unutilized
Reason: Secured Area

Bldg. CF–664
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610029
Status: Unutilized
Reason: Secured Area

Bldg. CF–643
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610030
Status: Unutilized
Reason: Secured Area

Bldg. CF–652
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610032
Status: Unutilized
Reason: Secured Area

Bldg. TRA–641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reason: Secured Area

Bldg. CF–691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610036
Status: Unutilized
Reason: Secured Area

Bldg. CF–606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reason: Secured Area

ARA 626
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199710003
Status: Unutilized
Reason: Secured Area

CF657/CF716
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199710005
Status: Unutilized
Reason: Secured Area

CPP709
Idaho National Engineering Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199710007
Status: Excess
Reason: Secured Area

TAN620/TAN656
Idaho National Engineering Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199710009
Status: Excess
Reasons: Secured Area, Extensive deterioration

STF Area, Natl Eng & Env Lab #601, 607, 612, 501, 502 ARA–628
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199740003
Status: Excess
Reason: Extensive deterioration

TAN 602, 631, 663, 702, 724
Idaho Natl Engineering & Environmental Lab
Test Area North
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199830002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

8 Bldgs.
Idaho Natl Engineering & Environmental Lab
Scoville Co: Butte ID 83415–
Location: TRA 643, 644, 655, 660, 704–706, 755
Landholding Agency: Energy
Property Number: 41199830003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

5 Bldgs.
Idaho Natl Engineering & Environmental Lab
CPP601, CPP603/648, CPP627, CPP633, CPP640
Scoville Co: Butte ID 83415–
Landholding Agency: Energy

Property Number: 41199840002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. Minidoka Project
Rupert Co: ID 83350–
Landholding Agency: Interior
Property Number: 61199910001
Status: Unutilized
Reason: Extensive deterioration

Illinois

Bldg. 996
Fermi National Accelerator Laboratory
Batavia Co: Dupage IL 60510–
Landholding Agency: Energy
Property Number: 41199920001
Status: Excess
Reason: Extensive deterioration

Kentucky

Ranger Station
Big South Fork Natl River & Rec Area
Stearnes Co: McCreary KY 42647–
Landholding Agency: Interior
Property Number: 61199910008
Status: Excess
Reason: Extensive deterioration

Qtrs. 36
Mammoth Cave National Park
Mammoth Cave Co: Barren KY 42259–
Landholding Agency: Interior
Property Number: 61199920001
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs.
Wondering Woods
Mammoth Cave National Park
Mammoth Cave Co: Barren KY 42259–
Landholding Agency: Interior
Property Number: 61199920002
Status: Excess
Reason: Extensive deterioration

Louisiana

Weeks Island Facility
New Iberia Co: Iberia Parish LA 70560–
Landholding Agency: Energy
Property Number: 41199610038
Status: Underutilized
Reason: Secured Area

Montana

Barn/Garage
316 N. 26th Street
Billings Co: Yellowstone MT
Landholding Agency: Interior
Property Number: 61199520022
Status: Excess
Reason: Extensive deterioration

New Mexico

Bldgs. 9252, 9268
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41199430002
Status: Unutilized
Reason: Extensive deterioration

McGee Warehouse
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610043
Status: Unutilized
Reason: Extensive deterioration

Bldg. 73, TA–16
Los Alamos National Lab
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610044
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 75, TA–16
Los Alamos National Lab
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610045
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 76, TA–16
Los Alamos National Lab
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610046
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 77, TA–16
Los Alamos National Lab
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610047
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 78, TA–16
Los Alamos National Lab
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610048
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 79, TA–16
Los Alamos National Lab
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610049
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 80, TA–16
Los Alamos National Lab
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610050
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 99, TA–16
Los Alamos National Lab
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199610051
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 89, TA–16
Los Alamos National Laboratory
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199620005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 90, TA–16
Los Alamos National Laboratory
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199620006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 91, TA–16
Los Alamos National Laboratory
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199620007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 92, TA–16
Los Alamos National Laboratory
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199620008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 93, TA–16
Los Alamos National Laboratory
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199620009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 101, TA–16
Los Alamos National Laboratory
Los Alamos Co: Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199620010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Tech Area II
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87105–
Landholding Agency: Energy
Property Number: 41199630004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 2, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810002
Status: Unutilized

Reasons: Secured Area, Extensive deterioration

Bldg. 24, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 26, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 86, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 88, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 89, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 2, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810008
Status: Unutilized
Reason: Secured Area

Bldg. 3, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810009
Status: Unutilized
Reason: Secured Area

Bldg. 4, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810010
Status: Unutilized
Reason: Secured Area

Bldg. 5, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810011
Status: Unutilized
Reason: Secured Area

Bldg. 21, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810012
Status: Unutilized
Reason: Secured Area

Bldg. 116, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810013
Status: Unutilized
Reason: Secured Area

Bldg. 212, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810014
Status: Unutilized
Reason: Secured Area

Bldg. 228, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810015
Status: Unutilized
Reason: Secured Area

Bldg. 286, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810016
Status: Unutilized
Reason: Secured Area

Bldg. 10, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 27, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810018
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 63, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration

Bldg. 515, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 516, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 517, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 518, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 519, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 520, TA–16
Los Alamos National Laboratory
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199810025
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 18, TA–16
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199840001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 4, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930004
Status: Unutilized
Reasons: Secured Area

Bldg. 50, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930005
Status: Unutilized
Reasons: Secured Area

Bldg. 88, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930006
Status: Unutilized
Reasons: Secured Area

Bldg. 89, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930007
Status: Unutilized
Reasons: Secured Area

North Carolina

Bldg. 8027

Marine Corps Air Station, Cherry Point
Bogue Co: NC 28584–
Landholding Agency: Navy
Property Number: 77199930043
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 8028
Marine Corps Air Station, Cherry Point
Bogue Co: NC 28584–
Landholding Agency: Navy
Property Number: 77199930044
Status: Excess
Reasons: Secured Area, Extensive deterioration

Ohio

Bldg. 77
Fernald Environmental Management Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199840003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 82A
Fernald Environmental Mgmt Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199910018
Status: Excess
Reasons: Within 2,000 ft. of flammable or explosive material, Secured Area

Oklahoma

Bldgs. 4a, 4b, 6, 8, 9, 11, 12
NIPER
Bartlesville Co: Washington OK 74003–
Landholding Agency: Energy
Property Number: 41199720003
Status: Unutilized
Reason: Extensive deterioration

Pennsylvania

Z-Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Allegheny PA 15122–0109
Landholding Agency: Energy
Property Number: 41199720002
Status: Excess
Reason: Extensive deterioration

Weiland Prop.—Sound Studio
Gettysburg Co: Adams PA 17325–
Landholding Agency: Interior
Property Number: 61199810013
Status: Excess
Reason: Extensive deterioration

Tennessee

Bldg. 3004
Oakridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199710002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199720001
Status: Excess
Reason: Extensive deterioration

Bldgs. 9714–3, 9714–4, 9983–AY
Y–12 Pistol Range
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199720004
Status: Unutilized
Reason: Secured Area

5 Bldgs.
K–724, K–725, K–1031, K–1131, K–1410
East Tennessee Technology Park
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199730001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9418–1
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810026
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9825
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810027
Status: Unutilized
Reasons: Secured Area

Bldg. 3026
Oak Ridge Natl Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199830001
Status: Excess
Reasons: Secured Area, Extensive deterioration

Texas

Station Port Mansfield
Port Mansfield Co: Willary TX 78598–
Landholding Agency: GSA
Property Number: 54199930008
Status: Surplus
Reasons: Floodway
GSA Number: 7–U–TX–1057

Washington

Bldgs. 1158, 1159
Ross Lake Natl Recreation Area
Co: Whatcom WA
Landholding Agency: Interior
Property Number: 61199820001
Status: Unutilized
Reasons: Extensive deterioration

N3202, Residence
Pasco Co: Franklin WA 99301–
Landholding Agency: Interior
Property Number: 61199910014
Status: Excess
Reasons: Extensive deterioration

N3204, Residence
Pasco Co: Franklin WA 99301–
Landholding Agency: Interior
Property Number: 61199910015
Status: Excess
Reasons: Extensive deterioration

N3202, Residence
Pasco Co: Franklin WA 99301–
Landholding Agency: Interior
Property Number: 61199910016
Status: Excess
Reasons: Extensive deterioration

West Virginia

Thomas House, Tract 173–20
New River Gorge National River
Glen Jean Co: Fayette WV 25846–
Landholding Agency: Interior
Property Number: 61199910009
Status: Excess
Reasons: Extensive deterioration

Cole House, Tract 153–07
New River Gorge National River
Glen Jean Co: Fayette WV 25846–
Landholding Agency: Interior
Property Number: 61199910010
Status: Excess
Reasons: Extensive deterioration

Vento House, Tract 173–17
New River Gorge National River
Glen Jean Co: Fayette WV 25846–
Landholding Agency: Interior
Property Number: 61199910011
Status: Excess
Reason: Extensive deterioration

Land (by State)

Puerto Rico

119.3 acres
Culebra Island PR 00775–
Landholding Agency: Interior
Property Number: 61199210001
Status: Excess
Reason: Floodway

Washington

Spokane Satellite Tracking #1
Fairchild AFB
Portion of Site
Spokane WA 99224–
Landholding Agency: GSA
Property Number: 18199810028
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–D–WA–1172

[FR Doc. 99–21958 Filed 8–26–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Delaware & Lehigh National Heritage Corridor Commission Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

Meeting Date and Time: Friday, September 10, 1999; 1:30–4:00 p.m.

Address: Heritage Conservancy, Aldie Mansion, 85 Old Dublin Pike, Doylestown PA 18901.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its

political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988 and extended through Public Law 105–355, November 13, 1998.

FOR FURTHER INFORMATION CONTACT: Denise G. Holub, Chief Financial Officer/Grants Administrator, Delaware & Lehigh National Heritage Corridor Commission, 10 E. Church Street, Room A–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: August 23, 1999.

Denise G. Holub,

Chief Financial Officer/Grants Administrator, Delaware & Lehigh National Heritage Corridor Commission.

[FR Doc. 99–22280 Filed 8–26–99; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; as Amended; Revisions to an Existing System of Records

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–90, ''Federal Financial System.'' The revisions will update the number and name of the system, categories of records, routine uses, the storage and safeguards statements, and the addresses of the system locations and system managers.

EFFECTIVE DATE: These actions will be effective August 27, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Financial Management, U.S. Department of the Interior, 1849 C Street NW, MS–5412 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

The Department of the Interior is proposing to amend the system notice for OS–90, ''Federal Financial System,'' to update the number of the system to more accurately reflect its Department-wide scope, and to update the storage and safeguards statements and the address of the system locations and system managers to reflect changes that have occurred since the notice was last published.

Roy M. Francis,

Departmental Privacy Act Officer, Office of Information Resources Management.

Accordingly, the Department of the Interior proposes to amend the ''Federal Financial System,'' OS–90, system notice in its entirety to read as follows:

INTERIOR/DOI–90

SYSTEM NAME:

Federal Financial System, Interior, DOI–90.

SYSTEM LOCATION:

(1) Office of Federal Systems and Services, National Business Center, U.S. Department of the Interior, 12201 Sunrise Valley Drive, Room 6A231, MS–206, Reston, VA 20192.

(2) Financial Systems Division, Products and Services, National Business Center, MS D–2700, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

(3) Departmental offices which prepare, maintain, and provide input documents and information for data processing and administrative actions for financial functions implemented on the system.

(4) Other Federal agencies, councils and commissions using the system under a cross-servicing arrangement (an arrangement for the provision of computer and technical service support), with either of the National Business Center locations listed above.

(5) Commercial credit card contractor(s) maintaining information on employee usage of travel, purchasing and fleet management program credit cards.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Employees and former employees of the Department of the Interior.

(2) Employees of other Federal agencies, councils and commissions using the system under a cross-servicing arrangement.

(3) Persons serving without compensation to the extent authorized under 5 U.S.C. 5703, consultants, foreign participants, volunteers, contractors, and private citizen debtors and creditors who are serviced by either of the National Business Center locations listed above.

Note: This system also contains records relating to corporations and other business entities. These records are not subject to the Privacy Act. Only records relating to individuals containing personal information are subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals; Social Security numbers and tax identification numbers; addresses and organizational codes; amounts owed and reasons for debts and payments; expenses, vouchers and routine travel information and travel, purchasing, and fleet management credit card program usage information; and routine billing, payment, and property accountability information used in accounting and financial processing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 31 U.S.C. 3512. (2) 31 U.S.C. 3711. (3) 5 U.S.C. 5701 *et seq.* (4) 5 U.S.C. 4111(b). (5) 41 CFR parts 301–304. (6) Treasury Financial Manual. (7) Pub. L. 97–365. (8) 26 U.S.C. 6103(m)(2). (9) 5 U.S.C. 5514. (10) 31 U.S.C. 3716.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary use of the records is to maintain accounting and financial information associated with the normal operations of government organizations. Specifically, records are used:

(1) For billing and follow-up.

(2) For paying creditors.

(3) For accounting for goods and services provided and received.

(4) For accounting for funds paid and received.

(5) For processing travel authorizations and claims.

Records in this system are subject to use in approved computer matching programs authorized under the Privacy Act of 1974, as amended, for debt collection purposes.

Disclosures of data provided by other Federal agencies, councils and commissions using the system under a cross-servicing arrangement may be made by these same organizations to individuals within these same organizations who maintain accounting and financial information associated with the normal operations of government organizations.

Other disclosures outside the Department of the Interior be made:

(1) To the Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(*1*) The Department or any component of the Department or any Federal agency, council or commission using the system under a cross-servicing arrangement;

(*2*) Any Departmental employee or employee of any Federal agency,

council or commission using the system under a cross-servicing arrangement acting in his or her official capacity;

(*3*) Any Departmental employee or employee of any Federal agency, council or commission using the system under a cross-servicing arrangement acting in his or her individual capacity where the Department or the Federal agency, council or commission using the system under a cross-servicing arrangement or the Department of Justice has agreed to represent the employee; or

(*4*) The United States, when the Department or the Federal agency, council or commission using the system under a cross-servicing arrangement determines that the Department or the Federal agency, council or commission using the system under a cross-servicing arrangement is likely to be affected by the proceeding; and

(b) We deem the disclosure to be:

(*1*) Relevant and necessary to the proceeding; and

(2) Compatible with the purpose for which we compiled the information.

(2) The appropriate Federal, State, tribal, local or foreign governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation order or license, when we become aware of an indication of a violation or potential violation of the statute, rule, regulation, order or license.

(3) A congressional office in response to an inquiry to that office by the individual to whom the record pertains.

(4) To consumer reporting agencies to facilitate collection of debts owed the Government.

(5) To disclose debtor information to the Internal Revenue Service, or to another Federal agency or its contractor solely to aggregate information for the Internal Revenue Service to collect debts owed to the Federal government through the offset of tax refunds.

(6) To other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset.

(7) To any other Federal, state or local agency for the purpose of conducting an authorized computer matching program to identify and locate delinquent debtors for the recoupment of debts owed to the Department of the Interior.

(8) To the State Department in connection with the application for official government employee passports.

(9) To a Federal agency which has requested information relevant or necessary to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

(10) To a Federal, State, tribal, territorial, or government agency where necessary for the Department to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit.

(11) To a commercial credit card contractor(s) for the accounting and payment of employee obligation for travel, purchasing and fleet management credit card usage.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual, microfilm, microfiche, electronic, imaged and computer printout form. Electronic records are stored on magnetic media at the central computer processing centers. Original input documents are stored in standard office filing equipment and/or as imaged documents on magnetic media at all locations which prepare and provide input documents and information for data processing.

RETRIEVABILITY:

Records are retrieved by name, Social Security number, organizational code, vendor code or number, and appropriation or fund to be credited.

SAFEGUARDS:

Access to all records in the system is limited to authorized personnel whose official duties require such access. Agency officials generally have access only to records pertaining to employees of their agencies. Paper or micro format records are maintained in locked metal file cabinets in secured rooms. Electronic records are maintained with safeguards meeting the security requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the Treasury Financial Manual, the National Archives and Records Administration General Records Schedules, and the National Archives and Records Administration-approved Agency Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

(1) The following system manager has overall responsibility for the Federal Financial System: Director, Office of Financial Management, U.S. Department of the Interior, 1849 C Street NW, MS–5412 MIB, Washington, DC 20240.

(2) The following system managers have responsibility for the management and operation of the computing centers on which the Federal Financial System has been implemented:

(a) Director, Office of Federal Systems and Services, National Business Center, U.S. Department of the Interior, 12201 Sunrise Valley Drive, Room 6A231, MS–206, Reston, VA 20192.

(b) Chief, Financial Systems Division, Products and Services, National Business Center, MS D–2700, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

(3) The following Department of the Interior bureau/office system managers have responsibility for the data input into and maintained on the Federal Financial System by or for their respective bureaus/offices:

(a) Chief, Division of Accounting Management, Bureau of Indian Affairs, PO Box 127, Albuquerque, NM 87112.

(b) Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Office of Trust Responsibilities, 1849 C Street NW, MS–4513 MIB, Washington, DC 20240.

(c) Chief, Division of Finance, Bureau of Land Management, Building 50, Denver Federal Center, PO Box 25047, Denver, CO 80225.

(d) Chief, Financial Branch, Bureau of Reclamation, PO Box 25007, DFC Attn: D–360, Denver, CO 80225.

(e) Finance Officer, Division of Fiscal Services, National Business Center, Office of the Secretary, 1849 C Street NW, MS–1313 MIB, Washington, DC 20240.

(f) Director, Finance Center, U.S. Fish and Wildlife Service, PO Box 272060, Denver, CO 80227.

(g) Chief, Financial Branch, Royalty Management Program, Minerals Management Service, PO Box 25162, MS 3131, Denver, CO 80225.

(h) Chief, Accounting Operations Division, National Park Service, PO Box 4800, Reston, VA 22090.

(i) Chief, Division of Financial Management, Office of Surface Mining Reclamation and Enforcement, PO Box 25065 DFC, Denver, CO 80225.

(j) U.S. Geological Survey, Office of Financial Management, 12201 Sunrise Valley Drive, Reston, VA 20192.

(4) The following system managers have responsibility for the data input into and maintained on the Federal

Financial System by or for their respective organizations:

The Financial Officers of all Federal agencies, councils and commissions using the system under a cross-servicing arrangement. (To obtain a current list of these organizations and the addresses of their respective Financial Officers, contact the system managers responsible for the management and operation of the computing centers, as listed in (2), above.)

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORDS PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager.

The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained; supervisors of such individuals; contracting officers; employing offices; and standard travel, finance and accounting documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–22286 Filed 8–26–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Environmental Impact Statement for the White River Amphitheatre, Muckleshoot Indian Reservation, King County, Washington

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Draft Environmental Impact Statement (DEIS) for the proposed construction and operation of a 20,000 seat outdoor amphitheatre within the exterior boundaries of the Muckleshoot Indian Reservation, King County, Washington, is now available for public review and comment. The purpose of the proposed action is to provide an economically competitive performing art center for the greater Seattle-Tacoma concert market and a place for cultural educational and community events and gatherings for the Muckleshoot Indian Tribe (Tribe). Further details on the project and on the environmental issues addressed in the DEIS follow as supplementary information. This notice also announces a public Environmental Impact Statement (EIS)/design hearing.

DATES: Written comments must be received on or before October 27, 1999. The public EIS/design hearing will be held on September 29, 1999, from 6:00 p.m. to 9:00 p.m.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand-deliver written comments to Stanley Speaks, Portland Area Director, Bureau of Indian Affairs, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169. You may also comment via the Internet to Jboynton@PORT.BIA.GOV. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (503) 231–6749.

Comments, including names and home addresses of respondents, will be available for public review at the above address during regular business hours, 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

The DEIS is also available for review at the above address. To obtain a copy of the DEIS, you may contact June Boynton, Environmental Coordinator at (503) 231–6749, or via e-mail to Jboynton@PORT.BIA.GOV; or you may contact Dean Torkko, EIS Coordinator, Washington State Department of Transportation, at (206) 440–4527, or via e-mail to torkkod@wsdot.wa.gov. Copies of the DEIS have already been sent to all agencies and individuals who participated in the scoping process or who previously requested copies.

The public EIS/design hearing will be held at the Auburn Performing Arts Center, Auburn, Washington. This site is accessible to people with disabilities. Anyone requiring written materials in alternative formats, sign language interpreters, physical accessibility accommodations or some other reasonable accommodation may request these by contacting (206) 440–4528, no later than September 8, 1999.

FOR FURTHER INFORMATION CONTACT: June Boynton, (503) 231–6749.

SUPPLEMENTARY INFORMATION: Three federal actions underlie the proposed construction of a 20,000 seat outdoor amphitheatre in the southeastern portion of the Muckleshoot Indian Reservation, between the cities of Auburn and Enumclaw, King County, Washington. Two of these are Bureau of Indian Affairs (BIA) actions, the taking into trust of approximately 346 acres of Indian-owned fee lands within the exterior boundaries of the reservation and the approval of a management agreement, under 25 U.S.C. 81, between the Tribe and Bill Graham Presents (BGP), under which the Tribe would own and BGP would manage the facility. The third federal action is the issuance of a wetland fill permit, under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*), by the U.S. Army Corps of Engineers. The BIA, as lead agency, prepared the DEIS in cooperation with the Corps of Engineers, the U.S. Environmental Protection Agency and the Washington Department of Transportation (WSDOT). Cooperation with WSDOT enables them to use this DEIS to meet the requirements of the State of Washington's Environmental Policy Act.

The DEIS presents a preferred alternative, the no action alternative and three other action alternatives. The preferred alternative calls for developing approximately 73 acres for the 20,000 seat amphitheatre, support facilities and surface parking, plus 17 acres for landscaping and buffers, including a shielding berm along the southern boundary. The amphitheatre will consist of a main stage, 10,000 seat bowl with fixed seating, a grass berm for informal lawn seating and an open air roof over the stage and fixed seating. Support facilities will include a ticket and administrative office, a loading dock, a hospitality area for performers, a restaurant, cafes, concession stands and public rest rooms.

The no action alternative assumes that the proposed amphitheatre will not be built and the proposed site not taken into trust. The partially constructed facilities on the site (see discussion of site restoration alternative below) will not be completed as an amphitheatre, although they may eventually be converted to other uses. At the gravel quarrying site proposed as an alternate location for the amphitheatre, mining operations will continue.

The three action alternatives include (1) an alternate location, where a 20,000 seat amphitheatre like that in the preferred alternative would displace existing gravel quarrying operations; (2) a smaller, 10,000 seat amphitheatre with an open air roof and support facilities similar to those for the preferred alternative, but with about one-half the parking capacity; and (3) site restoration, where partially completed facilities on the site of the preferred alternative will be removed, the site restored to its condition before construction was started, and the amphitheatre not constructed here or anywhere else. This construction, which had occurred out of synchronization with National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) [NEPA] requirements, was halted in response to an April 17, 1998, order by U.S. District Judge, John C. Coughenour, that the BIA prepare an EIS on the proposed action.

The environmental issues addressed in the DEIS include traffic, noise, crime, water quality, wetlands, fish, wildlife and endangered species, geo-technics, sewage disposal, air quality, cultural resources, land use, socio-economics, public safety, range of alternatives, and cumulative impacts. All of these issues were identified during public scoping.

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), implementing the procedural requirements of NEPA, and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: August 25, 1999.

Kevin Gover,

Assistant Secretary-Indian Affairs.

[FR Doc. 99–22437 Filed 8–26–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–110–0777–30–24–1A;–HAG 99–0298]

Notice of Intent To Prepare a Cascade Siskiyou Ecological Emphasis Area Plan/Environmental Impact Statement

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of intent to prepare a Cascade Siskiyou Ecological Emphasis Area plan/environmental impact statement and initiation of public scoping.

SUMMARY: Pursuant to the Federal Land Policy and Management Act and the National Environmental Policy Act, the Bureau of Land Management, Medford District, Ashland Resource Area will be preparing a Management Plan and Environmental Impact Statement (EIS) for the Cascade Siskiyou Ecological Emphasis Area (CSEEA) located in Jackson County, Oregon and Siskiyou County, California. If the land use allocations and resource uses proposed in the CSEEA are significantly different from those in the Medford and Redding Resource Management Plans (RMP), the analysis and decision-making process will also meet requirements of the Bureau's regulation for RMP amendments found in 43 Code of Federal Regulations 1610.5–5.

DATES: Written comments will be accepted until October 29, 1999, Public scoping meetings have been scheduled which include three field tours and one afternoon meeting. Field tours are planned for 9:00 a.m. to 3:00 p.m. on Tuesday, September 28,; Saturday, October 2; and Wednesday, October 6, 1999. Departure for the field tours will be from the parking area of the U.S. Forest Service, Ashland Ranger District at 645 Washington Street, Ashland, Oregon. The afternoon meeting is scheduled for October 9, 1999 at 1:30 p.m. at the science building auditorium of Southern Oregon University, 1250 Siskiyou Blvd., Ashalnd Oregon. Additional scoping meetings will be considered as appropriate.

The tentative project schedule is as follows:

1. Development of planning criteria, including information to be used, issues to be addressed, and initial alternatives to be considered -fall 1999.
2. File Draft Environmental Impact Statement—March 2000 (90 day public review period).
3. File Final Environmental Impact Statement—July 2000 (30 day public review period).
4. Record of Decision—October 2000.

SUPPLEMENTARY INFORMATION: The CSEEA analysis area is located on federal land in southwest Oregon and northern California. The CSEEA encompasses an environmental transition area between the Great Basin, the Siskiyou and Klamath Mountains, and the Cascade Mountains. Higher elevations act as a land bridge between the Cascade and Klamath Mountains. A unique area of rich ecological diversity has developed as a result of the confluence of these different environments.

The CSEEA encompasses the following on Bureau managed lands in Oregon and California:

—Soda Mountain Wilderness Study Area recommended for wilderness designation (5,867 ac.);
—Pacific Crest Trail (National Scenic Trail);
—Five Areas of Critical Environmental Concern, including two Research Natural Areas;
—Portions of one Late-Successional Reserve.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7 and 43 CFR 1610.2), which includes:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the issues and determining the significant issues for consideration and analysis within the environmental impact statement.
3. Defining the proper skills required for the interdisciplinary team.
4. Exploring possible alternatives.
5. Identifying potential environmental effects.
6. Determining potential cooperating agencies.
7. Identifying groups or individuals interested or affected by the decision.

Public participation will be solicited by person-to-person contact, and/or by mail to known interested and affected publics and key contacts. In addition, news releases will be used to give the public general notice. Comments from interested persons and organizations will be used in preparation of the draft environmental impact statement.

Local and regional groups differ over future management within the CSEEA. Opinions range from full protection as a wilderness area to managing the area for recreation including off-highway vehicle, grazing, timber harvest, and other commodity uses. The completed management plan will provide direction for management of the public lands. Several management alternatives covering a wide range of management actions and resource uses will be

analyzed in the plan. These alternatives will be developed based on internal staff discussions, public comments, and meeting with government agencies. Tentative issues for discussion include off-highway vehicle use, livestock grazing, noxious weeds, and timber harvest. One alternative will be a ''no action'' alternative (continuation of the present management program), based on the 1995 approved Medford RMP. Another alternative will provide for greater restrictions on current uses and potential interagency coordination to meet landscape-level management objectives. Other alternatives will provide for road and trail designations and maintenance management programs comprising various combinations of resource uses and land allocations.

The BLM is seeking information, comments, and assistance from federal, state, and local agencies and other individuals or organizations interested in or affected by the proposed action.

The analysis will be completed by an interdisciplinary team. Disciplines to be represented on the team include, but are not limited to: archaeology, anthropology, botany, fire management, fisheries, forestry, geology and minerals, hydrology, realty, recreation, wilderness, and soils.

ADDRESSES: Comments should be sent to Richard J. Drehobl, Ashland Field Manager, Medford District Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504.

FOR FURTHER INFORMATION CONTACT: Tom Sensenig (541) 770–2319 or Bill Yocum (541) 770–2384. Fax or E-mail can be made sent attention to Tom Sensenig or Bill Yocum at (541) 770–2400, or <110mb@or.blm.gov>. Information concerning the analysis and potential RMP amendment will be available at the BLM office in Medford at the address shown above. Some information is available from Chuck Schultz at the BLM Redding Field Office, 355 Hemsted Drive, Redding, California 96002; (530) 224–2100.

Pursuant to 7 CFR Part 1, Subpart B, Section 1.27, all written submissions in response to this notice, the published scoping newsletter, draft and final environmental impact statements will be made available for public inspection including the submitter's name and address, unless the submitter specifically requests confidentiality. Anonymous comments will not be accepted. All written submissions from business entities and organizations, submitted on official letterheads, will be made available for public inspection in their entirety.

Dated: August 19, 1999.

Richard J. Drehobl,

Field Manager, Ashland Resource Area.

[FR Doc. 99–22268 Filed 8–26–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–070–7770–42]

Notice of Intent to Amend the Kingman Resource Management Plan, March 1995, to offer lands for lease and disposal under the Recreation and Public Purposes Act that were not previously identified for disposal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) Lake Havasu Field Office proposes to prepare an Environmental Assessment and amend the Kingman Resource Management Plan, (RMP), March 1995. The amendment would allow lease and disposal of the following described public land in Mohave County, under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*):

Gila and Salt River Meridian, Arizona

T. 19 N., R. 21 W.
Sec. 28, E½, S½NW¼, SW¼,
Sec. 33, all.

Containing 1200 acres, more or less.

SUPPLEMENTARY INFORMATION: The described land has been requested to be made available to meet recreational and educational, needs of the community. The current RMP does not identify the land for disposal. The amendment would open the land to application by the Arizona Game and Fish Department (AG&FD), and/or any other qualified applicants for Recreation and Public Purposes Lease/Conveyance. The (AG&FD) proposes to use the sections of land for development of a sport utility complex for the greater Bullhead City Area.

DATES: Written comments related to the identification of issues will be accepted until September 30, 1999.

Comments, including names and street addresses of respondents, will be available for public review at the address below during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

ADDRESSES: Comments on this Notice should be sent to Donald Ellsworth, Field Manager, Bureau of Land Management, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406.

FOR FURTHER INFORMATION CONTACT: Field Manager, Donald Ellsworth, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406 or telephone (520) 505–1264.

Dated: August 23, 1999.

Robert M. Henderson,

Acting Field Manager.

[FR Doc. 99–22351 Filed 8–26–99; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–1430–00; N–62824]

Notice of Realty Action: Non-Competitive Sale

AGENCY: Bureau of Land Management, DOI.

ACTION: Non-competitive sale of reversionary interest patent number 27–65–0234.

SUMMARY: The following described land in Clark County, Nevada, was patented to Basic Management Incorporated pursuant to the Act of Congress of August 27, 1954 (68 Stat. A223). The patent contained a reversionary interest to the United States. Victory Valley Land Company, L.P., a successor-in-interest, requests the purchase of the reversionary interest at not less than the estimated fair market value of $1,515,000.00. The Federal interest has been examined and found suitable for sale under the provisions of the Federal Land Policy and Management Act (43 CFR 2711.3–3).

Mount Diablo Meridian, Nevada

T. 21 S., R. 63 E.,
Sec. 33, SE¼SE¼NE¼SW¼,
E½NE¼SE¼SW¼,
NE¼SE¼SE¼SW¼, S½NW¼SE¼,
N½SW¼SE¼, N½S½SW¼SE¼.

Containing 60 acres, more or less, identified as Clark County Assessor Parcel Number 160–33–801–001.

Non-competitive sale procedures are considered appropriate, in this case, as the land described above was granted to Basic Management, Incorporated, with a clause of reversionary interest to the United States.

The Federal interest has been jointly selected for sale by the unit of local government as provided by the Southern Nevada Public Land Management Act of 1997 (P.L. 105–263), and is being offered for non-competitive sale to Victory Valley Land Company, L.P. The property will continue to be subject to certain reservations to the United States.

Detailed information concerning these reservations as well as specific conditions of the sale are available for review at the Las Vegas Field Office, Bureau of Land Management, 4765 Vegas Drive, Las Vegas, Nevada 89108.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Las Vegas Field Office, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: August 17, 1999.

Cheryl Ruffridge,

Acting Assistant Field Manager, Las Vegas, NV.

[FR Doc. 99–22267 Filed 8–26–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–036–1210–00]

Notice of Recreation Use Restrictions and Regulations for Egin Lakes Access and Red Road Recreation Sites Adjacent and Within the Sand Mountain Wilderness Study Area (WSA), Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of recreation use restrictions for Egin Lakes Access and Red Road recreation sites adjacent and within the Sand Mountain WSA, Idaho.

SUMMARY: Notice is hereby given in accordance with Title 43 Group 8000-Recreation Programs, and in accordance with the principles established by the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969, that certain lands located in and adjacent to the Sand Mountain WSA which includes the area known as the St. Anthony Sand Dunes Special Recreation Management Area (SRMA) in Fremont and Jefferson Counties, Idaho have recreation use restrictions placed upon them. Actions are implemented under the authority of 43 CFR 8364.

DATES: Effective date: September 1, 1999.

ADDRESSES: Bureau of Land Management, Upper Snake River District, Idaho Falls Field Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401, telephone (208) 524–7500.

SUPPLEMENTARY INFORMATION: The WSA is 21,000 acres of public land that has current vehicle and recreation use restrictions within it that were established through the **Federal Register** on August 13, 1992. Both the WSA and SRMA are within the Egin-Hamer Winter Seasonal Closure Area established through the **Federal Register** on December 16, 1997.

Recreation use in the SRMA has increased nearly 1000% from an estimated 14,000 visits in FY84 to over 136,000 visits in FY 98. The Egin Lakes Access Site alone recorded over 72,000 visits in which over 20,000 visitors were campers using the undeveloped camping area or the developed parking lot to camp. Use along the Red Road where there are numerous undeveloped recreation sites recorded over 24,000 visits in which over 2000 visitors were overnight campers.

Open campfire sites inside the Sand Mountain WSA but outside the Red Road Open Sand Campfire Area have increased tremendously in the last few years, especially around major access routes onto the open sand and around Dry Lake Bed (Hidden Lake) causing degradation of the natural values of the area. The last few years have also had non-traditional dispersed recreation uses occur on Hidden Lake which is a dry lake bed in the winter but has water throughout the spring, summer, and fall seasons. Snowmobile and Personal Water Craft users have been using the lake in the summer for water craft skimming. This activity has created safety problems for other recreation users along the lake shore and in the water. The development of the Egin Lakes access has created large gatherings of young individuals to the area. These gatherings have contributed to large beer and alcohol parties at the recreation site. Both drug and alcohol use by underage users has been documented at this site and other concentrated recreation use area within the St. Anthony Sand Dunes Special Recreation Management Area.

To reduce the litter and debris left in the recreation sites and areas along the Red Road and Egin Lakes access, and to reduce the safety hazard presented by alcohol use the following restriction will be in effect: (1) No Person under the age of twenty-one (21) shall possess or consume any alcoholic beverage, as defined by Idaho Code Title 23–105, on Public lands in the St. Anthony Sand Dunes Special Recreation Management Area.

Maps of the areas where the restriction will apply will be available at the Idaho Falls Field Office. Signs with the rules and regulations for the SRMA will be posted at entrances into the WSA as well as at the recreation sites and areas. The new restriction will be incorporated into the existing St. Anthony Sand Dunes and Sand Mountain WSA information flyer.

FOR FURTHER INFORMATION CONTACT: Bill Boggs, Bureau of Land Management, Upper Snake River District, Idaho Falls Field Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401, (208) 524–7527.

Dated: August 17, 1999.

Joe Kraayenbrink,

Field Manager.

[FR Doc. 99–22270 Filed 8–26–99; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–950–1420–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

The plats of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., August 20, 1999.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of Sections 17 and 20, T. 43 N., R. 109 W., Sixth Principal Meridian, Wyoming, Group No. 644, was accepted March 23, 1999.

The plat representing the dependent resurvey of the Seventh Standard Parellel North, through Range 87 West, a portion of the subdivisional lines and the subdivision of Section 34, T. 29 N., R. 87 W., Sixth Principal Meridian, Wyoming, Group No. 631, was accepted August 17, 1999.

The plat representing the dependent resurvey of portions of the east boundary and the subdivisional lines, and the subdivision of Section 25, T. 56 N., R. 70 W., Sixth Principal Meridian,

Wyoming, Group No. 646, was accepted August 17, 1999.

The plat representing the dependent resurvey of a portion of the Fort McKinney Military Reservation, T. 50 N., R. 82 W., Sixth Principal Meridian, Wyoming, Group No. 650, was accepted August 17, 1999.

The plat representing the dependent resurvey of portions of the south boundary and the subdivisional lines, and the subdivision of Section 35, T. 40 N., R. 93 W., Sixth Principal Meridian, Wyoming, Group No. 648, was accepted August 17, 1999.

The plat representing the dependent resurvey of portions of the north boundary and subdivisional lines, and the subdivision of Sections 3 and 4, T. 57 N., R. 75 W., Sixth Principal Meridian, Wyoming, Group No. 656, was accepted August 17, 1999.

The supplemental plat showing the corrected area of previous Lot 8, now shown as Lot 19, Section 31, Tp. 48 N., R. 76 W., Sixth Principal Meridian, Wyoming, is based on the plat accepted August 22, 1990, was accepted August 17, 1999.

All inquiries concerning the survey of the above described lands should be sent to John P. Lee, (307) 775–6216, Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: August 20, 1999.

John P. Lee,

Chief Cadastral Survey Group.

[FR Doc. 99–22269 Filed 8–26–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of Mesa Verde National Park, Mesa Verde, CO

AGENCY: National Park Service, Interior.

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the National Park Service, Mesa Verde National Park, Mesa Verde, CO.

A detailed assessment of the human remains and associated funerary objects was made by National Park Service professional staff in consultation with representatives of the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Navajo Nation of Arizona, New Mexico, and Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico, and Utah; and Zuni Tribe of the Zuni Reservation, New Mexico. The Pueblo of San Felipe, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; and Ysleta Del Sur Pueblo of Texas were unable to attend the Native American consultation meetings, but they requested and received the minutes of these proceedings.

In 1950, human remains representing one individual were recovered during a legally authorized National Park Service excavation conducted at Site 16 (5MV16), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (post and adobe village with kiva, single coursed masonry pueblo with kiva, double coursed masonry pueblo with three towers and one kiva), dendrochronology, archeological context, a physical anthropology examination, and artifact (ceramic, bone, and lithic) analysis, this site (5MV16) and these human remains are dated to Basketmaker III-Pueblo II (A.D. 500-1100).

Between 1947 and 1948, human remains representing 23 individuals were recovered during a legally authorized excavation conducted by Gila Pueblo Survey archeologist Deric O'Bryan at Soda Canyon Pueblo (5MV34), a site within park boundaries. No known individuals were identified. The 32 associated funerary objects include 10 bowls and bowl fragments, seven mugs, five jars, two cylinders, one canteen, one scraper, one pitcher, one point, one geologic specimen, one abrader, one awl, and one ladle. Two mugs are missing from the original catalogued entry for this site. These two associated funerary objects have not been included in the total count.

Based on architectural features (45 rooms, 5 kivas, and a tower), dendrochronology, archeological context, a physical anthropology examination, and artifact (bone, lithic, ceramic, and organics) analysis, this site (5MV34), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1942, human remains representing one individual were recovered during a legally authorized National Park Service salvage excavation project conducted at One Clan House (5MV51), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (burned stone), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV51) and these human remains are dated to Pueblo I-Pueblo II (A.D. 700-1100).

In 1965, human remains representing six individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologist Cal Jennings at Big Pit Structure (5MV60), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a circular pit structure), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV60) and these human remains are dated to Basketmaker III (A.D. 500-700).

In 1952, human remains representing one individual were recovered during a legally authorized National Park Service excavation conducted at 5MV80, a site within park boundaries. No known individuals were identified. The 112 associated funerary objects are all sherds.

Based on architectural features (midden, burned stone, and a rubble mound), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV80), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1950, human remains representing one individual were recovered during a legally authorized National Park Service excavation conducted at Twin Trees Village (5MV106), a site within park boundaries. No known individuals were identified. The 80 associated funerary objects include one faunal bone, one jar, three ladle bowls, and 75 sherds.

Based on architectural features (a pithouse), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV106), these human remains, and the associated

funerary objects are dated to Basketmaker III (A.D. 500-700).

In 1947, human remains representing one individual were recovered during a legally authorized excavation conducted by Gila Pueblo Survey archeologist Deric O'Bryan at Deric's Pithouse (5MV145), a site within park boundaries. No known individuals were identified. The three associated funerary objects include one shell bead, one pestle, and one stone artifact.

Based on architectural features (2 pithouses), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV145), these human remains, and the associated funerary objects are dated to Basketmaker III (A.D. 500-700).

In 1952, human remains representing one individual were recovered during a legally authorized National Park Service excavation conducted at Gila Pueblo ι43 (5MV200), a site within park boundaries. No known individuals were identified. The 392 associated funerary objects include four bone awls and awl fragments, one basket, five blades and blade fragments, one core, one drill, one effigy vessel, 26 flakes, 37 geologic specimens (azurite, hematite, limonite, and malachite), one gizzard stone, one jar, one mano, four unfinished pendants, one pitcher, two points, 300 sherds, one battered stone artifact, four ground stone artifacts, and one polished stone artifact. One wood artifact, one mineral specimen, and one squash seed are missing from the original catalogued entry for this site. These three associated funerary objects have not been included in the total count.

Based on architectural features (a kiva depression, midden, and rubble mound), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV200), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1952, human remains representing three individuals were recovered during a legally authorized National Park Service excavation conducted at 5MV201, a site within park boundaries. No known individuals were identified. The 260 associated funerary objects include one bowl fragment, one geologic specimen (sandstone), one ladle bowl, one miniature pitcher, and 256 sherds. One point is missing from the original catalogued entry for this site. This associated funerary object has not been included in the total count.

Based on architectural features (a kiva depression, rubble mound, and midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV201), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1953, human remains representing two individuals were recovered during a legally authorized National Park Service excavation conducted at 5MV299, a site within park boundaries. No known individuals were identified. The two associated funerary objects include one jar fragment and one ladle bowl.

Based on architectural features (20-30 rooms, a tower, 2 kiva depressions, and a midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV299), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1953, human remains representing one individual were recovered during a legally authorized National Park Service salvage excavation project conducted at Tent Area Salvage (5MV364), a site within park boundaries. No known individuals were identified. The two associated funerary objects are bowls.

Based on architectural features (a rubble mound and midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV364), these human remains, and the associated funerary objects are dated to Basketmaker III (A.D. 500-700).

In 1953, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at 5MV475, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a rubble mound), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV475) and these human remains are dated to Pueblo II (A.D. 900-1100).

In 1953, human remains representing 44 individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologist Robert Lister at Lister Site No.2 (5MV499), a site within park boundaries. No known individuals were identified. The 17 associated funerary objects include one bone awl, eight bowls and bowl fragments, three faunal bones, two jars, one mano, one mug, and one pitcher.

Based on architectural features (Pueblo II component: 5 rooms and a kiva; Pueblo III component: 15–18 rooms, 2 kivas, a tower, and a milling room), dendrochronology, archeological context, a physical anthropology examination, and artifact (ceramic, lithic, and bone) analysis, this site (5MV499), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1954, human remains representing two individuals were recovered during a legally authorized National Park Service salvage excavation project conducted at Burial Cave (5MV503), a site within park boundaries. No known individuals were identified. The 40 associated funerary objects include 38 corn-cobs, one rush matting fragment, and one wood artifact. Human remains representing one individual are missing from the original catalogued entry for this site. These human remains have not been included in the total count.

Based on artifact (sandal and ceramic) analysis, archeological context, and a physical anthropology examination, this site (5MV503), these human remains, and the associated funerary objects are dated to Basketmaker III (A.D. 500-700).

In 1958, human remains representing one individual were recovered during a legally authorized National Park Service excavation conducted at 5MV509, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (7 rooms, a kiva, 3 storage rooms, 2 retaining walls, an axe polishing groove, and a petroglyph), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV509) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1942 and 1977, human remains representing seven individuals were recovered during multiple legally authorized National Park Service excavations conducted at Oak Tree House (5MV523), a site within park boundaries. No known individuals were identified. The six individuals recovered in 1977 had no associated funerary objects. The one individual recovered in 1942 had eight associated funerary objects consisting of seven pieces of sinew and one calcium carbonate sample (35 grams).

Based on architectural features (55 rooms, 6 kivas, and 8 storage rooms), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV523), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

Prior to 1921, human remains representing two individuals were recovered during legally authorized collection and excavation projects conducted by Smithsonian Institution archeologist Jesse Walter Fewkes at

Mummy House (5MV524), a site within park boundaries. No known individuals were identified. The three associated funerary objects include one ladle, one splint matting fragment, and one feather and fur textile fragment.

Based on architectural features (12 rooms, 2 kivas, a storage room, 2 grinding bins, 12 hearths, and a retaining wall), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV524), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1977, human remains representing one individual were recovered during an unauthorized field collection conducted by a park visitor at Tree House (5MV528), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (4 rooms, a storage room, retaining wall, and 4 fire pits), archeological context, and a physical anthropology examination, this site (5MV528) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1932, human remains representing two individuals were recovered during an unauthorized field collection conducted by park visitors at Alcove House (5MV529), a site within park boundaries. No known individuals were identified. The seven associated funerary objects include one bowl, four faunal bones, one mug, and one sherd.

Based on architectural features (a rubble mound, midden, 2 kivas, 12–14 rooms, walls, toe holds, and pictographs), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV529), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1959, human remains representing one individual were recovered during a legally authorized National Park Service excavation conducted at 5MV536, a site within park boundaries. No known individuals were identified. The three associated funerary objects include one drill and two sherds.

Based on architectural features (4 rooms), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV536), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

Between 1909 and 1990 (before November 16, 1990), human remains representing five individuals were recovered during legally authorized National Park Service excavations, field collections, and site stabilization projects conducted at Cliff Palace (5MV625), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (217 rooms, 23 kivas, 14 storage rooms, 2 towers, and 4 terrace levels), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV625) and the human remains are dated to Pueblo III (A.D. 1100-1300).

Between 1915 and 1986, human remains representing eleven individuals were recovered during legally authorized excavation and field collection projects conducted at Spruce Tree House (5MV640), a site within park boundaries. From 1915 to 1922, human remains representing one individual were recovered during field collection activities undertaken by Smithsonian Institution archeologist Jesse Walter Fewkes. In 1924, 1962, and 1986, National Park Service excavation and field collection projects recovered human remains representing a total of 10 individuals. No known individuals were identified. The individual recovered between 1915 and 1922 had no associated funerary objects. The human remains recovered between 1924 and 1986 had nine associated funerary objects consisting of four faunal bones and five pieces of reed matting.

Based on architectural features (114 rooms and 8 kivas), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV640), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1942, human remains representing one individual were recovered during a legally authorized National Park Service stabilization project conducted at Square Tower House (5MV650), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (80 rooms and 7 kivas), dendrochronology, archeological context, and a physical anthropology examination, this site (5MV650) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1934, human remains representing two individuals were recovered during a legally authorized National Park Service field collection project conducted at 5MV656, a site within park boundaries. No known individuals were identified. The three associated funerary objects include pieces of willow matting.

Based on architectural features (a room), archeological context, a physical anthropology examination, and analysis of the willow matting, this site (5MV656), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1986, human remains representing one individual were recovered during a legally authorized National Park Service site stabilization project conducted at 5MV693, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (12 rooms and a square kiva), archeological context, and a physical anthropology examination, this site (5MV693) and these human remains are dated to Pueblo III (A.D. 1100–1300).

In 1956, human remains representing one individual were recovered during a legally authorized National Park Service excavation conducted at 5MV744, a site within park boundaries. No known individuals were identified. The 33 associated funerary objects include 32 sherds and one pecked and ground stone artifact.

Based on architectural features (a rubble mound), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV744), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1934 and 1976, human remains representing three individuals were recovered during legally authorized excavation and site stabilization projects conducted at Far View House (5MV808), a site within park boundaries. In 1934, human remains representing two individuals were recovered during National Park Service site stabilization and excavation projects. In 1976, human remains representing one individual were recovered during an excavation undertaken by University of Colorado archeologist David Breternitz. No known individuals were identified. The individual recovered in 1976 had no associated funerary objects. The two individuals recovered in 1934 had one associated funerary object consisting of a bone artifact.

Based on architectural features (40 rooms, 5 kivas, and a courtyard), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV808), these human remains, and the associated funerary object are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1926, human remains representing three individuals were recovered during a legally authorized National Park

Service excavation conducted at Far View Tower (5MV810), a site within park boundaries. No known individuals were identified. The two associated funerary objects include one point and one worked sherd.

Based on architectural features (16 rooms, 3 kivas, and a tower), archeological context, and a physical anthropology examination, this site (5MV810), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

Between 1968 and 1977, human remains representing 147 individuals were recovered during legally authorized excavation and field collection projects conducted at Coyote Village (5MV820), a site within park boundaries. In 1968 and 1969, human remains representing 143 individuals were recovered during excavations undertaken by University of Colorado archeologist David Breternitz. During field collection activities, the National Park Service recovered human remains representing three individuals in 1974 and one individual in 1977. No known individuals were identified. The individual recovered in 1977 had no associated funerary objects. The three individuals recovered in 1974 had 82 associated funerary objects, which included two bone awls, one axe, three bowls and bowl fragments, 27 clay objects, one concretion, two cores, 12 faunal bones, 11 flakes, two geologic specimens (hematite), one mug fragment, three sherds, 11 slabs, one chipped and ground stone artifact, four ground stone artifacts, and one worked sherd. The 143 individuals recovered in 1968 and 1969 had 469 associated funerary objects, which included six bone awls, one axe, 36 beads, one blade fragment, one bone artifact, 17 bowls and bowl fragments, three cores, 63 faunal bones, 18 flakes, two geologic specimens (porphyry), two hammerstones, three jars, five ladles, one mano, one miniature bowl, five mugs, two necklaces, four pitchers, two points, one scraper, 290 sherds, three slabs and slab fragments, and two ground stone artifacts. One mano is missing from the original catalogued entry for this site. This associated funerary object has not been included in the total count.

Based on architectural features (30-40 rooms, 5 kivas, and a tower), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV820), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1950, human remains representing two individuals were recovered during a legally authorized National Park Service salvage excavation project conducted at Gila Pueblo ι50 (5MV828), a site within park boundaries. No known individuals were identified. The 265 associated funerary objects include 260 sherds, one bowl, three geologic specimens, and one pitcher.

Based on architectural features (10-15 rooms, 2 kivas, and a midden), archeological context, a physical anthropology examination, and artifact analysis, this site (5MV828), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100)

Prior to 1921, human remains representing two individuals were recovered during a legally authorized field collection project conducted by Smithsonian Institution archeologist Jesse Walter Fewkes at Mummy Lake (5MV833), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a lined circular depression and ditches), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV833) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1954, human remains representing 22 individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologists Breternitz and Lister at 5MV866, a site within park boundaries. No known individuals were recovered. The 12 associated funerary objects include two bowls, one effigy vessel, six faunal bones, one ladle, one ladle fragment, and one olla fragment.

Based on architectural features (a rubble mound, kiva depression, midden, and 4 rooms), archeological context, a physical anthropology examination, dendrochronology, and artifact (ceramic, lithic, and bone) analysis, this site (5MV866), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1955 and 1956, human remains representing 17 individuals were recovered during legally authorized excavations conducted by University of Colorado archeologist Robert Lister at Lister Site No.1 (5MV875), a site within park boundaries. No known individuals were identified. The 31 associated funerary objects include 10 bowls and bowl fragments, five faunal bones, five jars and jar fragments, one ladle bowl fragment, three ladles, six pitchers, and one worked sherd.

Based on architectural features (17 rooms, 3 kivas, and a midden), dendrochronology, archeological context, a physical anthropology examination, and ceramic and lithic analysis, this site (5MV875), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1933, an Emergency Conservation Work (ECW) road crew recovered human remains representing three individuals during a legally authorized salvage excavation project conducted at 5MV947, a site within park boundaries. No known individuals were identified. The eight associated funerary objects include one axe and seven faunal bones.

Based on architectural features (13 terraces), archeological context, and a physical anthropology examination, this site (5MV947), these human remains, and the associated funerary objects are identified as Ancestral Puebloan (pre A.D. 1300).

In 1958, human remains representing six individuals were recovered during a legally authorized National Park Service excavation conducted at 5MV1025, a site within park boundaries. No known individuals were identified. The 24 associated funerary objects include one bone awl, one faunal bone, one jar, one ladle bowl, one pitcher, one pitcher fragment, and 18 sherds.

Based on architectural features (walls, a rubble mound, and midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1025), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1965 and 1966, human remains representing 44 individuals were recovered during legally authorized excavations conducted by University of Colorado archeologists Breternitz and Lister at Morefield Great Kiva (5MV1067), a site within park boundaries. No known individuals were identified. The 187 associated funerary objects include three bone awls, one bone artifact, five bowl fragments, two cores, two ladle fragments, one doughnut jar, 45 faunal bones, 17 flakes, 12 jars and jar fragments, one miniature jar, 20 olla fragments, one pendant, one pitcher, 72 sherds, and four worked sherds.

Based on architectural features (a kiva), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1067), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1942 and 1965, human remains representing 18 individuals were recovered during legally authorized excavations conducted at Gila Pueblo ι81 (5MV1088), a site within park

boundaries. In 1942, the National Park Service recovered one individual during a salvage excavation project. In 1965, the University of Colorado recovered 17 individuals during an excavation. No known individuals were identified. The one individual recovered in 1942 had six associated funerary objects consisting of one bowl, one faunal bone, two jars, one needle, and one scraper. The 17 individuals recovered in 1965 had six associated funerary objects consisting of three bowls and bowl fragments, one ladle, one miniature jar, and one miniature bowl. Human remains representing one individual are missing from the original catalogued entry for this site. These human remains have not been included in the total count.

Based on architectural features (10 or more rooms and a midden), archeological context, a physical anthropology examination, and artifact (ceramic, lithic, and bone) analysis, this site (5MV1088), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1965 and 1966, human remains representing 33 individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologists Lister and Breternitz at 5MV1104, a site within park boundaries. No known individuals were identified. The 121 associated funerary objects include 107 sherds, 10 faunal bones, one core, one flake, one jar, and one chipped and battered stone artifact.

Based on architectural features (12 rooms, a kiva, midden, and a possible tower), archeological context, a physical anthropology examination, and ceramic and lithic analysis, this site (5MV1104), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1958, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at 5MV1149, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (10-20 rooms and walls), archeological context, and a physical anthropology examination, this site (5MV1149) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1958, human remains representing two individuals were recovered during a legally authorized National Park Service field collection project conducted at 5MV1191, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (outlines of 2-3 rooms), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1191) and these human remains are dated to Pueblo II (A.D. 900-1100).

Between 1937 and 1989, human remains representing 211 individuals were recovered during multiple episodes from Long House (5MV1200), a site within park boundaries. In 1937, a park visitor recovered human remains representing two individuals during an unauthorized excavation. From 1958 to 1962, human remains representing 208 individuals were recovered during a legally authorized National Park Service excavation. In 1989, human remains representing one individual were located in the collection by park curatorial staff. No known individuals were identified. The two individuals recovered in 1937 and the one individual found in 1989 had no associated funerary objects. The 208 individuals recovered from 1958 to 1962 had 539 associated funerary objects consisting of four bone awls, two axes, one bead, one bone artifact, 277 botanical specimens (juniper and yucca), 10 bowls and bowl fragments, one concretion, one cone, one feather/yucca cordage fragment, two cores, five corn cobs, three corn kernels, three cylinders, one disk fragment, 93 faunal specimens (bone, hide, claw, and eggshell), 13 flakes, three geologic specimens (barite, quartz, and shale), five gizzard stones, seven hammerstones, six jars and jar fragments, one ladle cup, one ladle, two manos, one miniature ladle, 12 mugs and mug fragments, four pendants, three points, 72 sherds, one drilled stone artifact, one pecked and grooved stone artifact, one wood artifact, and one worked sherd. Human remains representing two individuals and three cores are missing from the original catalogued entry for this site. These human remains and associated funerary objects have not been included in the total counts.

Based on architectural features (Basketmaker III component: a pithouse; Pueblo III component: 150 rooms, 21 kivas, and a plaza), dendrochronology, archeological context, a physical anthropology examination, and artifact (ceramic, lithic, bone, antler, and organics) analysis, this site (5MV1200), these human remains, and the associated funerary objects are dated to Basketmaker III (A.D. 500-700) and Pueblo III (A.D. 1100-1300).

In 1958, human remains representing 36 individuals were recovered during a legally authorized National Park Service field collection project conducted at 5MV1205, a site within park boundaries. No known individuals were identified. The 12 associated funerary objects include two bowls, three faunal bones, one flake, and six sherds.

Based on architectural features (cave with smoke blackened walls and roof, retaining wall, a room, 2 storage pits, 4 firepits, and six feet of fill), archeological context, a physical anthropology examination and artifact (ceramic, lithic, and bone) analysis, this site (5MV1205), these human remains, and the associated funerary objects are dated to Basketmaker III-Pueblo III (A.D. 500-1300).

In 1958, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at Burnt House (5MV1207), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (15-20 rooms), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1207) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1959, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at 5MV1221, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (35 rooms, a midden, kiva, and storage room), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1221) and these human remains are dated to Pueblo III (A.D. 1100-1300).

Between 1935 and 1963, human remains representing 16 individuals were recovered during legally authorized National Park Service field collection, excavation, and site stabilization projects conducted at Adobe Cave (5MV1228), a site within park boundaries. No known individuals were identified. The one individual recovered in 1958 had no associated funerary objects. The five individuals recovered in 1935 had 12 associated funerary objects consisting of seven matting splints, two mugs, two textile fragments, and one wood artifact. The 10 individuals recovered in 1963 had 16 associated funerary objects consisting of four botanical specimens (pinon nut), one concretion, three faunal specimens

(bone, shell), one geologic specimen, one gizzard stone, one jar, one mug, and four wood artifacts.

Based on architectural features (3 rooms and 2 kivas), archeological context, and a physical anthropology examination, this site (5MV1228), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

Between 1960-1961, human remains representing 138 individuals were recovered during a legally authorized National Park Service excavation conducted at Mug House (5MV1229), a site within park boundaries. No known individuals were identified. The 153 associated funerary objects include seven bone awls, two axes, two bone beads, one bone artifact, eight bowls and bowl fragments, two cylinders, 11 faunal bones, one flake, eleven geologic specimens, one hammerstone, four jars, one mano, 36 matting splints, two miniature bowls, three mugs, one bone needle fragment, five points, three polishing stones, two scrapers, 48 sherds, and two ground stone artifacts. One faunal bone is missing from the original catalogued entry for this site. This associated funerary object has not been included in the total count.

Based on architectural features (91 rooms, 3 towers, and 8 kivas), dendrochronology, archeological context, a physical anthropology examination, and artifact (organics, ceramic, lithic, and bone) analysis, this site (5MV1229), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1963, human remains representing two individuals were recovered during a legally authorized National Park Service excavation conducted at 5MV1230, a site within park boundaries. No known individuals were identified. The 38 associated funerary objects include two bone awls, one bowl, 10 faunal bones, one jar, and 24 sherds.

Based on architectural features (a kiva depression, rubble mound, walls, and terraces), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1230), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1959, human remains representing two individuals were recovered during a legally authorized National Park Service field collection project conducted at Nordenskiold's Ruin No.16 (5MV1241), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (50 rooms, 5 kivas, a tower, and walls), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1241) and these human remains are dated to Pueblo III (A.D. 1100-1300)

In 1962, human remains representing one individual were recovered during a legally authorized National Park Service excavation conducted at 5MV1249, a site within park boundaries. No known individuals were identified. The five associated funerary objects include one bone awl, two bowl fragments, and two sherds.

Based on architectural features (9 rooms, 2 kivas, a petroglyph, and a pictograph), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1249), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1963, human remains representing two individuals were recovered during a legally authorized National Park Service excavation conducted at 5MV1253, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a tower, room, and kiva), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1253) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1959, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at 5MV1274, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (walls), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1274) and these human remains are dated to Pueblo III (A.D. 1100-1300).

Between 1935 and 1962, human remains representing 37 individuals were recovered during multiple legally authorized National Park Service excavations conducted at Step House (5MV1285), a site within park boundaries. In 1935, human remains representing one individual were recovered. In 1962, human remains representing 36 individuals were recovered. No known individuals were identified. The one individual recovered in 1935 had no associated funerary objects. The 36 individuals recovered in 1962 had 64 associated funerary objects consisting of one botanical specimen (wood), 15 sherds, one stone slab, 46 squash rind fragments, and one yucca textile fragment.

Based on architectural features (4 pithouses, 14 rooms, petroglyphs, kivas, and steps), dendrochronology, archeological context, a physical anthropology examination, and artifact (ceramic, lithic, bone, and organics) analysis, this site (5MV1285), these human remains, and the associated funerary objects are dated to Basketmaker III-Pueblo III (A.D. 500-1300).

In 1963, human remains representing 10 individuals were recovered during a legally authorized National Park Service excavation conducted at 5MV1291, a site within park boundaries. No known individuals were identified. The six associated funerary objects include one bowl, one faunal bone, two pitchers, and two sherds.

Based on architectural features (7 cysts, 3 firepits, a pithouse, tower, 3 rooms, and a midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1291), these human remains, and the associated funerary objects are dated to Basketmaker III-Pueblo III (A.D. 500-1300).

In 1959, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at 5MV1301, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (2 rooms), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1301) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1928, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at Nordenskiold's Ruin No.12 (5MV1321), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (26 rooms and 5 kivas), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1321) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1959, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at Nordenskiold's Ruin No.11-1/2

(5MV1322), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (2 kivas, 8 rooms, and a midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1322) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1959, human remains representing five individuals were recovered during a legally authorized National Park Service field collection project conducted at 5MV1370, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (3-5 rooms, a kiva, and midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1370) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1959, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at Double House (5MV1385), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (70-75 rooms, 5 kivas, a midden, steps, and axe grooves), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1385) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1959, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at 5MV1447, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a room), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1447) and these human remains are dated to Pueblo II (A.D. 900-1100).

In 1935, human remains representing one individual were recovered during a legally authorized National Park Service site stabilization project conducted at Nordenskiold's Ruin No.20-1/2 (5MV1449), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (48 rooms, 3 kivas, and a tower), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1449) and these human remains are dated to Pueblo III (A.D. 1100-1300).

Between 1961 and 1986, human remains representing 159 individuals were recovered during legally authorized National Park Service excavation and rock shelter construction projects conducted at Badger House (5MV1452), a site within park boundaries. In 1961 and 1962, human remains representing 157 individuals were recovered. In 1986, human remains representing two individuals were recovered. No known individuals were identified. The two individuals recovered in 1986 had no associated funerary objects. The 157 individuals recovered between 1961 and 1962 had 576 associated funerary objects consisting of five bone awls, five beads, 17 bowl and bowl fragments, 16 cores, 10 corn cobs, one cylinder, one effigy pitcher, 16 faunal bones, 57 flakes, two geologic specimens (azurite, quartz), eight gizzard stones, three hammerstones, 18 jars and jar fragments, one ladle cup, two ladles, four manos and mano fragments, one miniature pitcher, one bone needle, seven pendants and pendant fragments, seven pitchers, two points, one scraper, 383 sherds, five stone artifacts, and three worked sherds. Human remains representing one individual and one shell fragment are missing from the original catalogued entry for this site. These human remains and the associated funerary object have not been included in the total counts.

Based on architectural features (a pithouse, kiva, tower, midden, and 15-20 rooms), archeological context, a physical anthropology examination, and artifact (ceramic, lithic, and bone) analysis, this site (5MV1452), these human remains, and the associated funerary objects are dated to Pueblo I-Pueblo II (A.D. 700-1100).

In 1959, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at Lancaster House (5MV1500), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (30 rooms, 2 kivas, a tower, and midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1500) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1960, human remains representing two individuals were recovered during a legally authorized National Park Service field collection project conducted at 5MV1554, a site within park boundaries. No known individuals were identified. The one associated funerary object is a concretion.

Based on architectural features (one storage room and one rubble mound), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1554), these human remains, and the associated funerary object are dated to Basketmaker III-Pueblo I (A.D. 500-900).

In 1963, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at 5MV1575, a site within park boundaries. No known individuals were identified. The 30 associated funerary objects are all sherds.

Based on architectural features (11 terraces), archeological context, and a physical anthropology examination, this site (5MV1575), these human remains, and the associated funerary objects are identified as Ancestral Puebloan (pre A.D. 1300).

In 1958, human remains representing two individuals were recovered during a legally authorized National Park Service field collection project conducted at 5MV1594, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (3 rooms), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1594) and these human remains are dated to Pueblo II (A.D. 900-1100).

In 1962, human remains representing 113 individuals were recovered during a legally authorized National Park Service excavation conducted at Big Juniper House (5MV1595), a site within park boundaries. No known individuals were identified. The 167 associated funerary objects include two beads, six bowls and bowl fragments, one concretion, two cores, 20 faunal specimens, 34 flakes, one gizzard stone, three jars and jar fragments, one ladle bowl fragment, two ladles and ladle fragments, one mano, one yucca matting, one olla, two pendants, three pitchers, 80 sherds, and seven worked sherds. Two sherds and one faunal bone are missing from the original catalogued entry for this site. These three associated funerary objects have not been included in the total count.

Based on architectural features (a rubble mound, 25-30 rooms, 3 kivas, a depression, and midden), dendrochronology, archeological context, a physical anthropology examination, and artifact (ceramic,

lithic, bone, and textile) analysis, this site (5MV1595), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1962, human remains representing 58 individuals were recovered during a legally authorized National Park Service excavation conducted at Two Raven House (5MV1645), a site within park boundaries. No known individuals were identified. The 254 associated funerary objects include one bone awl, four beads and bead fragments, four bowls and bowl fragments, three cores, five faunal bones, 24 flakes, one hammerstone, six jar fragments, two ladles, one miniature ladle handle fragment, two miniature jar fragments, one pitcher, 197 sherds, and three worked sherds.

Based on architectural features (12 rooms, 2 pithouses, 45 postholes, a kiva, and a midden), dendrochronology, archeological context, a physical anthropology examination, and artifact (ceramic, lithic, and bone) analysis, this site (5MV1645), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1963, human remains representing 30 individuals were recovered during a legally authorized National Park Service excavation conducted at Dog House (5MV1676), a site within park boundaries. No known individuals were identified. The 29 associated funerary objects include eight bone awls, one bead, two bowls, one hammerstone, four jars, one ladle cup, one ladle fragment, two metates, one bone needle, four pitchers and pitcher fragments, two points, one sherd, and one pecked stone artifact.

Based on architectural features (7 pithouses, 50 rooms, a great kiva, midden, a proto kiva, and scattered refuse), dendrochronology, archeological context, a physical anthropology examination, and ceramic and lithic analysis, this site (5MV1676), these human remains, and the associated funerary objects are dated to Basketmaker III-Pueblo II (A.D. 500-1100).

In 1962, human remains representing four individuals were recovered during a legally authorized National Park Service excavation conducted at 5MV1801, a site within park boundaries. No known individuals were identified. The eight associated funerary objects include two concretions and six sherds.

Based on architectural features (8–10 rooms, a kiva, and midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1801), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1958, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at 5MV1883, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (3 rooms), archeological context, and a physical anthropology examination, this site (5MV1883) and these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1964, human remains representing eight individuals were recovered during a legally authorized National Park Service excavation conducted at 5MV1914, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a rubble mound, kiva, retaining walls, and 16 rooms), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1914) and these human remains are dated to Pueblo II (A.D. 900-1100).

In 1966, human remains representing three individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologist David Breternitz at 5MV1927, a site within park boundaries. No known individuals were identified. The five associated funerary objects include one corn-cob and four sherds.

Based on architectural features (a rubble mound, 4 kiva depressions, a midden, and approximately 40 rooms), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1927), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1966, human remains representing one individual were recovered during a legally authorized excavation conducted by University of Colorado archeologist David Breternitz at 5MV1928, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a rubble mound, 5 kiva depressions, 75-100 rooms, and a midden), archeological context, a physical anthropology examination, and artifact (lithic, bone, and ceramic) analysis, this site (5MV1928) and these human remains are dated to Pueblo II (A.D. 900-1100).

In 1966, human remains representing 32 individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologist David Breternitz at 5MV1929, a site within park boundaries. No known individuals were identified. The 67 associated funerary objects include one bone awl, three bone artifacts, 62 faunal bones, and one sherd.

Based on architectural features (20 rooms, a rubble mound, 1-2 kiva depressions, and a midden), archeological context, and a physical anthropology examination, this site (5MV1929), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1966, human remains representing 20 individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologist David Breternitz at 5MV1930, a site within park boundaries. No known individuals were identified. The 241 associated funerary objects include one axe fragment, eight baskets (burned), one botanical specimen (reed), one core, 20 faunal bones, six hammerstones, one jar, eight manos, two palette and palette fragments, 187 sherds, five ground stone artifacts, and one battered and ground stone artifact.

Based on architectural features (a great kiva and room block), dendrochronology, archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV1930), these human remains, and the associated funerary objects are dated to Pueblo I (A.D. 700-900).

In 1967, human remains representing two individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologists Hallisy and Frost at 5MV1934, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a rubble mound, 8-10 rooms, a kiva depression, and a midden), archeological context, and a physical anthropology examination, this site (5MV1934) and these human remains are dated to Pueblo II (A.D. 900-1100).

In 1970, human remains representing one individual were recovered during a legally authorized excavation conducted by University of Colorado archeologist David Breternitz at 5MV1940, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a pithouse), dendrochronology, archeological context, and a physical anthropology examination, this site (5MV1940) and these human remains

are dated to Basketmaker III (A.D. 500-700).

In 1972, human remains representing eight individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologist Roy Hunt at 5MV2282, a site within park boundaries. No known individuals were identified. The 48 associated funerary objects include one faunal bone, one fossil, and 46 sherds.

Based on the location of a nearby kiva tower, a physical anthropology examination, and ceramic analysis, this site (5MV2282), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1972, human remains representing one individual were recovered during a legally authorized excavation conducted by University of Colorado archeologist Barb Wyant at 5MV2470, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (9 rooms, a kiva, and scattered refuse), archeological context, and a physical anthropology examination, this site (5MV2470) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1973, human remains representing one individual were recovered during a legally authorized excavation conducted by University of Colorado archeologist C.J. Gager at 5MV2551, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a rubble mound), archeological context, a physical anthropology examination, and ceramic analysis, this site (5MV2551) and these human remains are dated to Pueblo II (A.D. 900-1100).

In 1977, human remains representing two individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologist Steve Spears at 5MV3808, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a kiva, midden, rubble mound, and retaining wall), archeological context, and a physical anthropology examination, this site (5MV3808) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300)

In 1979, human remains representing one individual were recovered during a legally authorized National Park Service salvage excavation project conducted at 5MV3894, a site within park boundaries. No known individuals were identified. No funerary objects were present.

Based on the location of a nearby cliff dwelling, a physical anthropology examination, and corrugated pottery sherds found down-slope, this site (5MV3894) and these human remains are identified as Pueblo II–Pueblo III (A.D. 900-1300).

Between 1939 and 1962, human remains representing seven individuals were removed without authorization from Falls Creek Cave (5LP1434), a site located outside park boundaries. In 1939, human remains representing four individuals were seized by the Department of Agriculture and donated to Mesa Verde National Park. In 1962, human remains representing three individuals, originally recovered from the site during an unauthorized excavation, were donated to the Mesa Verde National Park. No known individuals were identified. The individuals donated in 1939 had seven associated funerary objects consisting of four hide artifacts, one hair artifact, one animal hair textile fragment, and one feather textile fragment. The individuals donated in 1962 had two leather artifacts associated with the burials.

Based on archeological context, a physical anthropology examination, and artifact analysis, this site (5LP1434), these human remains, and the associated funerary objects are identified as Basketmaker II (A.D. 100-500).

Between 1951 and 1954, human remains representing one individual were recovered during a legally authorized National Park Service field collection project conducted at a small unnamed pueblo, a site located outside park boundaries and inventoried as Yellow Jacket. These human remains were donated to Mesa Verde National Park. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (pueblo structure and midden), archeological context, and a physical anthropology examination, this site (Yellow Jacket) and these human remains are identified as Pueblo II-Pueblo III (A.D. 900-1300).

In 1961, human remains representing three individuals were recovered during a legally authorized National Park Service salvage excavation project conducted on St. Christopher's Mission property in Bluff, UT, a site outside park boundaries. No known individuals were identified. The five associated funerary objects include one faunal bone, one polishing stone, and three sherds. The human remains and associated funerary objects were donated to Mesa Verde National Park. One faunal bone is missing from the original catalogued entry for this site. This associated funerary object has not been included in the total count.

Based on ceramic and lithic analysis, as well as a physical anthropology examination, this site (Bluff, UT), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1936, human remains representing one individual were recovered during a legally authorized landscaping operation conducted by a Civilian Conservation Corps (CCC) crew at Chapin Mesa HQ, a site within park boundaries. No known individuals were identified. All seven associated funerary objects are gray sherds.

Based on geographic location, ceramic analysis, and a physical anthropology examination, this site (Chapin Mesa HQ), these human remains, and the associated funerary objects are dated to Basketmaker III-Pueblo I (A.D. 500-900).

In 1934 and 1947, human remains representing two individuals were recovered during legally authorized National Park Service construction (1934) and surface collection (1947) projects conducted at Chapin Mesa Hotel, a site within park boundaries. No known individuals were identified. The two associated funerary objects include faunal bones.

Based on the location of a nearby site and a physical anthropology examination, this site (Chapin Mesa Hotel), these human remains, and the associated funerary objects are identified as Ancestral Puebloan (pre A.D. 1300).

In 1975, human remains representing one individual were recovered during an unauthorized surface collection by a park visitor at Chapin Mesa Picnic Area, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on geographic location and a physical anthropology examination, this site (Chapin Mesa Picnic Area) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

In 1933, human remains representing three individuals were recovered during a legally authorized National Park Service quarry operation conducted at the Chapin Mesa Quarry, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on geographic location and a physical anthropology examination, this site (Chapin Mesa Quarry) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

In 1933, human remains representing one individual were recovered during a legally authorized National Park Service road construction project conducted at Chapin Mesa, The Glades, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on geographic location and a physical anthropology examination, this site (The Glades) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

In 1976, human remains representing one individual were recovered from a trailer court in Cortez, CO, a site outside park boundaries. The human remains and associated funerary objects were donated to Mesa Verde National Park. No known individuals were identified. The 34 associated funerary objects are sherds.

Based on ceramic analysis and a physical anthropology examination, this site (Cortez, CO), these human remains, and the associated funerary objects are dated to Pueblo II (A.D. 900-1100).

In 1955, human remains representing one individual were recovered from private property in Dolores, CO, a site located outside park boundaries. These human remains were donated to Mesa Verde National Park. No known individuals were identified. No associated funerary objects were donated.

Based on geographic location, objects found in the vicinity (Ancestral Puebloan artifacts were collected with the human remains and also donated to the park), and a physical anthropology examination, this site (Dolores, CO) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

In 1960, human remains representing three individuals were recovered from a large ''Chaco'' style ruin on private property above the Dolores River, CO, a site located outside park boundaries. The human remains and associated funerary objects were donated to Mesa Verde National Park. No known individuals were identified. The four associated funerary objects include one bone artifact and three faunal bones.

Based on architectural features (''Chaco'' style ruin), archeological context, and a physical anthropology examination, this site (Dolores River, CO), these human remains, and the associated funerary objects are dated to Pueblo III (A.D. 1100-1300).

In 1995, the University of Colorado returned human remains representing four individuals, originally recovered during legally authorized excavations, to Mesa Verde National Park. These human remains were identified with an accession number the University used for a number of sites it excavated. Therefore, the exact site from which the human remains originated is unknown. These remains have been identified on the NAGPRA inventory as No Provenience (1058). No known individuals were identified. No associated funerary objects were present.

Based on documentation and a physical anthropology examination, this site (No Provenience 1058) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

In 1945, human remains representing one individual were recovered during an unauthorized excavation at the Mancos Reservoir, a site outside park boundaries. The human remains and associated funerary objects were donated to Mesa Verde National Park. No known individuals were identified. The two associated funerary objects include one bone awl and one bowl.

Based on an analysis of the associated artifacts and a physical anthropology examination, this site (Mancos Reservoir), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In the late 1800s, human remains representing one individual were removed from within present day park boundaries. In 1962, these human remains were donated to Mesa Verde National Park (627). No known individuals were identified. No associated funerary objects were donated.

Based on geographic location and a physical anthropology examination, these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

In 1977, human remains representing seven individuals were recovered during a legally authorized excavation conducted by University of Colorado archeologists at 5MV3791, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (2 walls and a rubble mound), archeological context, and a physical anthropology examination, this site (5MV3791) and these human remains are dated to Pueblo II (A.D. 900-1100).

In 1995, human remains representing two individuals were found in the Mesa Verde Research Center collection. The only identification was the site number 5MV34, or Soda Canyon Pueblo, on one of the individuals. Soda Canyon Pueblo, a site within park boundaries, was legally excavated in 1947 and 1948 by Gila Pueblo Survey archeologist Deric O'Bryan. In 1951, National Park Service archeologists conducted legally authorized excavations at the site. It is probable that these remains are also from 5MV34. The remains are identified on the NAGPRA inventory as No Provenience (1420). No known individuals were identified. No associated funerary objects were present.

Based on architectural features for 5MV34 (45 rooms, 5 kivas, and a tower), dendrochronology, a physical anthropology examination, and ceramic analysis, this site (No Provenience 1420) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In the early 1890s, the American Water Supply Company of Portland, Maine recovered human remains representing five individuals during legally authorized field-work conducted at Montezuma Valley, CO, a site located outside park boundaries. In 1935, a former employee of the American Water Supply Company donated the remains to Mesa Verde National Park. No known individuals were identified. No associated funerary objects were donated.

Based on geographic location and a physical anthropology examination, this site (Montezuma Valley, CO) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

Prior to 1921, human remains representing one individual were recovered by Smithsonian Institution archeologist Jesse Walter Fewkes from an unknown site in Navajo Canyon, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on geographic location (Navajo Canyon) and a physical anthropology examination, these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

Between 1949 and 1954, human remains representing two individuals were recovered from Pictograph Point (5MV1001), a site within park boundaries. In 1949, human remains representing one individual were recovered from a crevice just south of Pictograph Point during a legally authorized National Park Service surface collection project. In 1954, a park visitor recovered human remains representing one individual approximately 200 yards north of Pictograph Point during an unauthorized field collection. No known individuals were identified. No associated funerary objects were present.

Based on the location of a nearby cliff dwelling and petroglyph panel, as well as a physical anthropology examination, this site (5MV1001) and these human

remains are identified as Ancestral Puebloan (pre A.D. 1300).

In 1995, human remains representing one individual were found in the Mesa Verde Research Center collection. The only identification was the accession number MEVE-702. This accession was used for material recovered during the Wetherill Mesa Archeological Site Survey by archeologist Alden Hayes. It is assumed that these remains were recovered from a now unknown site during this survey. These remains are identified on the NAGPRA inventory as No Provenience (702). The surveyed sites were all within park boundaries. No known individuals were identified. No associated funerary objects were present.

It is not known from which site these human remains were recovered, but all Wetherill Mesa Archeological Site Survey material is from the Ancestral Puebloan occupation of Mesa Verde (pre A.D. 1300).

In 1946, human remains representing one individual were recovered during an unauthorized field collection by an employee of the park concessionaire from a cave in Soda Canyon, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on recovery of the human remains in the vicinity of Far View Ruin (5MV808) and a physical anthropology examination, this site (Soda Canyon) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

Between 1983-1987, human remains representing eight individuals were recovered during legally authorized excavations conducted by the Brigham Young University, Utah, at Nancy Patterson (42SA2110), a site located outside park boundaries in southeast Utah. The human remains and funerary objects were donated to Mesa Verde National Park. No known individuals were identified. The 60 associated funerary objects are all sherds.

Based on architectural features (Pueblo II component: 120 rooms, kivas, a circular plaza, and midden; Pueblo III component: 260-325 rooms, 21-29 pit structures, courtyards, a square kiva, and midden), archeological context, a physical anthropology examination, and ceramic analysis, this site (42SA2110), these human remains, and the associated funerary objects are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1941, human remains representing one individual were recovered during a legally authorized National Park Service fencing operation conducted at the West Side of Park, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on geographic location and a physical anthropology examination, this site (West Side of Park) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

In 1942, human remains representing one individual were recovered from a Basketmaker site on private property in Durango, CO (304), a site located outside of park boundaries. The human remains were donated to Mesa Verde National Park. No known individuals were identified. No associated funerary objects were donated.

Based on archeological context and a physical anthropology examination, this site (304) and these human remains are dated to Basketmaker III (A.D. 500-700).

In 1947, human remains representing two individuals were recovered from a pithouse on private property near Durango, CO (335), a site located outside park boundaries. The human remains were donated to Mesa Verde National Park. No known individuals were identified. No associated funerary objects were donated.

Based on archeological context and a physical anthropology examination, this site (335) and these human remains are dated to Basketmaker III (A.D. 500-700).

In 1954, human remains representing two individuals were recovered from a site on private property east of Durango, CO (483), a site located outside of park boundaries. The human remains were donated to Mesa Verde National Park. No known individuals were identified. No associated funerary objects were donated.

Based on park records (the original catalog card states that the human remains were either Basketmaker III or Pueblo I) and a physical anthropology examination, this site (483) and these human remains are dated to Basketmaker III-Pueblo I (A.D. 500-900).

In 1960, human remains representing four individuals were recovered during a legally authorized National Park Service salvage excavation project conducted on Lutheran Church property in Durango, CO (582), a site located outside park boundaries. The remains and associated funerary objects were donated to Mesa Verde National Park. No known individuals were identified. The 246 associated funerary objects include three geologic specimens, one jar, one mineral specimen (hematite), and 241 sherds. One pestle is missing from the original catalogued entry for this site. This associated funerary object has not been included in the total count.

Based on ceramic analysis and a physical anthropology examination, this site (582), these human remains, and the associated funerary objects are dated to Basketmaker III (A.D. 500-700).

In 1962, human remains representing three individuals were recovered from a pithouse located on private property (present-day location of Fort Lewis College) in Durango, CO (593), a site located outside park boundaries. The human remains were donated to Mesa Verde National Park. No known individuals were identified. No associated funerary objects were donated.

Based on archeological context and a physical anthropology examination, this site (593) and these human remains are dated to Basketmaker (A.D. 100-700).

Prior to 1934, human remains representing 91 individuals were found in museum storage. It is assumed that most, if not all, of the remains and items in this accession were recovered from within Mesa Verde National Park. These remains are identified on the NAGPRA inventory as No Provenience (85). No known individuals were identified. The three associated funerary objects are faunal bones. Human remains representing three individuals are missing from the original catalogued entry for this site. These human remains have not been included in the total count.

It is not known from which sites these human remains were recovered. Based on geographic location and a physical anthropology examination, it is believed that the human remains and associated funerary objects are from the Ancestral Puebloan occupation of Mesa Verde (pre A.D. 1300).

In 1962, human remains representing one individual were recovered during an unauthorized collection from a pithouse and were later donated to Mesa Verde National Park. The location for this site is unknown. These remains are identified on the NAGPRA inventory as No Provenience (593). No known individuals were identified. No associated funerary objects were donated.

Based on museum records, archeological context, and a physical anthropology examination, this site (593) and these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

Prior to 1921, human remains representing one individual were recovered from an unknown site by Smithsonian Institution archeologist Jesse Walter Fewkes. Park records indicate that the human remains were most likely recovered from within park boundaries. These remains are identified on the NAGPRA inventory as No Provenience (99). No known individuals were identified. No

associated funerary objects were present.

Based on Fewkes' listing of these human remains and a physical anthropology examination, it is believed these human remains date to the Ancestral Puebloan occupation of Mesa Verde (pre A.D. 1300).

In 1935, human remains representing one individual were donated to Mesa Verde National Park. It is not known whether these remains were found inside or outside park boundaries. These remains are identified on the NAGPRA inventory as No Provenience (168). No known individuals were identified. No associated funerary objects were donated.

Based on museum records and a physical anthropology examination, these human remains are dated to Basketmaker III (A.D. 500-700).

In 1972, human remains representing one individual were recovered during a legally authorized archeological survey conducted by the University of Colorado at 5MV2381, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (a kiva depression, tower, 2 large retaining walls, and 2 rubble mounds), archeological context, and ceramic analysis, this site (5MV2381) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1972, human remains representing one individual were recovered during a legally authorized archeological survey conducted by the University of Colorado at 5MV2472, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (3 circular kiva depressions, wall rubble, and 3 retaining walls), archeological context, and ceramic analysis, this site (5MV2472) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1972, human remains representing one individual were recovered during a legally authorized archeological survey conducted by the University of Colorado at 5MV2481, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (4 kivas, a series of room walls, and a possible retaining wall), archeological context, and ceramic analysis, this site (5MV2481) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

In 1975, human remains representing one individual were recovered during a legally authorized archeological survey conducted by the University of Colorado at 5MV3285, a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (large mound with a heavy concentration of sherd and lithic material and burned sandstone fragments), archeological context, and ceramic analysis, this site (5MV3285) and these human remains are dated to Pueblo II-Pueblo III (A.D. 900-1300).

Between 1933 and 1953, human remains representing five individuals were recovered during legally authorized National Park Service road cut activities conducted at Gila Pueblo ι80 (5MV1091), a site within park boundaries. No known individuals were identified. No associated funerary objects were present.

Based on architectural features (15 rooms, kiva depression, and trash mound) and archeological context, this site (5MV1091) and these human remains are dated to Pueblo II (A.D. 900-1100)

In 1901, human remains representing four individuals were removed without authorization by a visitor from a Mesa Verde cliff dwelling. The location of the site is unknown. In 1989, the human remains were donated to Mesa Verde National Park. These remains are identified on the NAGPRA inventory as No Provenience (1235). No known individuals were identified. No associated funerary objects were donated.

Based on museum records, archeological context, and a physical anthropology examination, these human remains are dated to Pueblo III (A.D. 1100-1300).

In 1914, human remains representing one individual were removed without authorization from a cliff dwelling in Montezuma County by a visitor. In 1997, the human remains were donated to Mesa Verde National Park. These remains are identified on the NAGPRA inventory as No Provenience (1448). No known individuals were identified. No associated funerary objects were donated.

Based on museum records and archeological context, these human remains are identified as Ancestral Puebloan (pre A.D. 1300).

The cultural affiliation of the above described human remains and associated funerary objects with present-day Indian tribes was determined through the use of the following types of evidence: geographical, kinship, biological, archeological, anthropological, linguistic, folklore, oral tradition, historical, and expert opinion. These modes of evidence were acquired from consultation efforts with the before mentioned Indian tribes, cultural affiliation studies, and research of the applicable anthropological and historical literature.

In order to provide an inventory and basic demographic profile of the human remains currently housed at the Mesa Verde Research Center, a team of physical anthropologists utilized non-destructive techniques to examine most of this osteological collection. Utilizing observable and measurable characteristics, such as shovel shaped incisors and changes in the cranium related to cradleboard use, as well as relying on archeological provenience and the material culture associated with the burials, the human remains listed above were identified as Ancestral Puebloan.

The archeological evidence for establishing cultural affiliation relied upon the degree to which the architecture, found in relationship with the recovered human remains and associated funerary objects, conformed with the Pecos Classification system, an accepted chronological sequence used by Southwestern archeologists. The archeological examination scrutinized multiple lines of evidence (similarity of artifacts, continuity of styles from present to past, and the evolution of architecture) to conclude that the present-day Puebloan peoples are directly related to the Ancestral Puebloans, who occupied the Mesa Verde area from at least A.D. 100 to A.D. 1300.

The extensive anthropological literature on Southwestern Native American communities was also utilized to determine the cultural affiliation of the human remains and associated funerary objects under discussion. Ethnographic research focusing on the emergence, migration, and sacred site location accounts of the Keresan-speaking Pueblos (Acoma, Cochiti, Laguna, San Felipe, Santa Ana, Santo Domingo, and Zia), Tanoan-speaking Pueblos (Tiwa-speaking: Isleta, Picuris, Sandia, and Taos; Tewa-speaking: Nambe, Pojoaque, San Ildefonso, San Juan, Santa Clara, and Tesuque; Towa-speaking: Jemez), Hopi (Uto-Aztecan), Zuni, and Navajo (Athabaskan) indicate that each of these groups possess a cultural relationship with the Mesa Verde area. Additionally, expert opinion provided by these present-day Indian tribes during consultation undertakings confirmed the existence of their individual

relationship with the past inhabitants of Mesa Verde.

Presently, archeologists do not agree when the Athabaskan or Apachean (Navajo and Apache) peoples entered the Southwest region. Dates as early as A.D. 1000 and as late as A.D. 1525 have been proposed. Spanish historical accounts of their initial 16th century entrance into the Southwest region noted that Apacheans surrounded Puebloan communities and that both peoples utilized common agricultural practices, material goods, and ceremonial activities. Irrespective of the earlier or later date for entry into the Southwest region, a long period of contact has existed between Puebloan and Athabaskan peoples. In particular, the Puebloans and Navajos, while retaining strong aspects of uniqueness and individuality, have intermarried, shared cultural traits, and maintained similar ceremonial practices with one another.

A specific instance of Pueblo-Navajo interaction and exchange occurred after the Pueblo Revolt of 1680, when many Puebloans fled the Spanish re-conquest and sought refuge among the Navajo. Ultimately, refugees from the Pueblos of Cochiti, Jemez, San Felipe, San Ildefonso, Santa Clara, and Zuni mingled with the Navajo and were incorporated into their clan system. Furthermore, the Hopi of Awatovi joined the Navajo during this period in the Chinle area. The circumstances surrounding the 1680 Pueblo Revolt generated dramatic cultural and population exchanges between the Puebloan and Navajo peoples. While interchanges between Puebloans and Navajos have ebbed and waned since this period, the existence of a complex biological and cultural relationship between these present-day communities is apparent.

Additional evidence for affiliating the Navajo with the past inhabitants of Mesa Verde includes expert opinion and oral tradition. For example, Navajo tribal experts identified references specific to Mesa Verde sites in Navajo ceremonies and oral histories. These experts also characterized Anasazi (Ancestral Puebloan) sites at Mesa Verde as places inhabited by Anasazis in the form of Talking God and Calling God, significant deities in the Navajo ceremonial system. Further, the Navajo consider the region known as Dinetah to be their area of emergence or the original Navajo homeland. Mesa Verde National Park falls within the cultural-geographical region of Dinetah.

In sum, the above described human remains and associated funerary objects were found to be Ancestral Puebloan. Based upon geographical, kinship, biological, archeological, anthropological, linguistic, folklore, oral tradition, historical and expert opinion, it has been determined that the present-day Pueblos, Hopi, and Zuni are culturally affiliated with these Ancestral Puebloan human remains and associated funerary objects. Based upon geographical, kinship, biological, anthropological, folklore, oral tradition, historical and expert opinion, it has also been determined that the present-day Navajo are culturally affiliated with these Ancestral Puebloan human remains and associated funerary objects. While archeological and oral tradition evidence exists for culturally affiliating the Pueblos, Hopi, and Zuni directly with the ancient inhabitants of Mesa Verde, the Navajos' cultural affiliation is affirmed through direct oral tradition ties to these Ancestral Puebloans, as well as their historically strong relationship with Puebloan peoples and culture.

Upon the examination of historical and geographical information, officials of the National Park Service have determined the Southern Ute Indian Tribe and the Ute Mountain Ute Indian Tribe share a historic and continuing cultural affiliation with Mesa Verde National Park lands. The Southern Ute Indian Tribe's status of cultural affiliation with the previously enumerated Ancestral Puebloan human remains and associated funerary objects continues to be evaluated by Mesa Verde National Park.

Based on the above information, officials of the National Park Service have determined that pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of at least 1,524 individuals of Native American ancestry. National Park Service officials have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 4,863 associated funerary objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Navajo Nation of Arizona, New Mexico, and Utah; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

This notice has been sent to officials of the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Navajo Nation of Arizona, New Mexico, and Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico, and Utah; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects, should contact Superintendent Larry Wiese, Mesa Verde National Park, PO Box 8, Mesa Verde, CO 81733; telephone: (970) 529-4605, before September 27, 1999. Repatriation of the human remains and associated funerary objects to the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Navajo Nation of Arizona, New Mexico, and Utah; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico may

begin after that date if no additional claimants come forward.

Dated: August 17, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 99–22260 Filed 8–26–99; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

Proposed Agency Information Collection; Comment Request

AGENCY: United States International Trade Commission.

ACTION: Notice of proposed information collection and request for comment.

EFFECTIVE DATE: August 23, 1999.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the U.S. International Trade Commission intends to seek approval from the Office of Management and Budget for extension of the currently approved DataWeb user registration forms (OMB No.: 3117–0190) in connection with the ITC DataWeb Public Access Project. The user registration forms are required to accurately analyze usage, data reports generated, and costs by user sectors and to save user product and country lists for user reference during future logins.

Comments concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d).

DATES: To be assured of consideration, written comments must be received on or before October 26, 1999.

ADDRESSES: Signed comments should be submitted to Donna R. Koehnke, Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and draft Supporting Statement to be submitted to the Office of Management and Budget will be posted on the Commission's World Wide Web site at http://www.usitc.gov or may be obtained from Peg MacKnight, Office of Operations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436 (telephone no. 202–205–3431). Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal, (telephone no. 202–205–1810).

Request for Comments

Comments are solicited as to (1) whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond (including through the use of appropriate automated, electronic, mechanical, or other forms of information technology, e.g., permitting electronic submission of responses).

Summary of the Proposed Information Collection

The forms are for use by the Commission in connection with the ITC DataWeb Public Access Project. The ITC DataWeb provides on-line, rapid and customized retrieval of U.S. trade and tariff data and has been an Internet tool primarily for government users. The interagency International Trade Data System (ITDS) board chairman has requested that the ITC DataWeb be made formally available to the public. The purpose of the public access project is to assess the additional costs of making this service formally available to the general public and to evaluate benefits. The user registration forms are required to accurately track usage, data reports generated, and costs by user sectors and to save user product and country lists for user reference during future logins. The forms would appear on the ITC DataWeb internet site (http://dataweb.usitc.gov) and would need to be filled out only once.

Summary of Proposal

(1) *Number of forms submitted:* Two.

(2) *Title of forms:* ITC Tariff and Trade DataWeb Public Access Project: ''Create New User Account Form'' and ''User Information Form.''

(3) *Type of request:* Extension.

(4) *Frequency of use:* Single data gathering.

(5) *Description of respondents:* Government and private sector users of the on-line ITC DataWeb.

(6) *Estimated number of respondents:* 2,000 annually.

(7) *Estimated total number of minutes to complete the forms:* 2.0 minutes.

(8) Information obtained from the forms that qualify as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the forms and supporting documents may be obtained from Peg MacKnight (E-mail pmacknight@usitc.gov or telephone 202–205–3431). Comments about the proposals should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Docket Librarian. All comments should be specific, indicating which part of the forms are objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

By order of the Commission.

Issued: August 23, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22342 Filed 8–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. AA1921–143, 731–TA–341, 731–TA–343–345, 731–TA–391–397, and 731–TA–399 (Review)]

Certain Bearings from China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom [1]

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty orders on certain bearings from China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom.

[1] The countries and investigation numbers for tapered roller bearings are as follows: China is 731–TA–344 (Review); Hungary is 731–TA–341 (Review); Japan is AA1921–143 (Review) for 4 inches and under and 731–TA–343 (Review) for over 4 inches; and Romania is 731–TA–345 (Review). The countries and investigation numbers for ball, cylindrical roller, and spherical plain bearings are as follows: France is 731–TA–392–A–C (Review); Germany is 731–TA–391–A–C (Review); and Japan is 731–TA–394–A–C (Review). The countries and investigation numbers for ball and cylindrical roller bearings are as follows: Italy is 731–TA–393–A–B (Review); Sweden is 731–TA–397–A–B (Review); and the United Kingdom is 731–TA–399–A–B (Review). The countries and investigation numbers for ball bearings are as follows: Romania is 731–TA–395 (Review) and Singapore is 731–TA–396 (Review).

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on certain bearings from China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 23, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202–205–3172), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1999, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (64 FR 38471, July 16, 1999). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Participation in the Reviews and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the reviews will be placed in the nonpublic record on January 11, 2000, and a public version will be issued thereafter, pursuant to § 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on February 1, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 24, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 27, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.65 of the Commission's rules; the deadline for filing is January 21, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 10, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before February 10, 2000. On March 14, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 16, 2000, but such final comments must not contain new factual information and must otherwise comply with § 207.68 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 24, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22344 Filed 8–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–420]

Certain Beer Products; Notice of Commission Decision Not To Review an Initial Determination Granting Summary Determination on the Domestic Industry Requirement of Section 337 of the Tariff Act of 1930

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has decided not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') granting a motion for summary determination on the domestic industry requirement of section 337 of the Tariff Act of 1930.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–3105. 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 27, 1999, based on a complaint filed by Anheuser-Busch of St. Louis, Missouri (''Anheuser''), alleging a violation of section 337 in the importation and sale of certain beer products by reason of infringement of U.S. Trademark Registration Nos. 922,481, 952,277, or 666,637. The complaint named two firms as respondents, Argen-Wine Imports, Ltd. (''Argen''), and Budejovicky Budvar, N.P. (''Budvar''). On July 26, 1999, the ALJ terminated Argen from the investigation on the basis of a consent order.

On July 26, 1999, Anheuser moved for a summary determination that the domestic industry requirement set forth in section 337(a)(2) and (3) is met in this investigation. On August 5, 1999, the Commission investigative attorney filed a response in support of the motion. Budvar filed no response to the motion. On August 6, 1999, the ALJ issued an ID (Order No. 8) granting the motion pursuant to 19 CFR 210.18(b), based on the finding that Anheuser had demonstrated by undisputed facts that it met the domestic industry requirements.

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 § 210.42 of the Commission's rules of practice and procedure (19 CFR 210.42). Copies of the ALJ's ID 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, SW, Washington, DC 20436, telephone 202–205–2000.

By order of the Commission.

Issued: August 23, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22343 Filed 8–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–384 (Final) and Investigations Nos. 731–TA–806 and 808 (Final)]

Certain Hot-Rolled Steel Products From Brazil and Russia

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, [2] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Brazil of certain hot-rolled steel products, provided for in headings 7208, 7210, 7211, 7212, 7225, and 7226 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Brazil. The Commission also determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of such imports from Brazil[2] and Russia [3] that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that critical circumstances do not exist with regard to such imports from Russia. [4]

[1] The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

[2] Commissioner Askey dissenting.

[3] Commissioner Askey determines that an industry in the United States is threatened with material injury.

[4] Chairman Bragg dissenting.

Background

The Commission instituted these investigations effective September 30, 1998, following receipt of petitions filed with the Commission and the Department of Commerce by Bethlehem Steel Corp., Bethlehem, PA; U.S. Steel Group, a unit of USX Corp., Pittsburgh, PA; Ispat Inland Steel, East Chicago, IN; LTV Steel Co., Inc., Cleveland, OH; National Steel Corp., Mishawaka, IN; California Steel Industries, Fontana, CA; Gallatin Steel Co., Ghent, KY; Geneva Steel, Vineyard, UT; Gulf States Steel, Inc., Gadsden, AL; IPSCO Steel, Inc., Muscatine, IA; Steel Dynamics, Butler, IN; Weirton Steel Corp., Weirton, WV; Independent Steelworkers Union, Weirton, WV; and the United Steelworkers of America, Pittsburgh, PA. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by the Department of Commerce that imports of certain hot-rolled steel products from Brazil were being subsidized by the Government of Brazil within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that imports from Brazil and Russia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)).

Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** of March 5, 1999 (64 FR 10722 and 10723). The hearing was held in Washington, DC, on May 4, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 23, 1999. The views of the Commission are contained in USITC Publication 3223 (August 1999), entitled Certain Hot-rolled Steel Products from Brazil and Russia: Investigations Nos. 701-TA–384 and 731-TA–806 and 808 (Final).

Issued: August 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22345 Filed 8–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–377 (Review)]

Internal Combustion Industrial Forklift Trucks From Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order on internal combustion industrial forklift trucks from Japan.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on internal combustion industrial forklift trucks from Japan would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 23, 1999.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1999, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (64 FR 38475, July 16, 1999). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Participation in the Review and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the review will be placed in the nonpublic record on January 4, 2000, and a public version will be issued thereafter, pursuant to § 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on January 25, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 18, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 21, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.65 of the Commission's rules; the deadline for filing is January 13, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 3, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before February 3, 2000. On February 25, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 29, 2000, but such final comments must not contain new factual information and must otherwise comply with § 207.68 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

Issued: August 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22346 Filed 8–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–846 through 850 (Preliminary)]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Czech Republic, Japan, Mexico, Romania, and South Africa

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Czech Republic, Japan, Romania, and South Africa of small diameter (less than or equal to 4.5 inches in outside diameter) seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipe (including redraw hollows), provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.30, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States (HTS), that are alleged to be sold in the United States at less than fair value (LTFV). The Commission also determines that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan and Mexico of large diameter (greater than 4.5 inches up to and including 16 inches in outside diameter) seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipe, provided for in subheadings 7304.10.10, 7304.10.50, 7304.39.00, and 7304.59.80 of the HTS, that are alleged to be sold in the United States at LTFV.

Commencement of Final Phase Investigations

Pursuant to § 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling that will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of these investigations need not enter a separate appearance for the final phase of the investigations. Industrial users and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On June 30, 1999, petitions were filed with the Commission and the Department of Commerce by Koppel Steel Corp., Beaver Falls, PA; Sharon Tube Co., Sharon, PA; U.S. Steel Group, Fairfield, AL; USS/Kobe Steel Co., Lorain, OH; and Vision Metals' Gulf States Tube Div., Rosenberg, TX; alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of small diameter seamless carbon and alloy steel standard, line, and pressure pipe from the Czech Republic, Japan, Romania, and South Africa; and by reason of LTFV imports of large diameter seamless carbon and alloy steel standard, line, and pressure pipe from Japan and Mexico. [2] Accordingly, effective June 30, 1999, the Commission instituted antidumping investigations Nos. 731–TA–846 through 850 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 8, 1999 (64 FR 36920). The conference was held in Washington, DC, on July 21, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on August 23, 1999. The views of the Commission are contained in USITC Publication 3221 (August 1999), entitled Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Czech Republic, Japan, Mexico, Romania, and South Africa: Investigations Nos. 731–TA–846 through 850 (Preliminary).

By order of the Commission.

Issued: August 23, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22341 Filed 8–26–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 20, 1999, B.I. Chemical, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methadone (9250)	II
Levo-alphacetylmethadol (LAAM) (9648).	II

The firm plans to bulk manufacture the listed controlled substances for formulation into finished pharmaceuticals.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 26, 1999.

[1] The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

[2] Koppel, Sharon, and Vision are not petitioners in the investigations regarding large diameter subject products.

Dated: August 17, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–22309 Filed 8–26–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances Notice of Registration

By Notice dated March 1, 1999, and published in the **Federal Register** on April 9, 1999, (64 FR 17416), Lipomed, Inc., One Broadway, Cambridge, Massachusetts 02142, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315).	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3, 4, 5–Trimethoxyamphetamine (7390).	I
4–Bromo–2, 5–dimethoxyamphetamine (7391).	I
4–Methyl–2, 5–dimethoxyamphetamine (7395).	I
2, 5–Dimethoxyamphetamine (7396).	I
2, 5–Dimethoxy–4–ethylamphetamine (7399).	I
3, 4–Methylenedioxyamphetamine (7400).	I
3, 4–Methylenedioxy–N–ethylamphetamine (7404).	I
3, 4–Methylenedioxymethamphetamine (7405).	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Tilidine (9750)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Methadone (9250)	II
Dextroproproxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Fentanyl (9801)	II

The firm plans to import small reference standard quantities of finished commercial product from its sister company in Switzerland for sale to its customers for drug testing and pharmaceutical research and development.

No comments or objections have been received. DEA has considered the factors of Title 21, United States Code, Section 823(a) and determined that the registration of Lipomed, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Lipomed, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 17, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administrator.

[FR Doc 99–22307 Filed 8–26–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 16, 1999, and published in the **Federal Register** on April 29, 1999, (64 FR 23114), Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I.
Amphetamine (1100)	II.
Methylphenidate (1724)	II.
Cocaine (9041)	II.
Codeine (9050)	II.
Diprenorphine (9058)	II.
Etorphine Hydrochloride (9059)	II.
Dihydrocodeine (9120)	II.
Oxycodone (9143)	II.
Hydromorphone (9150)	II.
Diphenoxylate (9170)	II.
Hydrocodone (9193)	II.
Levorphanol (9220)	II.
Meperidine (9230)	II.
Methadone (9250)	II.
Methadone-intermediate (9254)	II.
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II.
Morphine (9300)	II.
Thebaine (9333)	II.
Opium extracts (9610)	II.
Opium fluid extract (9620)	II.
Opium tincture (9630)	II.
Opium powdered (9639)	II.
Opium granulated (9640)	II.
Levo-alphacetylmethadol (9648)	II.
Oxymorphone (9652)	II.
Noroxymorphone (9668)	II.
Alfentanil (9637)	II.
Sufentanil (9740)	II.
Fentanyl (1980)	II.

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Mallinckrodt Chemicals, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Mallinckrodt Chemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 28, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–22308 Filed 8–26–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #179IR]

Controlled Substances: 1999 Aggregate Production Quotas

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Interim notice establishing revised 1999 aggregate production quotas and request for comments.

SUMMARY: This interim notice establishes revised 1999 aggregate production quotas for amphetamine, codeine (for conversion), hydrocodone (for sale), hydrocodone (for conversion), morphine (for conversion), oxycodone (for sale) and thebaine, all of which are Schedule II controlled substances in the Controlled Substances Act (CSA).

DATES: This is effective on August 27, 1999. Comments or objections must be received on or before September 27, 1999.

ADDRESSES: Send comments or objections to the Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537, Attn.: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

On December 23, 1998, the DEA published a notice of established initial 1999 aggregate production quotas for certain controlled substances in Schedules I and II (63 FR 71160). This notice stipulated that the Deputy Administrator of the DEA would adjust the quotas in early 1999 as provided for in Section 1303 of Title 21 of the Code of Federal Regulations.

In a recently published **Federal Register** Notice, the DEA has proposed revised aggregate production quotas for controlled substances in Schedules I and II, including amphetamine, codeine (for conversion), hydrocodone (for sale), hydrocodone (for conversion), morphine (for conversion), oxycodone (for sale) and thebaine. However, due to the unforeseen and dramatic increase in sales of amphetamine, oxycodone and hydrocodone, the quotas for these three substances and four of the controlled substances used in their manufacture must be increased immediately. Without this immediate increase, bulk manufacturers will not be able to produce the material needed by the dosage form manufacturers. This could, in turn, impact the supply of products to distributors and retail pharmacies. In order to avoid this situation, an interim notice is being published. This interim notice will establish revised 1999 aggregate production quotas for amphetamine, codeine (for conversion), hydrocodone (for conversion), morphine (for conversion), oxycodone (for sale) and thebaine effective immediately.

Therefore, under the authority vested in the Attorney General by Section 306 of the authority vested in the Attorney General by Section 306 of the CSA (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator, pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Deputy Administrator hereby establishes the following revised 1999 aggregate production quotas for the listed controlled substances, expressed in grams of anhydrous base:

Basic class	Revised 1999 quota
Amphetamine	9,007,000
Codeine (for conversion)	45,780,000
Hydrocodone (for sale)	20,208,000
Hydrocodone (for conversion)	12,100,000
Morphine (for conversion)	94,900,000
Oxycodone (for sale)	18,517,000
Thebaine	31,117,000

All interested persons are invited to submit their comments in writing regarding this interim notice.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. Aggregate production quotas apply to approximately 200 DEA registered bulk and dosage form manufacturers of Schedules I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Dated: August 19, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–22306 Filed 8–26–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Notice of Availability of the Draft Environmental Assessment for the Construction and Operation of a Contractor-Owned/Contractor-Operated Correctional Facility for 1,000 Inmates

AGENCY: Federal Bureau of Prisons, Department of Justice.

ACTION: Notice of availability of the draft environmental assessment.

SUMMARY:

Proposed Action

The U.S. Department of Justice, Federal Bureau of Prisons has determined that, in order to meet the National Capital Revitalization and Self Government Improvement Act of 1997, which requires that the Federal Bureau of Prisons house, in private contract facilities, at least 2,000 District of Columbia sentenced felony inmates by December 31, 1999, that additional contractor-owned bed-space is needed.

The Draft Environmental Assessment (EA) studies potential environmental impacts associated with the construction and operation of a contractor-owned/contractor-operated correctional facility to house approximately 1,000 inmates. The proposed action is based on a need to house felons, mostly from the Washington, DC, area, due to the impending closure of correctional facilities in Lorton, Virginia.

The Draft EA considers potential impacts to the natural and manmade environments including topography, geology and soils, cultural, aesthetic, hydrological and biological resources, land use, socio-economics, air quality, noise, transportation, and utility services, among other topics at each proposed site. The Draft EA will be the subject of a 30-day review period which begins August 17, 1999 and ends September 17, 1999. Comments concerning the Draft EA and the proposed action must be received during this time to be assured of consideration.

All written comments received during this review period will be taken into consideration by the Bureau. Copies of the Draft EA are available for public viewing at:

Holt Memorial Library, Moshannon Valley Partnership Corp. Building, 200 Shady Lane, Philipsburg, PA
Shaw Public Library, 1 South Front Street, Clearfield, PA
Terra Alta Public Library, 120 East Washington Ave., Terra Alta, WV
Anacostia Public Library, Good Hope Road and 18th Street, SE., Washington, DC

Alternatives: In developing the Draft EA, the options of ''no action'' and ''take action'' for the proposed facility have been fully and thoroughly examined.

Public Hearing Process: Representatives of the Bureau will also conduct a Public Hearing to which all interested persons are invited to attend. The Public Hearing is being held to provide for timely public comments on the Draft EA consistent with the goals of NEPA. The Public Hearing will be held at 7 P.M., September 9, 1999 at the Philipsburg Jr. High School, Philipsburg, PA. The meeting is being held to allow interested persons to formally offer comments and express their views concerning the proposed action and the Draft EA. The Bureau reserves the right to impose a time limit for those speakers in order to accommodate all persons interested in commenting on the Draft EA. Written comments concerning the Draft EA will also be accepted at the meeting.

ADDRESS: Questions concerning the proposed action and the Draft Environmental Assessment can be answered by: David J. Dorworth, Chief, Site Selection and Environmental Review Branch, Administration Division, Federal Bureau of Prisons, 320 First Street, N.W, Washington, DC 20534, Telephone: (202) 514–6470, Telefacsimile: (202) 616–6024, E-mail: siteselection@bop.gov

Dated: August 13, 1999.

David J. Dorworth,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 99–21868 Filed 8–26–99; 8:45 am]

BILLING CODE 4410–55–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; comment request

August 23, 1999.

The Department of Labor (DOL) has submitted the following information collection requests (ICRs) (see below) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills (202) 219–5096, ext. 143 or E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316, by September 27, 1999.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Process Safety Management of Highly Hazardous Chemical (29 CFR 1910.119).

OMB Number: 1218–0200.

Frequency: Varies (on occasion, annually).

Affected Public: Business or other for-profit; Not for-profit institutions; Federal Government, State, local or tribal.

Number of Respondents: 192,865.

Estimated Time Per Respondent: Varies from 5 minutes (0.08 hr.) To 146.5 hours.

Total Burden Hours: 73,111,180.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as 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). In this regard, the information collection requirements in the Process Safety Management of Highly Hazardous Chemicals Standards (29 CFR 1910.119) prevent or minimize the consequences of accidents involving highly hazardous chemicals.

Agency: Occupational Safety and Health Administration.

Title: Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120).

OMB Number: 1218–0202.

Frequency: Varies (on occasion, annually).

Affected Public: Business or other for-profit; Not for-profit institutions; Federal Government, State, local or tribal.

Number of Respondents: 38,363.

Estimated Time Per Respondent: Varies from 5 minutes (0.08 hr.) To 64 hours.

Total Burden Hours: 1,592,338.

Total Annualized capital/startup costs: $5,045,430.00.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The standard on Hazardous Waste and Emergency Response (HAZWOPER) (29 CFR 1910.120) regulates the safety and

health of employees engaged in hazardous waste site operations and emergency response to the release of hazardous substances from their containers. It was mandated by Congress under section 126 of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Worker populations covered by the rule include workers at Superfund clean-sites and similar operations, workers at EPA permitted disposal sites, and emergency response workers at those sites, firefighters, emergency medical service personnel, police, and others involved in hazardous substance emergency response. Employers can use the information collected under the rule to develop the various programs the standard requires and to ensure that their employees are trained properly about the safety and health hazards associated with hazardous waste operations and emergency response to hazardous waste releases. OSHA will use the records developed in response to this standard to ensure adequate compliance with the safety and health provisions. The employer's failure to collect and distribute the information required in this standard will affect significantly OSHA's effort to control and reduce injuries and fatalities. Such failure would also be contrary to the direction Congress provided in SARA.

Maureen Hill,

Acting Departmental Clearance Officer.

[FR Doc. 99–22338 Filed 8–26–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, the following General Wage Determinations:

MO990008 (See MO990045)
MO990047 (See MO990045)

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Virginia
VA990003 (Mar. 12, 1999)
VA990022 (Mar. 12, 1999)

Volume III

Georgia
GA990050 (Mar. 12, 1999)
GA990053 (Mar. 12, 1999)
GA990073 (Mar. 12, 1999)
Kentucky
KY990025 (Mar. 12, 1999)
KY990028 (Mar. 12, 1999)

Volume IV

Indiana
IN990010 (Mar. 12, 1999)
IN990039 (Mar. 12, 1999)
Michigan
MI990005 (Mar. 12, 1999)
MI990007 (Mar. 12, 1999)
MI990040 (Mar. 12, 1999)
MI990046 (Mar. 12, 1999)
MI990047 (Mar. 12, 1999)
MI990060 (Mar. 12, 1999)
MI990062 (Mar. 12, 1999)
MI990077 (Mar. 12, 1999)
MI990078 (Mar. 12, 1999)
MI990082 (Mar. 12, 1999)
MI990083 (Mar. 12, 1999)
MI990085 (Mar. 12, 1999)

MI990087 (Mar. 12, 1999)
Ohio
OH990001 (Mar. 12, 1999)
OH990002 (Mar. 12, 1999)
OH990012 (Mar. 12, 1999)
OH990026 (Mar. 12, 1999)
OH990028 (Mar. 12, 1999)
OH990029 (Mar. 12, 1999)
Wisconsin
WI990015 (Mar. 12, 1999)
WI990027 (Mar. 12, 1999)

Volume V

Louisiana
LA990001 (Mar. 12, 1999)
LA990004 (Mar. 12, 1999)
LA990005 (Mar. 12, 1999)
LA990009 (Mar. 12, 1999)
LA990014 (Mar. 12, 1999)
LA990018 (Mar. 12, 1999)
LA990055 (Mar. 12, 1999)
Missouri
MO990017 (Mar. 12, 1999)
MO990018 (Mar. 12, 1999)
MO990045 (Mar. 12, 1999)
MO990060 (Mar. 12, 1999)
Nebraska
NE990011 (Mar. 12, 1999)
NE 990038 (Mar. 12, 1999)

Volume VI

Alaska
AK990001 (Mar. 12, 1999)

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 20th day of August 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–22023 Filed 8–26–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed collection; comment request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before October 26, 1999. The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Karin G. Kurz, BLS Clearance Officer. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Proposed Collection

The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed new collection of the ''Job Openings and Labor Turnover Survey (JOLTS).'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed in the **ADDRESSES** section of this notice.

II. Background

The JOLTS will provide data on job vacancies, labor hires, and labor separations. The data can be used as demand-side indicators of labor shortages. These indicators of labor shortages at the national level would greatly enhance policy makers' understanding of imbalances between the demand and supply of labor. Presently there is no economic indicator of the demand for labor with which to assess the presence of labor shortages in the U.S. labor market. The availability of unfilled jobs (the number of job vacancies or the vacancy rate) is an important measure of tightness of job markets, parallel to existing measures of unemployment.

JOLTS statistics will reveal structural labor market conditions, such as the effectiveness of job matching and training processes, implications of unemployment insurance and welfare, and deficient demand for labor.

JOLTS statistics can be used for the following purposes:

- As an indicator of business cycles and their causes and consequences;
- As a basic economic indicator of growth, productivity and welfare;
- As a tool for considering the implications of unemployment policy, labor market policy; and
- As an indicator of inflation and wage growth.

The ratio of the unemployment rate to the vacancy rate can be a very powerful indicator and reveal important information about how to effectively manage unemployment. As recently as 1998, Robert M. Solow in *Proceedings of the British Academy* noted that, ''. . . national unemployment counts exist almost everywhere, whereas vacancy statistics are quite rare.''

III. Current Actions

The information will be collected once a month using Computer Assisted Telephone Interviewing (CATI) and Touch-tone Data Entry (TDE). An establishment will be included in the sample for 18 consecutive months.

During the first six months of data collection, the interviewer will call the respondent and conduct the interviews over the telephone using CATI. During these interviews, the interviewer will prepare the respondent for transition to TDE. The data for the establishment's final twelve months in the sample will be collected via TDE.

The following data elements will be collected:

Total Employment;
Total Number of Job Openings;
Total Hires;
Quits;
Layoffs and Discharges; and
Other Separations.

The reference period for the data are the pay period including the 12th of the month for Total Employment, the last business day of the month for Job Openings, and the entire month for Hires and Separations.

The information will be published monthly by combined North American Industry Classification System sector, at the National level and total non-agriculture level, by Census region. The data will be made public via press release and on the BLS Web site.

Type of Review: New collection.

Agency: The Bureau of Labor Statistics.

Title: Job Openings and Labor Turnover Survey.

OMB Number: BLS–1411.

Affected Public: Federal Government; State or local governments; Businesses or other for-profit; Not-for-profit institutions; Small businesses or organizations.

Total Respondents:: 16,000.

Frequency: Monthly.

Total Responses: 111,440 (annual average).

Average Time Per Response: 6 minutes.

Estimated Total Burden Hours: 11,144 (annual average).

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): 0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they also will become a matter of public record.

Signed at Washington, DC, this 23rd day of August 1999.

Karen A. Krein,

Acting Chief, Division of Management Systems, Bureau of Labor Statistic.

[FR Doc. 99–22336 Filed 8–26–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before October 26, 1999. The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Karin G. Kurz, BLS Clearance Officer. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Proposed Collection

The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed new collection of the 2000 School Survey component of the National Longitudinal Survey of Youth 1997 (NLSY97). A copy of the proposed information collection request (ICR) can be obtained by contracting the individual listed in the Addresses section of this notice.

II. Background

Part of the mission of the Department of Labor (DOL) is to promote the development of the U.S. labor force and the efficiency of the U.S. labor market. The BLS contributes to this mission by gathering information about the labor force and labor market, and disseminating it to policy makers and the public so that participants in those markets can make more informed and, thus, more efficient choices.

The 2000 School Survey represents the second wave of data collection from the schools attended by and located within the primary sampling units (PSUs) of the youths surveyed in the NYSY97. (The first wave of the NLSY97 was cleared under OMB number 1220–0157.) The DOL has been interviewing these youths on a yearly basis to study how young people make the transition from full-time schooling to the establishment of their families and careers. the longitudinal focus of the NLSY97 requires collection of information about the same individuals over many years in order to trace their education, training, work experience, family formation, income, and program participation in programs such as apprenticeships, co-ops, internships, and so forth. Recognizing the crucial role of schools and training the next generation of our labor force, the BLS will administer a school survey to measure the characteristics of the schools the youths attend so that these characteristics can be related to the cognitive development of the respondents in the NLSY97.

III. Current Actions

The 2000 School Survey will provide important contextual data for better understanding the antecedents of youth's critical employment decisions and the employment paths, entrances, and exits that they take over their life

course. In addition to providing data relating to the student, the study also will provide school-level data that can be used, for example, to estimate changes in the incidence and profiles of school-to-work programs in the panel of schools.

The major purposes of this data collection are to determine the strengths and weaknesses of the process for guiding the nation's youths from school-to-work. The study will relate the characteristics of these youths' educational experiences to their success in finding a job and establishing a career. Accordingly, these data will help researchers and policy makers identify the antecedents and causes for youths experiencing difficulties in making the school-to-work transition. By comparing these data to comparable data from previous and future cohorts, researchers and policy makers will be able to identify and understand more about the dynamics of the labor market and whether and how the school experiences of this cohort differ from those of other cohorts.

The National School-to-Work Office, a joint office of the Department of Labor and the Department of Education, will use these data to assess the extent to which schools provide activities to prepare young people for work. Combined with information collected from the teenagers attending these institutions, BLS staff, researchers, and federal and state policy makers will use the data from this survey to address the roles of schools, families, individuals, peers, neighborhoods, and work in influencing today's youth as they move from school-to-work and, more generally, from adolescence to adulthood. The School-to-Work Office used data from the first wave to document the proportion of schools with school-to-work programs and the characteristics of those schools.

This request covers the 2000 NLSY97 School Survey data collection. The BLS believes that collecting high school-level information once every four years provides a sufficiently clear picture of the changes that occur in schools—such as advancement in technology, transformations in the size and characteristics of student populations, elimination of programs, and the evolution of funding mechanisms, without overburdening the school administrators who respond to the survey. Although a significant change can occur in any year for a school, most changes occur or evolve slowly. The questionnaire will capture these off-year changes by including retrospective questions about when programs began.

The four-year frequency further ensures that the changing high school experiences of students who move from one high school to another (approximately 8 percent) because of family relocation, changes in school boundaries, openings and closings of schools, family choices about educational opportunities, or other reasons, are captured.

If these data are not collected, the ability of researchers and policy makers to assess the school-to-work transition for the nation's youth will be severely compromised. Likewise, researchers and policy makers will be unable to assess the impact of schooling and other environmental factors on the quality of the newest entrants to the labor force and how those qualitative aspects relate to education, training, work experience, family formation, income, and program participation.

Type of Review: New.

Agency: The Bureau of Labor Statistics.

Title: 2000 School Survey component of the National Longitudinal Survey of Youth 1997 (NLSY97).

OMB Number: 1220—New.

Affected Public: Not-for-profit institutions (secondary schools).

Total Respondents: 7,981.

Frequency: Every 4 years.

Total Responses: 7,981.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 3,991 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maitenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 24th day of August 1999.

Karen A. Krein,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–22337 Filed 8–26–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–20]

Telecommunications, Training Certification; 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 increase in, and extension of, the information collection requirements (training certification records) contained in the Telecommunications Standard, 29 CFR 1910.268(c).

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 26, 1999.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–99–20, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, 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, 2000 Constitution Avenue, NW, 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 1910.268(c) (training 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 as 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.) Section 1910.268 requires that employees be trained in hazards associated with their work. Paragraph (c) of 1910.268 requires that employers generate a record to certify the training was done. The record includes the name of the employee trained, the date the employee was trained and the signature of the employer or person who conducted the training.

II. Proposed Actions

OSHA proposes to increase its earlier estimate of 17,118 burden hours for the information collection requirements in 29 CFR 1910.268(c) (training certification records) to 61,983 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 requirement contained in the above provision.

Type of Review: Extension of currently approved information collection requirement.

Agency: Occupational Safety and Health Administration.

Title: Telecommunications, Training Certification (29 CFR 1910.268(c)).

OMB Number: 1218–0225.

Affected Public: Business or other for-profit; Federal Government; State, local or tribal government.

Number of Respondents: 1,175,149.

Frequency: On occasion.

Average Time Per Response: Varies from 3 minutes (0.05 hour) to 5 minutes (0.08 hour).

Estimated Total Burden Hours: 61,963.

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 23 day of August 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–22335 Filed 8–26–99; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–105]

NASA Advisory Council (NAC), Aero-Space Technology Advisory Committee (ASTAC); Information Technology Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aero-Space Technology Advisory Committee, Information Technology Subcommittee meeting.

DATES: Tuesday, September 21, 1999, 8:30 a.m. to 5:00 p.m. and Wednesday, September 22, 1999, 8:30 a.m. to 12:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building 258, Room 221, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene L. Tu, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/604–4486.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Information Technology Overview
—Advanced Computing, Networking and Storage Overview
—Integrated Application and Information Systems
—Universal Distributed Services
—Distributed High Performance Resources
—Deployment and Operations
—Discussions

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: August 22, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–22357 Filed 8–26–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice [99–106]

NASA Advisory Council (NAC), Aero-Space Technology Advisory Committee (ASTAC); Aviation Operations Systems Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aero-Space Technology Advisory Committee, Aviation Operations Systems Subcommittee meeting.

DATES: Wednesday, September 29, 1999, 8:00 a.m. to 4:30 p.m. and Thursday, September 30, 1999, 8:00 a.m. to 3:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Glenn Research Center, Building 3, Room 215, Cleveland, OH 44135–3191.

FOR FURTHER INFORMATION CONTACT: Dr. J. Victor Lebacqz, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650–604–5792.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aviation Operations Systems Program Review
—Aviation Icing Element
—Aviation Weather Information Element
—Human/Automation Integration Research Element
—Maintenance Operations and Training Element
—Psychological/Physiological Stressors and Factors Element
—Methods for Analysis of System Stability and Safety Element

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: August 22, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–22358 Filed 8–26–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; President's Committee on the Arts and the Humanities: Meeting XLVI

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Committee on the Arts and the Humanities will be held on September 24, 1999 from 9:00 a.m. to approximately 12:30 p.m. The meeting will be held in the Faculty Club, D'Agostino Hall, New York University Law School, 108 West 3rd Street (at Macdougal), New York, NY.

The Committee meeting will begin at 9:00 a.m. with opening remarks by Dr. John Brademas. This will be followed by the Executive Director's remarks from Harriet Mayor Fulbright. This will be followed by a National Cultural Policy Discussion with Marion Godfrey of the Pew Charitable Trust and James Smith of the Center for Arts and Culture. The Committee will hear presentations from Scott Shanklin-Peterson, Senior Deputy Chairman of the National Endowments for the Arts and George Farr, Acting Deputy Chairman of the National Endowment for the Humanities, Task Force Reports, and a National Cultural Policy and Support Update by Robert Lynch, President and CEO of Americans for the Arts.

The President's Committee on the Arts and the Humanities was created by Exexcutive Order in 1982 to advise the President, the two Endowments, and the Institute of Museum and Library Services on measures to encourage private sector support for the nation's cultural institutions and to promote public understanding of the arts and the humanities.

If, in the course of discussion, it becomes necessary for the Committee to discuss non-public commercial or financial information of intrinsic value, the Committee will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b.

Any interested person may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend must contact Shawn Wray of the President's Committee in advance at (202) 682–5409 or write to the Committee at 1100 Pennsylvania Avenue, NW, Suite 526, Washington, DC 20506. Further information with reference to this meeting can also be obtained from Mr Wray.

If you need special accommodations due to a disability, please contact Mr. Wray through the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Dated: August 23, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–22288 Filed 8–26–99; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Special Projects Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Special Projects Advisory Panel (Research Section), to the National Council on the Arts will be held on September 10, 1999. The committee will meet from 10:00 a.m. to 4:00 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, to assist in developing parameters for a national study of jazz artists in four cities.

This meeting will be open to the public on a space available basis. Any person may observe meetings, or portions thereof, of advisory panel which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. Tom Bradshaw, Office of Policy Research and Analysis, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5527.

Dated: August 19, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–22287 Filed 8–26–99; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Meeting on Draft Reg Guide 1053

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The Nuclear Regulatory Commission staff with its contractors will meet to discuss Draft Regulatory Guide DRG–1053, ''Calculational and Dosimetry Methods for Determining Pressure Vessel Neutron Fluence'' including an update of activities since the last public meeting in September 1996, benchmark calculations done to accompanying the DRG, and issues arising from public interest.

DATES: Tuesday, September 28, 1999 from 9:30 a.m. to 3:30 p.m.

ADDRESSES: Nuclear Regulatory Commission Headquarters, 11545 Rockville Pike (Two White Flint North), T 2 B 3 (ACRS Conference Room), Rockville Pike, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: William R. Jones, Materials Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, D.C. 20555–0001. Telephone 301–415–7558. E–Mail: wrj@nrc.gov.

Dated at Rockville, Maryland, this 23rd day of August, 1999.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Chief, Materials Engineering Branch.

[FR Doc. 99–22334 Filed 8–26–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23959, 812–11724]

Clarion CMBS Capital Value Fund and Clarion Capital, LLC; Notice of Application

August 20, 1999.

ACTION: Notice of an application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

Summary of Application: Applicants seek an order to permit in-kind redemptions of shares of Clarion CMBS Value Fund, Inc. (the ''Fund'') held by certain affiliated shareholders.

Applicants: The Fund and Clarion Capital, LLC (the ''Adviser'').

Filing Dates: The application was filed on August 6, 1999.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 14, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer'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 Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Shearman & Sterling 599, Lexington Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: George J. Zornada, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Fund is registered under the Act as an open-end management investment company and organized as a Maryland corporation. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940, and serves as investment adviser to the Fund.

2. Applicants request relief to permit the Fund, to satisfy redemption requests made by any shareholder who, at the time of such redemption request, is an affiliated person of the Fund solely by reason of owning, controlling, or holding with the power to vote, five percent or more of the Fund's shares (''Covered Shareholder'') by distributing portfolio securities in-kind. The relief sought would not extend to shareholders who are ''affiliated persons'' of the Fund within the meaning of sections 2(a)(3)(B) through (F) of the Act.

3. The Fund's prospectus provides that, generally, the Fund may satisfy all or part of a redemption request by a distribution in-kind of portfolio securities.[1] The board of directors of the Fund (the ''Board''), including a majority of the directors who are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Non-Interested Directors''), have determined that it would be in the best interests of the Fund and its shareholders to pay to a Covered Shareholder the redemption price for shares of the Fund in-kind.

Applicants' Legal Analysis

1. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from knowingly purchasing any security or other property (except securities of which the seller is the issuer) from the registered investment company. Section 2(a)(3)(A) of the Act defines ''affiliated person'' of another person to include any person owning 5% or more of the outstanding voting securities of the other person. Applicants state that to the extent that an in-kind redemption could be deemed to involve the purchase of portfolio securities (of which the Fund is not the issuer) by a Covered Shareholder, the proposed redemption in-kind would be prohibited by section 17(a)(2).

2. Section 17(b) of the Act provides that, notwithstanding section 17(a) of the Act, the Commission shall exempt a proposed transaction from section 17(a) of the Act if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching: (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act, to the extent that such 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 Act.

4. Applicants request an order under sections 6(c) and 17(b) of the Act exempting them from section 17(a) of the Act to permit Covered Shareholders to redeem their shares of the Fund in-kind. The requested order would not apply to redemptions by shareholders who are affiliated persons of the Fund within the meaning of sections 2(a)(3)(B) through (F) of the Act.

5. Applicants submit that the terms of the proposed in-kind redemptions by Covered Shareholders meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicants assert that neither the Fund nor the Covered Shareholders will have any choice as to the type of consideration to be received in connection with a redemption request, and neither the Adviser nor the Covered Shareholder will have an opportunity to select the specific portfolio securities to be distributed. Applicants further state that the portfolio securities to be distributed will be valued according to an objective, verifiable standard and that the in-kind redemptions are consistent with the investment policies of the Fund. Applicants also state that the proposed in-kind redemptions are consistent with the general purposes of the Act because the Covered Shareholders would not receive any advantage not available to other redeeming shareholders.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. The securities distributed to both Covered Shareholders and non-affiliated shareholders pursuant to a redemption in-kind (the ''In-Kind Securities'') will be limited to securities that are traded on a public securities market or for which quoted bid prices are available.

2. The In-Kind Securities will be distributed by the Fund on a pro rata basis after excluding: (a) securities which could not be publicly offered or sold in the United States without being registered under the Securities Act of 1933; (b) certain portfolio positions (such as futures and options contracts and repurchase agreements) that, although they may be liquid and

[1] The Fund has elected to be governed by rule 18f–1 under the Act.

marketable, involve the assumption of contractual obligations, require special trading facilities or can only be traded with an institutional counterparty to the transaction; (c) cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements); (d) other assists which are not readily distributable (including receivables and prepaid expenses); and (e) portfolio securities representing fractional shares or units, odd lot securities and accruals on such securities. Cash will be paid for the portion of the in-kind distribution represented by assets set forth in (a)–(e) less liabilities (including accounts payable).

3.The In-Kind Securities distributed to the Covered Shareholders and non-affiliated shareholders will be valued in the same manner as they would be valued for purposes of computing each Fund's net asset value.

4. The Fund's Board, including a majority of the Non-Interested Directors, will determine no less frequently than annually: (a) whether the In-Kind Securities, if any, have been distributed in accordance with conditions 1 and 2; (b) whether the In-Kind Securities, if any, have been valued in accordance with condition 3; and (c) whether the distribution of any such In-Kind Securities is consistent with the policies of the Fund as reflected in its prospectus. In addition, the Board will make and approve such changes in the procedures as it deems necessary for monitoring the Fund's compliance with the terms and conditions of this Application.

5. The Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which a proposed in-kind redemption by a Covered Shareholder occurs, the first two years in an easily accessible place, a written record of each such redemption setting forth the identity of the Covered Shareholder, a description of each security distributed in-kind, the terms of the in-kind distribution, and the information or materials upon which the valuation was made.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–22263 Filed 8–26–99; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Temporary Extension of Certain Provisions of the Special Textile and Apparel Regime Implemented Under the North American Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Proclamation 7125 provides duty-free treatment for suit-type jackets imported from Mexico containing interlining fabric that was cut but not formed in the United States, and it authorizes the United States Trade Representative (''USTR'') to extend this treatment for one additional year after fulfilling certain requirements. Effective upon publication of this notice, and pursuant to authority delegated by the President, the United States Trade Representative hereby extends the duty-free treatment provided for in Proclamation 7125 for one additional year.

FOR FURTHER INFORMATION CONTACT: Caroyl Miller, Deputy Chief Textile Negotiator, Office of USTR, 600 17th Street, NW, Washington, DC 20508, (202) 395–3026.

SUPPLEMENTARY INFORMATION: Pursuant to authority granted under section 201(b)(1)(A) of the NAFTA Implementation Act (19 U.S.C. 3331(b)(1)(A)), on September 18, 1998, the President issued Proclamation 7125, which provides duty-free treatment for suit-type jackets imported from Mexico containing interlining fabric that was cut but not formed in the United States (63 FR 50737). In addition, the President delegated to USTR authority to extend such duty-free treatment for one additional year after obtaining advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155).

In view of the fact that U.S.-formed interlinings currently are not available for all of the suit-type jackets subject to Proclamation 7125, USTR and the Committee for the Implementation of Textile Agreements requested advice from the Industry Sector Advisory Committees for Textiles and Apparel and for Wholesaling and Retailing (ISACs 15 and 17) on a proposal to extend the duty-free treatment provided for in Proclamation 7125 for one additional year. By letter dated August 11 and August 16, 1999, respectively, ISACs 17 and 15 responded with approval to this proposal.

Accordingly, pursuant to authority delegated by the President, USTR hereby extends for one additional year the duty-free tariff treatment proclaimed in Proclamation 7125. This action is effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:00 a.m. EDT September 1, 1999, and will expire at 11:59 p.m. EDT on August 31, 2000.

C. Donald Johnson,

Ambassador, Chief Textile Negotiator.

[FR Doc. 99–22279 Filed 8–26–99; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–29]

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.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before September 5, 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, DC 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, DC 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, DC on August 24, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29706.

Petitioner: American Airlines, Inc.

Section of the FAR Affected: 14 CFR 121 Appendix I section V paragraph (a)(1).

Description of Relief Sought: To allow employees performing safety sensitive functions for Reno Airlines, Inc., to perform similar functions for American Airlines without being subject to a pre-employment drug test.

[FR Doc. 99–22298 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Nashville International Airport, Nashville, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Nashville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments Must Be Received on or Before September 27, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 3385 Airways Blvd., Suite 302, Memphis, TN 38116–3841,

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to General William G. Moore, President of the Metropolitan Nashville Airport Authority at the following address: One Terminal Drive, Suite 501, Nashville, TN 37214–4114.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Metropolitan Nashville Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Program Manager, Memphis Airports District Office, 3385 Airways Blvd., Suite 302, Memphis, TN 38116–3841, (901) 544–3495 Ext. 16. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Nashville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 18, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by Metropolitan Nashville Airport Association was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 30, 1999.

The following is a brief overview of the application.

PFC Application No.: 99–06–C–00–BNA

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 2001.

Proposed charge expiration date: October 30, 2001.

Total estimated PFC revenue: $2,660,000.

Brief description of proposed project(s):

Surface Movement Guidance and Control Systems (SMCGS)
Airport Operations Center Relocation
Airfield Lighting Control Panel
Runway Deicer Truck

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Metropolitan Nashville Airport Authority.

Issued in Memphis, Tennessee, on August 18, 1999.

LaVerne F. Reid,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 99–22291 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Tri-Cities Regional Airport, Blountville, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tri-Cities Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 27, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airport District Office, 3385 Airways Blvd, Suite 302, Memphis, Tennessee 38116–3841.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to John E. Hanlin, Executive Director of the Tri-Cities Airport Commission at the following address: P.O. Box 1055, Blountville, Tennessee 37617.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Tri-Cities Airport Commission under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Cager Swauncy, Jr., Program Manager, Memphis, Tennessee 38116–3841, Telephone (901) 544–3495. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose

and use the revenue from a PFC at Tri-Cities Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 19, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by Tri-Cities Airport Commission was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 3, 1999.

The following is a brief overview of the application.

PFC Application No: 99–02–C–00–TRI.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 2005.

Proposed charge expiration date: August 1, 2013.

Total estimated PFC revenue: $5,829,873.

Brief description of proposed project(s): Extend Runway 5 Safety Area and Terminal Concourse Expansion.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Tri-Cities Airport Commission.

Issued in Memphis, Tennessee on August 19, 1999.

LaVerne F. Reid,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 99–22292 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Assistance Program for Historically Black Colleges and Universities (HBCUs) and Other Minority Institutions of Higher Education (MIHE)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of restricted eligibility for a competitive assistance program.

SUMMARY: The FHWA is considering the establishment of a competitive assistance program which will be limited to HBCUs and MIHE. Under the assistance program envisioned, these schools and universities would be competing amongst themselves for grants and cooperative agreements that are relevant to one or more of the FHWA's five strategic goals. This notice seeks Expressions of Interest from HBCUs and other MIHE that would like to participate in such a program.

DATES: Expressions of Interest must be received on or before November 10, 1999.

ADDRESSES: Your Expressions of Interest may be mailed or hand-carried to the Federal Highway Administration, Office of Acquisition Management, 400 7th Street, SW., Room 4410, Washington, DC 20590–0001, Mail Stop HAAM–20, or submitted electronically to: Debbie.Ridgely@fhwa.dot.gov in WordPerfect 6.1 or higher.

FOR FURTHER INFORMATION CONTACT: Debbie Ridgely, Office of Acquisition Management, HAAM–10, (202)–366–4233, or Mr. Wilbert Baccus, Office of the Chief Counsel, HCC–32, (202) 366–1396, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 am to 4:15 pm, e.t., Monday through Friday except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the **Federal Register**'s home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Internet users may access the FHWA Strategic Plan by going to: *http://www.fhwa.dot.gov* (select Major Program Areas, then FHWA Strategic Plan). Users may also review major program areas of the FHWA from this home page.

Internet users may also access the pertinent Executive Orders for HBCUs and MIHE at *www.whitehouse.gov* (select Virtual Library, then Executive Orders).

Background

The National Task Force on Historically Black Colleges and Universities (HBCUs) and other Minority Institutions of Higher Education (MIHE) was formed to make recommendations to the Administrator which would facilitate, enhance and increase the participation of these schools in all phases of the FHWA Federal and Federal-aid programs with a special emphasis on research and technology programs. The Task Force made numerous recommendations to the Acting Federal Highway Administrator in December 1997. As a result of those recommendations, the Office of Acquisition Management has proposed the establishment of the assistance program as a viable method of matching the capabilities of the HBCUs and MIHE, with the needs of the FHWA. The purpose of this program is to foster the HBCUs/MIHE* research and development activities which contribute substantially to the FHWA's mission and to prepare the faculty and students at HBCUs/MIHE to successfully participate in the competitive research arena.

*A HBCUs is defined in 34 CFR 608.2 as an accredited college or university, established prior to 1964, whose principle mission was and is, the education of African-Americans.

An Indian Serving Institution, which includes Tribal Colleges, as well as, Bureau of Indian Affairs affiliated institutions must have a student body of at least 51% American Indian to acquire and maintain Tribal College status.

A Hispanic Serving Institution, as defined by the Hispanic Association of Colleges and Universities (HACU), must have at least a 25% Hispanic student body. This entitles the school to a full membership in HACU. The HACU accepts associate memberships from institutions with a smaller percentage, of not less than 10% Hispanic students.

Under the program envisioned by the FHWA, all assistance program awards would be required to be relevant to one or more of the FHWA's five strategic goals of mobility, safety, productivity, human and natural environment, and national security. The *mobility* goal concerns the continual improvement of the public's access to activities, goods, and services through the preservation, improvement, and expansion of the highway transportation system and enhancement of its operations, efficiency, and intermodal connections. The *safety* goal concerns continual improvement of highway safety by reducing the number of fatalities and injuries. The *productivity* goal concerns the continual improvement of the economic efficiency of the Nation's transportation system to enhance America's position in the global economy. The *human and natural environment* goal concerns the protection and enhancement of the natural environment and communities affected by highway transportation. The

national security goal seeks the improvement of the capacity and operation of the highway system to support defense mobilization.

The assistance program envisioned would be an annual program under which awards would be made on a competitive basis, predicated on merit review, typically for a period of three years. Funding beyond the first year would be based on an annual evaluation of documented progress, availability of funds, and the amount of funds reported as unexpended by the awardee at the end of each year's period of performance. A preliminary estimate of total award amounts would be approximately $100,000 on an annual basis.

The HBCUs and the MIHE that are interested in participating in such an assistance program are invited to submit an ''Expression of Interest.'' Your submission should include:

1. Full name and address of school/university, point of contact, phone number, fax number and E-Mail address,
2. Specific FHWA goal(s) that your institution would be interested in participating under and your actual recent (past three years) experience in the area,
3. A list of your institution's current curriculum/majors as they relate to the FHWA strategic goals,
4. Any laboratories/research facilities that you currently have access to, and
5. Any specific future plans you have for expanding your curriculum and or research facilities.

Provided that a sufficient number of relevant ''Expressions of Interest'' are received in response to this notice, the FHWA would issue a program-based solicitation calling for submission of applications. The application process would be open to all HBCUs and MIHE and is not dependent upon submitting an initial ''Expression of Interest.'' Applications would be assessed according to specific criteria that relate to the goals of the FHWA's National Strategic Plan and would be awarded to a limited number of applicants according to the merit of the application and the availability of funds in each fiscal year. The target date for initial awards would be FY 2000.

Authority: 23 U.S.C. 307 and 403; E.O. No. 12876, 58 FR 58735, 3 CFR, 1994 Comp., p. 671; E.O. No. 13021, 61 FR 54929, 3 CFR, 1997 Comp., p. 221; 49 CFR 1.48.

Issued on August 18, 1999.

Gloria J. Jeff,

Federal Highway Deputy Administrator.

[FR Doc. 99–22289 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Directional Drilling and Other Trenchless Technology Operations Conducted in Proximity to Underground Pipeline Facilities

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: RSPA is issuing this advisory bulletin to owners and operators operators of natural gas and hazardous liquid pipeline systems to advise them to review, and amend if necessary, their written damage prevention program to minimize the risks associated with directional drilling and other trenchless technology operations near buried pipelines. This action follows several pipeline incidents involving trenchless technology operations which resulted in loss of life, injuries, and significant property damage. It also corresponds to National Transportation Safety Board (NTSB) Safety Recommendation P–99–1, which suggests that RSPA

> * * * ensure that the operators' damage prevention programs include actions to protect their facilities when directional drilling operations are conducted in proximity to those facilities.

This advisory bulletin emphasizes the importance of having procedures to mitigate the risks of directional drilling and other trenchless technology.

ADDRESSES: This document can be viewed at the Office of Pipeline Safety (OPS) home page at: http://ops.dot.gov.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366-0918, or by email at eben.wyman@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

RSPA revised its inspection form for hazardous liquid pipelines to examine how operators monitor directional drilling and other trenchless technology operations in the vicinity of underground pipelines. The pipeline safety regulations require pipeline operators to carry out a written damage prevention program for buried pipelines. The revised inspection form considers whether a pipeline operator's damage prevention program includes actions to protect their facilities when directional drilling operations are conducted in proximity to the pipeline. RSPA will make similar changes to the natural gas pipeline inspection form in its next revision. In light of recent accidents involving trenchless technology operations, RSPA is encouraging operators to carefully review their damage prevention program and make modifications as appropriate. RSPA also notes the importance of accurately locating underground piping and ensuring the qualifications of personnel performing this work.

Additionally, NTSB Safety Recommendation P–99–1 (April 28, 1999) directs that RSPA

> [w]hen reviewing pipeline operator safety programs, ensure that the operators' damage prevention programs include actions to protect their facilities when directional drilling operations are conducted in proximity to those facilities.

This recommendation reflects NTSB's investigation into the rupture of a natural gas pipeline near Indianapolis, Indiana. The ignition of the escaping gas caused a fatality and an injury. NTSB determined that the probable cause was the failure of the pipeline operator to ensure that safe directional drilling operations were conducted in proximity to underground facilities.

RSPA believes that this Advisory Bulletin will encourage operators to recognize the dangers associated with directional drilling and other trenchless technology operations and to take appropriate action to ensure that underground facilities are adequately located and protected when these activities take place near pipelinethese facilities.

II. Advisory Bulletin (ADB–99–04)

To: Owners and Operators of Hazardous Liquid and Natural Gas Pipelines

Subject: Directional Drilling and Other Trenchless Technology Operations Conducted in Proximity to Underground Pipeline Facilities.

Purpose: To ensure that pipeline operators take actions to recognize the dangers associated with directional drilling and other trenchless technology operations, and to ensure that underground pipeline facilities are adequately located and protected from inadvertent damage.

Advisory: RSPA urges all owners and operators of gas and hazardous liquid pipelines to review their operations, maintenance, and damage prevention programs to include effective actions to protect their underground facilities from the dangers posed by directional drilling and other trenchless technology operations. Operators should take actions to ensure that both company and contractor personnel are following safe practices.

Trenchless technologies, including directional drilling, are effective

excavating practices that can reduce the threat of third-party damage to gas and hazardous liquid pipelines. They can also mitigate environmental and other concerns associated with traditional trenching methods of pipe and cable installation.

However, the potential exists for trenchless technology operations to damage underground facilities, sometimes with catastrophic results. Directional drilling and other trenchless technology operations employ a variety of cutting, jetting, boring, reaming, and jacking techniques. These techniques can result in rupture or damage to existing underground facilities, including oil and gas pipelines, electric cables and ducts, water and sewer pipes, telecommunications ducts, fiber optic cables, and cable television facilities.

Usually, the exact depth of existing underground facilities is not known, even if the facilities are accurately located before directional drilling commences. In addition, many facilities are buried deeper than the minimums required by law and regulation. This can be caused by changes in the surface contours due to agricultural activities, landscaping, and road building.

Damage to underground facilities can occur without any immediate indication to the operator. Sometimes a damaged underground facility will not fail for years after the completion of trenchless technology operations. Drilling equipment does not need to fully rupture a facility to create a hazardous situation. Damage to coatings and other corrosion prevention systems can increase the risk of a delayed corrosion failure. Escaping and migrating gas can create a safety issue for people living and working near these facilities long after the completion of directional drilling and other trenchless technology operations. Leakage from a damaged or ruptured hazardous liquid pipeline can create environmental and safety issues.

The primary safety concern is ensuring that trenchless technology operations do not accidentally contact existing underground facilities. This can be averted by knowing the precise locations of all underground facilities in proximity to trenchless technology operations. In addition to full compliance with the one-call notification process, the operator should also consider thorough site surveys of the area of a proposed directional drilling or trenchless technology project to locate potential conflicts with underground facilities.

Information on the safe conduct of trenchless technology operations is available from various trade associations and technical publications. In addition, the Gas Piping Technology Committee, a standards committee composed of experts on gas piping issues, publishes guidelines for planning and designing trenchless technology pipe installations in its Guide for Gas Transmission and Distribution Piping Systems, which is available from the American Gas Association.

Issued in Washington, D.C. on August 23, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 99–22331 Filed 8–26–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket Nos. 33788 and 33789]

Norfolk Southern Railway Company—Trackage Rights Exemption—Over North Carolina Railroad Company; Atlantic and East Carolina Railway Company—Trackage Rights Exemption—Line of North Carolina Railroad Company Operated Under Trackage Rights by Norfolk Southern Railway Company

In STB Finance Docket No. 33788, North Carolina Railroad Company (NCRR) has agreed to grant to Norfolk Southern Railway Company (NSR) exclusive local and overhead freight trackage rights over its entire line of railroad between Charlotte and Morehead City, NC.[1] The line extends between mileposts EC–0.0± and EC–94.7±; mileposts H–0.0± and H–129.5±; and mileposts 284.0± and 376.5±, a distance of approximately 317.2 miles in Alamance, Cabarrus, Carteret, Craven, Davidson, Durham, Guilford, Johnston, Jones, Lenoir, Mecklenburg, Orange, Randolph, Rowan, Wake, and Wayne Counties, NC.

Under the agreement, NSR is permitted to grant trackage rights to its subsidiaries. Accordingly, in STB Finance Docket No. 33789, NSR has agreed to grant to its wholly owned subsidiary, Atlantic and East Carolina Railway Company (AECR), local and overhead trackage rights over a portion of NCRR's line between Goldsboro, NC, and Morehead City. That portion extends between mileposts EC–0.0± and EC–94.7±, a distance of approximately 94.7 miles in Carteret, Craven, Jones, Lenoir, and Wayne Counties.

The exemption was effective on August 19, 1999, and the trackage rights operations are scheduled to begin on September 1, 1999.

The purpose of the trackage rights is to allow NSR and AECR to continue as the providers of local and overhead freight service on the NCRR lines, as they have previously done under now-expired leases.[2]

As a condition to these exemptions, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

These notices are filed under 49 CFR 1180.2(d)(7). If either contains false or misleading information, both exemptions are void *ab initio.* Petitions to revoke the exemptions under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.[3]

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33788, STB Finance Docket No. 33789, or both (as applicable) must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on G. Paul Moates, Esq., Sidley & Austin, 1722 Eye Street, N.W., Washington, DC 20006.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: August 23, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–22340 Filed 8–26–99; 8:45 am]

BILLING CODE 4915–00–P

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[1] NSR is permitted to continue in effect existing and certain future agreements pertaining to passenger operations by the National Railroad Passenger Corporation (Amtrak) over the line. The Board's jurisdiction is not implicated as to this provision of the agreement.

[2] *See North Carolina Railroad Company—Petition to Set Trackage Compensation and Other Terms and Conditions—Norfolk Southern Railway Company, Norfolk & Western Railway Company, and Atlantic and East Carolina Railway Company,* STB Finance Docket No. 33134 (STB served May 29, 1997) (*NCRR Compensation*).

[3] In a pending motion in *NCRR Compensation,* intervener Walker F. Rucker seeks an order that he and the State of North Carolina be allowed and directed to participate in the negotiations for the trackage rights agreements that are the subject of this notice of exemption. The parties hereto replied, and Mr. Rucker responded to their replies. That collateral dispute provides no basis for rejection of the notice of exemption in this proceeding.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 20, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 27, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0126.

Form Number: IRS Form 1120–F.

Type of Review: Revision.

Title: U.S. Income Tax Return of a Foreign Corporation.

Description: Form 1120–F is used by foreign corporations that have investments, or a business, or a branch in the U.S. The IRS uses Form 1120-F to determine if the foreign corporation has correctly reported its income, deductions, and tax, and to determine if it has paid the correct amount of tax.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 21,618.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—107 hr., 8 min.
Learning about the law or the form—40 hr., 19 min.
Preparing the form—69 hr., 53 min.
Copying, assembling, sending the form to the IRS—7 hr., 31 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 4,860,807 hours.

OMB Number: 1545–1150.

Form Number: IRS Form 990–EZ.

Type of Review: Extension.

Title: Short Form Return of Organization Exempt From Income Tax Under section 501(c) of the Internal Revenue Code (except Black Lung Benefit trust or Private Foundation) or section 4947(a)(1) Nonexempt Charitable Trust.

Description: Form 990–EZ is needed to determine that IRC section 501(a) tax-exempt organizations fulfill the operating conditions of their tax exemption. IRS uses the information from this form to determine if the filers are operating within the rules of their exemption.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 124,184.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law of the form	Preparing the form	Copying, assembling, and sending the form to the IRS
990	96 hr., 23 min	16 hr., 48 min	21 hr., 55 min	48 min
990–EZ	28 hr., 28 min	10 hr., 34 min	12 hr., 16 min	16 min
Schedule A (990)	50 hr., 13 min	9 hr., 26 min	10 hr., 40 min.	

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 6,381,816 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–22264 Filed 8–26–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Change of Control Collection Package.

DATES: Submit written comments on or before October 26, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0032. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. N.W., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Change of Control.

OMB Number: 1550–0032.

Form Numbers: 1173, 1393, 1606.

Abstract: 12 CFR Part 574 contains filing requirements for change of control applications. Section 1817(j) of the Federal Deposit Insurance Act requires a notice to be filed with the OTS when an insured institution undergoes a change of control.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 32.

Estimated Time Per Respondent: 33.5 hours.

Estimated Total Annual Burden Hours: 1,070 hours.

Request for Comments

The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of

public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 19, 1999.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 99–22272 Filed 8–26–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Service Corporation Activity Collection Package.

DATES: Submit written comments on or before October 26, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0013. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. N.W., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Service Corporation Activity.

OMB Number: 1550–0013.

Form Number: None.

Abstract: 12 CFR Section 545.74 requires savings associations to obtain approval or notify the OTS prior to engaging in activities through a service corporation that are not preapproved by regulation. It also contains a recordkeeping requirement for securities brokerage services. 12 CFR Section 559.12 governs the issuance of securities. These requirements allow the OTS to review service corporation activities and to ensure that they will not adversely affect an institution's safety and soundness.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 141.

Estimated Time Per Respondent: 2.25 hours.

Estimated Total Annual Burden Hours: 315 hours.

Request for Comments

The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 19, 1999.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 99–22273 Filed 8–26–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Conversion from State to Federal Charter Collection Package.

DATES: Submit written comments on or before October 26, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0007. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. N.W., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision Division, Office of Thrift Supervision Division, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Conversion from State to Federal Charter.

OMB Number: 1550–0007.

Form Number: 1582.

Abstract: Section 5(I) of the Home Owners' Loan Act and 12 CFR Sections 543.8 and 552.2 require the OTS to act on requests by state-chartered institutions proposing to convert to Federal charters.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 7.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 28 hours.

Request for Comments

The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 19, 1999.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 99–22274 Filed 8–26–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Branch Offices Collection Package.

DATES: Submit written comments on or before October 26, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0006. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Branch Offices.

OMB Number: 1550–0006.

Form Number: 1450 and 1558.

Abstract: 12 CFR Section 545.92 requires federally-chartered institutions proposing to establish a branch office or to change the location of a branch office to file an application or notice with the OTS. Section 228 of the Federal Deposit Insurance Corporation Improvement Act requires insured thrifts to adopt a policy with respect to branch closings.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 1,145.

Estimated Time Per Respondent: 1.5 hours.

Estimated Total Annual Burden Hours: 1,984 hours.

Request for Comments

The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 19, 1999.

John E. Werner,

Director, Information and Management Services.

[FR Doc. 99–22275 Filed 8–26–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the ''Application for Permission to Organize''.

DATES: Submit written comments on or before October 26, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0005. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Application for Permission to Organize.

OMB Number: 1550–0005.

Form Number: 138, 138E, 138F, 1393, 1606.

Abstract: The information provided is evaluated by the OTS staff to determine whether requests by organizing groups for Permission to establish a new Federal savings association comply with

applicable Federal laws and OTS regulations and policies.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 65.

Estimated Time Per Respondent: 99 hours.

Estimated Total Annual Burden Hours: 6,435 hours.

Request for Comments

The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 19, 1999.

John E. Werner,

Director, Information and Management Services.

[FR Doc. 99–22276 Filed 8–26–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Notice of Hiring of Senior Executive Officer or Director Collection Package.

DATES: Submit written comments on or before October 26, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0047. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. N.W., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Notice of Hiring of Senior Executive Officer or Director.

OMB Number: 1550–0047.

Form Numbers: 1624, 1623, 1606.

Abstract: Congress requires agency notification and approval for new senior executive officers and directors of financial institutions. Forms 1624 and 1623 are used to evaluate the competence, experience and integrity of individuals considered for directorships and senior executive positions. Form 1606 is an Applicant Certification as to lack of criminal background.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 44.

Estimated Time Per Respondent: 39.5 hours.

Estimated Total Annual Burden Hours: 1,738 hours.

Request for Comments

The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 19, 1999.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 99–22277 Filed 8–26–99; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination: ''Kremlin Gold—1000 Years of Russian Gems & Jewels''

AGENCY: United States Information Agency.

ACTION: Notice; withdrawal.

SUMMARY: Notice document 99–21536, appearing on page 45300, in the issue of Thursday, August 19, 1999, is withdrawn because the required determination has not been made.

FOR FURTHER INFORMATION CONTACT: Ms. Neila Sheahan, Assistant General Counsel, Office of the General Counsel, 202/619–5030. The address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: August 19, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–22360 Filed 8–26–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Congress-Bundestag Youth Exchange Program; Request for Proposal; Extension of Deadline

ACTION: Notice of extension to the deadline for the Congress-Bundestag Youth Exchange program.

SUMMARY: Due to the Agency's interest in providing opportunities for a broad range of organizations to apply for grants, the deadline for the Congress-Bundestag Youth Exchange program has

been extended from September 17, 1999 to October 4, 1999.

ADDITIONAL INFORMATION: Interested organizations should contact Shalita Jones at 202–358–0331 or e-mail: sjones@usia.gov.

The Congress-Bundestag Youth Exchange program was announced in the **Federal Register** on August 5, 1999.

Dated: August 23, 1999.

William Kiehl,

Acting Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 99–22361 Filed 8–26–99; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register
Vol. 64, No. 166
Friday, August 27, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AJ40

Veterans Education: Increased Allowances for the Educational Assistance Test Program

Correction

In rule document 99–21248 beginning on page 44660 in the issue of Tuesday, August 17, 1999, make the following correction:

§ 21.5822 [Corrected]

On page 44661, in the third column, in § 21.5822, in the fourth line, ‘‘‘‘payable to’’’’ should read ‘‘‘‘payable to:’’’’.

[FR Doc. C9–21248 Filed 8–26–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–601–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Request Under Blanket Authorization

Correction

In notice document 99–21759 beginning on page 45961 in the issue of Monday, August 23, 1999, the docket number should appear as set forth above.

[FR Doc. C9–21759 Filed 8–26–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27015]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (‘‘Act’’)

April 30, 1999.

Correction

In notice document 99–11457 appearing on page 24687, in the issue of Friday, May 7, 1999, the release number is corrected to read as set forth above.

[FR Doc. C9–11457 Filed 8–26–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-23929]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

Correction

In notice document 99–20252, appearing on page 43003, in the issue of Friday, August 6, 1999, make the following correction:

On page 43003, in the first column, the docket number is corrected to read as set forth above.

[FR Doc. C9–20252 Filed 8–26–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Friday
August 27, 1999

Part II

Environmental Protection Agency

40 CFR Part 197

Environmental Radiation Protection Standards for Yucca Mountain, Nevada; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 197

[FRL–6427–5]

RIN 2060–AG14

Environmental Radiation Protection Standards for Yucca Mountain, Nevada

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: We, the Environmental Protection Agency (EPA), are proposing public health and safety standards for radioactive material stored or disposed of in the potential repository at Yucca Mountain, Nevada. Section 801 of the Energy Policy Act of 1992 (EnPA) directed the Administrator of EPA to develop these standards. The EnPA also required EPA to contract with the National Academy of Sciences (NAS) to conduct a study to provide findings and recommendations on reasonable standards for protection of the public health and safety. On August 1, 1995, NAS released its report (the NAS Report) entitled, ''Technical Bases for Yucca Mountain Standards.'' We have taken the NAS Report into consideration as directed by the EnPA.

After we finalize these standards, the Nuclear Regulatory Commission (NRC or ''the Commission'') will incorporate them into its licensing regulations. The Department of Energy (DOE or ''the Department'') will be responsible for demonstrating compliance with these standards. The Commission will use its licensing regulations to determine whether the Department has demonstrated compliance with our standards prior to receiving the necessary licenses to store or dispose of radioactive material in Yucca Mountain.

DATES: *Comments.* We must receive your comments at the address given below on or before November 26, 1999 to assure their consideration.

Hearings. We will hold public hearings upon today's action in Amargosa Valley, Nevada, Las Vegas, Nevada, and Washington, DC. The dates will be announced in the **Federal Register** as soon as they are determined.

ADDRESSES: *Comments.* Send two copies of your comments to the Central Docket Section (6102), ATTN: Docket A–95–12, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460–0001.

Documents relevant to the rulemaking. Materials relevant to this rulemaking are contained in: (1) Docket No. A–95–12, located in Room M–1500 (first floor in Waterside Mall near the Washington Information Center), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460–0001; (2) an information file in the Government Publications Section, Dickinson Library, University of Nevada-Las Vegas, 4504 Maryland Parkway, Las Vegas, Nevada 89154; and (3) an information file in the Public Library in Amargosa Valley, Nevada 89020.

Background documents for this action. We have prepared additional documents that provide more detailed technical background in support of these proposed standards. You may obtain copies of the draft background information document (BID), the draft economic impact evaluation, and the Executive Summary of the NAS Report by requesting them in writing from the Office of Radiation and Indoor Air (6602J), U.S. Environmental Protection Agency, Washington, DC 20460–0001. We have also placed these documents into the docket and information files. You may also find them on our Internet site for Yucca Mountain (see the *Additional Docket and Electronic Information* section later in this notice).

FOR FURTHER INFORMATION CONTACT: Ray Clark, Office of Radiation and Indoor Air, U.S. Environmental Protection Agency, Washington, D.C. 20460–0001; telephone 202–564–9300.

SUPPLEMENTARY INFORMATION:

Who Will Be Regulated by These Standards?

The Department is the only entity directly regulated by these standards. To utilize the Yucca Mountain repository, DOE must obtain licensing approval from NRC. Thus, DOE will be subject to our standards which NRC will implement through its licensing proceedings. The NRC is only affected because, under the Energy Policy Act of 1992 (EnPA, Pub. L. 102–486), it must modify its licensing requirements, as necessary, to be consistent with our final standards.

Additional Docket and Electronic Information

When may I examine docket information? You may inspect the Washington, D.C. docket (phone 202–260–7548) on weekdays (8 a.m.–5:30 p.m.). As provided in 40 CFR part 2, the docket personnel may charge a reasonable fee for photocopying docket materials.

The information file located in the University of Nevada-Las Vegas, Government Publications Section (702–895–3409) may be inspected when classes are in session, Monday through Thursday (9 a.m.–8 p.m.), Friday (9 a.m.–6 p.m.), Saturday (9 a.m.–9 p.m.), and Sunday (11 a.m.–8 p.m.). However, since the hours vary based upon the academic calendar, you should call ahead to be certain of the time.

The information file in the Public Library in Amargosa Valley, Nevada (phone 775–372–5340) may be inspected Monday through Thursday (11 a.m.–7 p.m.) and Friday (9 a.m.–5 p.m.). The library is closed from 12:30 p.m.–1 p.m. each day. It is also closed Saturday and Sunday.

Can information be accessed by telephone or the Internet? Yes, we have established a toll-free information line that is accessible 24 hours per day. By dialing 800–331–9477, you can listen to a brief update describing our rulemaking activities for Yucca Mountain, leave a message requesting that your name and address be added to the Yucca Mountain mailing list, or request that an EPA staff person return your call. You can also find information on the World Wide Web at http://www.epa.gov/radiation/yucca.

Acronyms

There are many acronyms used in this notice. They are listed below for your reference and convenience.

ALARA—as low as reasonably achievable
BID—background information document
CAA—Clean Air Act
CEDE—committed effective dose equivalent
CG—critical group
DOE—U.S. Department of Energy
EIS—environmental impact statement
EnPA—Energy Policy Act of 1992
EPA—U.S. Environmental Protection Agency
GCD—greater confinement disposal
HLW—high-level radioactive waste
IAEA—International Atomic Energy Agency
ICRP—International Commission on Radiological Protection
LLW—low-level radioactive waste
MCL—maximum contaminant level
MCLG—maximum contaminant level goal
NAS—National Academy of Sciences
NCRP—National Council on Radiation Protection and Measurements
NEPA—National Environmental Policy Act
NESHAPs—National Emission Standards for Hazardous Air Pollutants
NID—negligible incremental dose
NIR—negligible incremental risk
NRC—U.S. Nuclear Regulatory Commission

NRDC—Natural Resources Defense Council
NTS—Nevada Test Site
NTTAA—National Technology Transfer and Advancement Act
NWPA—Nuclear Waste Policy Act of 1982
NWPAA—Nuclear Waste Policy Amendments Act of 1987
OMB—Office of Management and Budget
RCRA—Resource Conservation and Recovery Act
RME—reasonable maximum exposure
RMEI—reasonably maximally exposed individual
SDWA—Safe Drinking Water Act
SNF—spent nuclear fuel
TDS—total dissolved solids
UIC—underground injection control
UMRA—Unfunded Mandates Reform Act of 1995
USDW—underground source of drinking water
WIPP LWA—Waste Isolation Pilot Plant Land Withdrawal Act of 1992

Outline of Proposed Action

I. What Led up to Today's Action?
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II.B. What Types of Health Effects Can Radiation Cause?
II.C. What Are the Major Features of the Geology of Yucca Mountain and the Disposal System?
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III. What Are We Proposing Today?
III.A. What Is the Proposed Standard for Storage of the Waste? (*Proposed Subpart A*)
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III.B.1. Should the Limit Be on Dose or Risk?
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III.C.1. What Limits Are There on Factors Included in the Performance Assessments?
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III.C.3. What Level of Expectation Is Required for NRC To Determine Compliance?
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III.E. What Is the Standard for Human Intrusion? (*Proposed § 197.25*)
III.F. How Will Ground Water Be Protected? (*Proposed § 197.35*)
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III.F.5. How Will the Point of Compliance Be Identified?
III.F.6. Where Will the Point of Compliance Be Located?
IV. Specific Questions for Public Comment
V. Regulatory Analyses
V.A. Executive Order 12866
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V.C. Executive Order 12898
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V.G. Paperwork Reduction Act
V.H. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996
V.I. Unfunded Mandates Reform Act

I. What Led up to Today's Action?

Spent nuclear fuel (SNF) and high-level radioactive waste (HLW) have been produced since the 1940s, mainly as a result of commercial power production and defense activities. Since then, the proper disposal of these wastes has been the responsibility of the Federal government. The Nuclear Waste Policy Act of 1982 (NWPA, Pub. L. 97–425) formalized the current Federal program for the disposal of SNF and HLW by:

(1) Making DOE responsible for siting, building, and operating an underground geologic repository for the disposal of SNF and HLW;

(2) Directing us to set generally applicable environmental radiation protection standards based upon authority established under other laws; and

(3) Requiring NRC to implement our standards by incorporating them into its licensing requirements for SNF and HLW repositories.

Those responsibilities are generally maintained under the EnPA. Thus, NRC will implement the standards that we are proposing today, and DOE will submit a license application to NRC. The Commission will then determine whether DOE has met the standards and whether to issue an operating license for Yucca Mountain. We anticipate that NRC will require compliance with all of the applicable provisions of 40 CFR part 197 prior to allowing receipt of radioactive material onto the Yucca Mountain site.

In 1985, we established generic standards for the management, storage, and disposal of SNF, HLW, and transuranic radioactive waste. These standards are found in 40 CFR part 191 (50 FR 38066, September 19, 1985). The term ''generic'' meant that the standards applied to any applicable facilities in the United States, including Yucca Mountain, Nevada. In 1987, the U.S. Court of Appeals for the First Circuit invalidated the disposal standards and remanded them to us (*NRDC* v. *EPA*, 824 F.2d 1258 (1st Cir. 1987)). Also in 1987, the Nuclear Waste Policy Amendments Act (NWPAA, Pub. L. 100–203) amended the NWPA by, among other actions, selecting Yucca Mountain, Nevada as the only potential site to be characterized.

In October 1992, the Waste Isolation Pilot Plant Land Withdrawal Act (WIPP LWA, Pub. L. 102–579) and the EnPA became law. The statutes changed our obligations concerning certain radiation standards. The WIPP LWA:

(1) Reinstated the 40 CFR part 191 disposal standards except those that were the specific subject of the remand by the First Circuit;

(2) Required us to issue standards to replace those that were the subject of judicial remand; and

(3) Exempted the Yucca Mountain site from the 40 CFR part 191 disposal standards. We issued the final disposal standards in 40 CFR part 191 on December 20, 1993 (58 FR 66398) to address the judicial remand.

The EnPA gave us the responsibility to set public health and safety radiation standards for Yucca Mountain. Specifically, section 801(a)(1) of the EnPA directed us to ''promulgate, by rule, public health and safety standards for the protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site.'' The EnPA also directed us to contract with NAS to give us findings and recommendations on reasonable standards for protection of public health and safety. Moreover, the statute provided that our standards shall be the only such standards applicable to the Yucca Mountain site and are to be based upon and consistent with NAS' findings and recommendations. On August 1, 1995, NAS released its report, ''Technical Bases for Yucca Mountain Standards'' (the NAS Report).

II. Background Information

II.A. What Are the Sources of Radioactive Waste?

Radioactive wastes are the result of using nuclear fuel and other radioactive material. Today's action proposes standards pertaining to SNF, HLW, and other radioactive waste (these are collectively referred to after this as ''radioactive material'' or ''waste'') which may be stored or disposed of in the Yucca Mountain repository. (When storage or disposal are discussed in this notice in reference to Yucca Mountain, it is to be understood that no decision has been made regarding the acceptability of Yucca Mountain for storage or disposal. To save space and excessive repetition, the description of Yucca Mountain as a ''potential'' repository will not be used but is intended.) These standards do not apply to facilities other than those related to Yucca Mountain.

Once enough uranium or other fissionable material in nuclear reactor fuel has been consumed through nuclear reactions, it is no longer useful. The product is known as ''spent'' nuclear fuel (SNF). Sources of SNF include:

(1) Commercial nuclear power plants;

(2) Government-sponsored research and development programs in universities and industry;

(3) Experimental reactors, such as, liquid metal fast breeder reactors and high-temperature gas-cooled reactors;

(4) Federal Government-controlled, nuclear-weapons production reactors;

(5) Naval and other Department of Defense reactors; and

(6) U.S.-owned, foreign SNF.

Spent nuclear fuel can be dissolved in a chemical process called ''reprocessing,'' which is used to recover desired radionuclides. Radionuclides which are not recovered become part of the acidic liquid wastes that DOE plans to convert into various types of solid materials. The highly radioactive liquid or solid wastes from reprocessing SNF are called HLW. If SNF is not reprocessed prior to disposal, it becomes the waste form without further modification. The only commercial reprocessing facility to operate in the United States, the Nuclear Fuel Services Plant in West Valley, New York, closed in 1972. Since that time, no commercial SNF has been reprocessed in the United States. In 1992, DOE decided to phase out reprocessing of its SNF which supported the defense nuclear weapons and propulsion programs.

Where are the wastes stored now? Today, most SNF is stored in water pools or above-ground in dry concrete or steel canisters at more than 70 commercial nuclear-power reactor sites across the Nation. High-level waste is stored underground in steel tanks at four Federal facilities in Idaho, Washington, South Carolina, and New York.

What types of wastes will be placed into Yucca Mountain? We anticipate that most of the waste in Yucca Mountain will be SNF and solidified HLW (in the rest of this notice, HLW will refer to solidified HLW unless otherwise noted). Under current NRC regulations (10 CFR 60.135), liquid HLW will have to be solidified, through processes such as vitrification (mixing the waste into glass), since non-solid waste forms would not be allowed to be stored or disposed of in Yucca Mountain. The Department estimates that by the year 2010, about 64,000 metric tons of SNF and 284,000 cubic meters (containing 450 million curies of radioactivity) of HLW in predisposal form and 2,600 cubic meters (containing 189 million curies) of the disposable form of HLW will be in storage (DOE/RW–0006, Rev. 12, December 1996).

We are aware that other radioactive materials might be stored or disposed of in the Yucca Mountain repository. These materials include highly radioactive low-level waste (LLW), known as greater-than-Class-C waste, and excess plutonium or other fissile materials resulting from the dismantlement of nuclear weapons. In the future, other types of radioactive materials could be identified for storage or disposal. Since the plans for the disposal of these materials have not been finalized, their impact upon the design and performance of the disposal system has not been analyzed by NRC or DOE. However, whatever types of radioactive materials are finally disposed of in Yucca Mountain, the disposal system must comply with these standards.

II.B. What Types of Health Effects Can Radiation Cause?

Ionizing radiation can cause a variety of health effects. These effects are classified as either ''non-stochastic'' or ''stochastic.'' Non-stochastic effects are those for which the damage increases with increasing exposure, such as destruction of cells or reddening of the skin. They are seen in cases of exposures to large amounts of radiation. Stochastic effects are associated with long-term exposure to low levels of radiation. Their type or severity does not depend upon the amount of exposure. Instead, the chance that an effect, for example, cancer, will occur is assumed to increase with increasing exposure.

The three categories of stochastic effects are cancer, mutations, and teratogenic effects. Cancers caused by radiation are indistinguishable from those occurring from other causes. Cancers caused by radiation have been observed in humans. However, the risk of cancer at the exposure levels normally encountered by members of the public must be estimated using indirect evidence, that is, extrapolation from higher doses.[1]

Mutations, the second category of stochastic effects, are created in the reproductive cells of exposed individuals and are transmitted to their descendants. The severity of hereditary effects can range from inconsequential to fatal. Although hereditary effects have been observed in animal studies at relatively high doses, hereditary effects in humans exposed to relatively small amounts of radiation have not been confirmed statistically in epidemiological studies. Finally, we assume that at low levels of exposure, the probability of incurring either cancer or hereditary effects increases as the dose increases and that there is no lower threshold, that is, a linear, non-threshold, dose-response relationship (this is discussed below in more detail).

Teratogenic effects, the third category of stochastic effects, can occur following exposure of fetuses. We believe that the fetus is more sensitive than adults to the induction of cancer by radiation. The fetus also is subject to various radiation-induced, physical malformations such as small brain size (microencephaly), small head size (microcephaly), eye malformations and slow growth prior to birth. Recent studies have focused upon the apparently increased risk of severe mental retardation as measured by the intelligence quotient. These studies indicate that the sensitivity of the fetus is greatest during 8 to 15 weeks following conception, and continues, at a lower level, between 16 and 25 weeks.[2] Although we do not know exactly how mental retardation is related to dose, it is prudent to assume that there is a linear, non-threshold, dose-response relationship between these effects and the dose delivered to the fetus during the 8- to 15-week period.

The NAS published its reviews of human health risks from exposure to low levels of ionizing radiation in a

[1] The general term ''dose'' is used to mean the dose equivalent, effective dose equivalent, or committed effective dose equivalent, depending upon the surrounding text. When precision is necessary, the exact term is used.

[2] *Health Effects of Exposure to Low Levels of Ionizing Radiation*, National Academy Press, Washington, D.C., 1990.

series of reports between 1972 and 1990. However, scientists still do not agree upon how best to estimate the probability of cancer occurring as a result of the doses encountered by members of the public[3] because these effects must be estimated based upon the effects observed at higher doses (such as effects seen in the survivors of the Hiroshima and Nagasaki atomic bombs). The linear model for estimating effects has been endorsed by many organizations, including NAS, the International Commission on Radiological Protection (ICRP), the United Nations Scientific Committee on the Effects of Atomic Radiation, and the National Radiological Protection Board of the United Kingdom.

Over the past decade, the scientific community has performed an extensive reevaluation of the doses and effects in the Hiroshima and Nagasaki survivors. These studies have resulted in increased estimates (roughly threefold between 1972 and 1990) of the extrapolated risk of cancer arising from exposure to environmental levels of radiation, that is, background levels of radiation. Nonetheless, the estimated number of health effects induced by small incremental doses of radiation above natural background levels remains small compared with the total number of fatal cancers that occur from other causes. In addition, because cancers are the same as those resulting from other causes, identifying them in human epidemiological studies may never be possible. This difficulty in identifying stochastic radiation effects does not mean that such effects do not occur. However, there is the possibility that effects do not occur as a result of these small doses, that is, there might be an exposure level below which there is no additional risk above the risk that is posed by natural background radiation. Sufficient data to prove either possibility scientifically is lacking. As a result, we believe that the best approach is to assume that the risk of cancer increases linearly starting at zero dose. That is, any increase in exposure to ionizing radiation results in a constant and proportionate increase in the potential for developing cancer.

The NAS Report stated that radiation causes about five cancers for every severe hereditary disorder. Also, NAS concluded that nonfatal cancers are more common than fatal cancers. Despite this, the NAS cited an ICRP study which judged that non-fatal cancers contribute less to overall health impact than fatal cancers ''because of their lesser severity in the affected individuals.'' (NAS Report pp. 37–39). Our risk estimates for exposure of the population to low-dose-rate radiation is based upon fatal cancers rather than all cancers.

For radiation-protection purposes, we estimate (using a linear, non-threshold, dose-response model) an average risk for a member of the U.S. population of 5.75 in 100 (5.75×10^{-2}) fatal cancers per sievert (Sv)[4] (5.75×10^{-4} fatal cancers per rem) delivered at low dose rates.[5] (For example, if 100,000 people randomly chosen from the U.S. population were each given a uniform dose of 1 millisievert (mSv) (0.1 rem) to the entire body at a low rate, approximately five to six people are assumed to die of cancer during their remaining lifetimes because of that exposure. This is in addition to the roughly 20,000 fatal cancers that would occur in the same population from other causes.) The risk of fatal childhood cancer, resulting from exposure while in the fetal stage, is about 3 in 100 (3×10^{-2}) per Sv (that is, 3×10^{-4} effects per rem). The risk of severe hereditary effects in offspring is estimated to be about 1×10^{-2} per Sv (1×10^{-4} effects per rem).[6] The risk of severe mental retardation from doses to a fetus is estimated to be greater per unit dose than the risk of cancer in the general population.[7] However, the period of increased sensitivity is much shorter. Hence, at a constant exposure rate, fatal cancer risk in the general population remains the dominant factor.

We note that there is, of course, uncertainty in our risk estimates. A recent uncertainty analysis published by the National Council on Radiation Protection and Measurements (NCRP Report 126) estimated that the actual risk of cancer from whole-body exposure to low doses of radiation could be between 1.5 times higher and 4.8 times lower (at the 90-percent confidence level) than our basic estimate of 5.75×10^{-2} per Sv (5.75×10^{-4} per rem). Further, existing epidemiological data does not rule out the existence of a threshold. If there is a threshold, exposures below that level would pose no additional risk above the risk that is posed by natural background radiation. The risks of genetic abnormalities and mental retardation are less well known than those for cancer and, thus, may include a greater degree of uncertainty. However, in spite of uncertainties in the data and its analysis, estimates of the risks from exposure to low levels of ionizing radiation are more clearly known than those for virtually any other environmental carcinogen.

II.C. What Are the Major Features of the Geology of Yucca Mountain and the Disposal System?

The geology. The Yucca Mountain site is located in southwestern Nevada approximately 90 miles northwest of Las Vegas. The eastern part of the site is on the Nevada Test Site, the northwestern part of the site is on the Nellis Air Force Range, and the southwestern part of the site is on Bureau of Land Management land. The area has a desert climate with topography typical of the Basin and Range province. See the BID for more information.

Yucca Mountain is made of layers of ashfalls from volcanic eruptions which happened more than 10 million years ago. The ash consolidated into a rock type called ''tuff'' which has varying degrees of compaction and fracturing depending upon the degree of ''welding'' caused by temperature and pressure when the ash was deposited. Regional geologic forces have tilted the tuff layers and formed Yucca Mountain's crest (Yucca Mountain's shape is actually a ridge rather than a peak). Below the tuff is carbonate rock. The carbonate rock was formed from sediments laid down at the bottom of ancient seas which existed in the area.

There are two general hydrologic zones within and below Yucca Mountain. The upper zone is called the ''unsaturated zone'' because the pore

[3] The risk of interest is not at or near zero dose, but that due to small increments of dose above the pre-existing background level. Background in the U.S. is typically about 3 millisievert (mSv), that is, 300 millirem (mrem), effective dose equivalent per year, or 0.2 Sv (20 rem) in a lifetime. Approximately two-thirds of this dose is due to radon, and the balance comes from cosmic, terrestrial, and internal sources of exposure.

[4] The traditional unit for dose equivalent has been the rem. The unit ''sievert'' (Sv), a unit in the International System of Units which was adopted in 1979 by the General Conference on Weights and Measures, is now in general use throughout the world. One sievert is equal to 100 rem. The prefix ''milli'' (m) means one-thousandth. The individual-protection limit being proposed today may be expressed in either unit.

[5] ''Low dose rates'' here refer to dose rates on the order of or less than those from background radiation.

[6] The risk of severe hereditary effects in the first two generations, for exposure of the reproductive part of the population (with both parents exposed), is estimated to be 5×10^{-3} per Sv (5×10^{-5} per rem). For all generations, the risk is estimated to be 1.2×10^{-2} per Sv (1.2×10^{-4} per rem). For exposure of the entire population, which includes individuals past the age of normal child-bearing, each estimate is reduced to 40% of the cited value.

[7] Assuming a linear, non-threshold dose response, estimated risk for mental retardation due to exposure during the 8th through 15th week of gestation is 4×10^{-1} per Sv (4×10^{-3} per rem); under the same assumption, the estimated risk from the 16th to 25th week is 1×10^{-1} per Sv (1×10^{-3} per rem).

spaces and fractures within the rock are not filled entirely with water. Below the unsaturated zone, beginning at the water table, is the ''saturated zone'' in which the pores and fractures are filled completely with water. Fractures in both zones could act as pathways which allow for faster contaminant transport than would the pores. The Department plans to build the repository in the unsaturated zone about 300 meters below the surface and about 300 to 500 meters above the current water table.

There are two major aquifers in the saturated zone under Yucca Mountain. The upper one is in tuff, while the lower one is in carbonate rock. Regional ground water in the vicinity of Yucca Mountain is believed to flow generally in a south-southwesterly direction. The aquifers are more fully discussed in the BID.

The disposal system. The NAS Report described the current conception of the potential disposal system as a system of engineered barriers for the disposal of radioactive waste located in the geologic setting of Yucca Mountain (NAS Report pp. 23–27). Entry into the repository for waste emplacement would be on gradually downward sloping ramps which enter the side of Yucca Mountain. The NWPAA limits the capacity of the repository to 70,000 metric tons of SNF and HLW. Current DOE plans project that about 90 percent (by mass) would be commercial SNF and 10 percent defense HLW. Within 100 years after starting to put waste in place, the repository would be sealed by backfilling the tunnels, closing the opening to each of the tunnels, and sealing the entrance ramps and shafts.

We expect the engineered barrier system to consist of at least the waste form (that is, SNF assemblies or borosilicate glass containing the HLW), internal stabilizers for the SNF assemblies, the waste packages holding the waste, and backfill in the space between the waste packages and adjacent host rock. Spent nuclear fuel assemblies are comprised of uranium oxide, fission products, fuel cladding, and support hardware, all of which will be radioactive. (see the *What are the Sources of Radioactive Waste?* section above.)

II.D. Background on and Summary of the NAS Report

Section 801(a)(2) of the EnPA directed us to contract with NAS to conduct a study to provide findings and recommendations on reasonable standards for protection of public health and safety. Section 801(a)(2) of the EnPA specifically called for NAS to address the following three issues:

(A) whether a health-based standard based upon doses to individual members of the public from releases to the accessible environment (as that term is defined in the regulations contained in subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on November 18, 1985) will provide a reasonable standard for protection of the health and safety of the general public;

(B) whether it is reasonable to assume that a system for post-closure oversight of the repository can be developed, based upon active institutional controls, that will prevent an unreasonable risk of breaching the repository's engineered or geologic barriers or increasing the exposure of individual members of the public to radiation beyond allowable limits; and

(C) whether it is possible to make scientifically supportable predictions of the probability that the repository's engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years.

On August 1, 1995, NAS submitted to us its report entitled ''Technical Bases for Yucca Mountain Standards.'' The NAS Report is available for review in the dockets and information file described earlier. You can order the Report from the National Academy Press by calling 800–624–6242 or on the World Wide Web at http://www.nap.edu/bookstore/isbn/0309052890.html#title.

II.D.1. What Were the NAS Findings and Recommendations?

The NAS Report provided a number of conclusions and recommendations. (The EnPA used the term ''findings,'' however, the NAS Report used the term ''conclusions.'')

Conclusions. The conclusions in the Executive Summary of the NAS Report (pp. 1–14) were:

(a) ''that an individual-risk standard would protect public health, given the particular characteristics of the site, provided that policy makers and the public are prepared to accept that very low radiation doses pose a negligibly small risk'' [later termed ''negligible incremental risk'']. This is the response to the issue identified in section 801(a)(2)(A) of the EnPA;

(b) that the Yucca Mountain-related ''physical and geologic processes are sufficiently quantifiable and the related uncertainties sufficiently boundable that the performance can be assessed over time frames during which the geologic system is relatively stable or varies in a boundable manner;''

(c) ''that it is not possible to predict on the basis of scientific analyses the societal factors required for an exposure scenario. Specifying exposure scenarios therefore requires a policy decision that is appropriately made in a rulemaking process conducted by EPA;''

(d) ''that it is not reasonable to assume that a system for post-closure oversight of the repository can be developed, based on active institutional controls, that will prevent an unreasonable risk of breaching the repository's engineered barriers or increasing the exposure of individual members of the public to radiation beyond allowable limits.'' This is the response to the issue identified in section 801(a)(2)(B) of the EnPA;

(e) ''that it is not possible to make scientifically supportable predictions of the probability that a repository's engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years.'' This is the response to the issue identified in section 801(a)(2)(C) of the EnPA; and

(f) ''that there is no scientific basis for incorporating the ALARA [as low as reasonably achievable] principle into the EPA standard or USNRC [U.S. Nuclear Regulatory Commission] regulations for the repository.''

Recommendations. The recommendations in the Executive Summary of the NAS Report were:

(a) ''the use of a standard that sets a limit on the risk to individuals of adverse health effects from releases from the repository;''

(b) ''that the critical-group approach be used'' (see the *Who Will Be Representative of the Exposed Population?* section later in this notice);

(c) ''that compliance assessment be conducted for the time when the greatest risk occurs, within the limits imposed by long-term stability of the geologic environment;'' and,

(d) ''that the estimated risk calculated from the assumed intrusion scenario be no greater than the risk limit adopted for the undisturbed-repository case because a repository that is suitable for safe long-term disposal should be able to continue to provide acceptable waste isolation after some type of intrusion.''

Other Conclusions and Recommendations. There were other conclusions and recommendations in addition to those summarized in the Executive Summary. Most were related to or supported those presented in the Executive Summary.

II.D.2. How Has the Public Participated in Our Review of the NAS Report?

We are committed to providing ample opportunity for public participation in our Yucca Mountain rulemaking activities. We announced the first opportunity for public participation on September 11, 1995 in the **Federal**

Register (60 FR 47172) where we requested comments upon the NAS Report and announced the times and locations of three public meetings. Along with the general request for public comments, we asked five questions:

(1) did the Report sufficiently answer the questions posed in the EnPA;

(2) was there sufficient rationale to support the NAS' findings and conclusions;

(3) do provisions other than those found in NAS' findings and conclusions need to be included in the EPA standards;

(4) are any of NAS' findings or conclusions inappropriate or inaccurate regarding Yucca Mountain; and

(5) would the cost of imposing the findings and recommendations be justifiable when compared with the benefits provided?

We held the public meetings to inform the public of our role, to outline the issues associated with setting standards for Yucca Mountain, and to seek comments upon the NAS Report. The meetings were held on September 20, 1995, in Amargosa Valley, Nevada; on September 21, 1995, in Las Vegas, Nevada; and on September 27, 1995, in Washington, DC. We also have established several other information sources and given directions, in the **ADDRESSES** and *Additional Docket and Electronic Information* sections earlier in this notice, on how to access them.

II.D.3. What Were the Public Comments on the NAS Report?

We received comments regarding the NAS Report both orally and in writing at the public meetings and in response to the September 11, 1995, **Federal Register** notice, respectively. All written comments are in the docket and information files. The oral comments were summarized in a separate document, copies of which are also in the docket and information files.

Some commenters believed that the NAS inadequately supported its conclusion that there is no scientific basis for including the ''as low as reasonably achievable'' (ALARA) principle and subsystem requirements in the standards and, therefore, that we should include them in the proposed standards. The ALARA principle is a radiation-protection concept which states that exposures to radiation should be kept as low as can be done taking into account the costs and benefits of exposure reduction methods. ''Subsystem requirements'' refers to regulation of individual components of the overall disposal system. Other comments indicated that there was inadequate rationale to support NAS' concept of negligible incremental risk (NIR). The NIR concept is based upon an NCRP concept known as ''negligible incremental dose'' (NID, discussed in more detail later in this notice) which was described by NAS ''as a level of effective dose that can, for radiation protection purposes, be dismissed from consideration'' (NAS Report pp. 59–60). Commenters also stated that they did not support the NAS'' rejection of a collective-dose standard. Comments were divided upon requiring quantitative or qualitative assessment of human intrusion.

With regard to the three questions posed in the EnPA: (1) There were mixed responses upon whether a standard to protect individuals could adequately protect the general public; (2) there was nearly unanimous agreement that active institutional controls cannot prevent a breach of the repository; and (3) there was nearly unanimous agreement that it is impossible to predict the probability of future human intrusion into the repository.

Commenters also expressed views related to a number of other issues. The majority favored:

(1) A standard expressed in terms of dose;

(2) The highest level of protection possible;

(3) Measuring compliance at the time of peak risk of the maximally exposed individual;

(4) A reference biosphere to be specified by EPA;

(5) Including other local sources of man-made radiation in determining an acceptable level of protection;

(6) Protection equal to that specified for WIPP, that is, that in 40 CFR part 191 (WIPP is a geologic disposal system in New Mexico for defense-related transuranic waste but, unlike Yucca Mountain, WIPP is subject to our generic radioactive-waste standards codified at 40 CFR part 191; see also 61 FR 5224, February 9, 1996);

(7) Using a collective-dose limit to restrict exposure to the general population while ignoring the NIR concept;

(8) Including assurance requirements; and

(9) Including ground water protection requirements.

We have taken into consideration all comments received during preparation of these proposed standards. If you submitted comments in response to the September 11, 1995, **Federal Register** notice or at the September 1995 public hearings, you should submit additional comments in response to today's notice to convey any concerns or views about this proposal.

III. What Are We Proposing Today?

We are proposing, and requesting comment upon, public health and safety standards governing the storage and disposal of SNF, HLW, and other radioactive material in the repository at Yucca Mountain, Nevada. We are also announcing a public comment period and public hearings to gather comments upon the proposal.

As noted earlier, section 801(a)(1) of the EnPA gave us rulemaking authority to set ''public health and safety standards for the protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site.'' The statute also directed us to develop standards ''based upon and consistent with the findings and recommendations of the National Academy of Sciences.'' Section 801(a)(2) of the EnPA directed us to contract with NAS to conduct a study to provide findings and recommendations on reasonable standards for protection of the public health and safety. Because the EnPA called for us to act ''based upon and consistent with'' the NAS findings, a major issue in this rulemaking is whether we are bound to follow the NAS determinations without exception or whether we have discretionary decision-making authority.

As a practical matter, the difficulty of this issue is reduced because some of the findings and recommendations in the NAS Report are expressed in a non-binding manner. In other words, NAS stated its findings and recommendations as starting points for the rulemaking process or recognized those that involve public policy issues that are more properly addressed in this public rulemaking proceeding. However, the Report also contains some findings and recommendations stated in relatively definite terms. It is these issues that most squarely present the question of whether we are to treat the views of NAS as binding.

Whether the EnPA binds us to following exactly the NAS findings and recommendations is a question that warrants close attention at this stage of the rulemaking because it affects the scope of our rulemaking. If we are required to follow every view expressed in the NAS Report, any such issue would be treated as addressed conclusively by NAS. We would not need to entertain public comment upon the affected issues since the outcome would be predetermined.

We believe that the EnPA does not bind us absolutely to follow the NAS Report. Instead, we have used the NAS Report as the starting point for this rulemaking. Today's proposal is based upon and consistent with the findings and recommendations of NAS. We have developed this proposal guided by the findings and recommendations of NAS because of the special role given NAS by Congress and the scientific expertise of NAS. However, the entirety of our proposed standards for the Yucca Mountain disposal system is the subject of this rulemaking. We do not intend to treat the views expressed by NAS as necessarily dictating the outcome of this rulemaking, thereby foreclosing public scrutiny of important issues. For the reasons described below, we believe this proposed interpretation of the EnPA is consistent with the statute and prudent in that it avoids potential Constitutional issues. Further, this proposed interpretation supports an important EPA policy objective—ensuring an opportunity for public input upon all aspects of the issues presented in this rulemaking.

Section 801(a)(2) of the EnPA required a study by NAS that provides ''findings and recommendations on reasonable standards for protection of the public health and safety.'' While this section of the EnPA calls for NAS to address three specific issues, Congress did not place any restrictions upon other issues NAS could address. The report of the Congressional conferees underscored that ''the National Academy of Sciences would not be precluded from addressing additional questions or issues related to the appropriate standards for radiation protection at Yucca Mountain beyond those that are specified.'' (H.R. Rep. No. 1018, 102nd Cong., 2d Sess. 391 (1992)). Thus, given the potentially unlimited scope of the NAS inquiry under the statute, NAS could have provided findings and recommendations that would dictate literally all aspects of the public health and safety standards for Yucca Mountain, rendering our function a ministerial one.

Section 801(a)(1) of the EnPA plainly gave EPA the authority to issue, by rulemaking, public health and safety standards for Yucca Mountain. If at the same time that Congress gave NAS the authority to provide findings and recommendations on any issues related to the Yucca Mountain public health and safety standards, Congress also intended that NAS' findings and recommendations be binding upon us, then Congress would have effectively delegated to NAS a standard-setting authority that overrides our delegated rulemaking authority. Carried to its logical conclusion, under this view of the statute, NAS would have authority to establish the public health and safety standards, and to do so without a public rulemaking process. Then the direction for EPA to set standards ''by rule'' would be unnecessary or relatively meaningless. This tension in the statute can be reasonably resolved by interpreting the NAS' findings and recommendations as non-binding, but highly influential, expert guidance to inform our rulemaking.

Thus, we do not believe the statute forces our rulemaking to adopt mechanically the NAS' recommendations as standards. If it did, the statutory provisions would allow us to consider only those issues that NAS did not address. Further, the provisions calling for us to use standard rulemaking procedures in issuing the standards would be unnecessary to reach results that NAS already established.

The report of the conferees also indicates that Congress did not intend to limit our rulemaking discretion. The Conference Report provides that Congress intended NAS to provide ''expert scientific guidance'' on the issues involved in our rulemaking and that Congress did not intend for NAS to establish the specific standards:

> The Conferees do not intend for the National Academy of Sciences, in making its recommendations, to establish specific standards for protection of the public but rather to provide expert scientific guidance on the issues involved in establishing those standards. Under the provisions of section 801, the authority and responsibility to establish the standards, pursuant to rulemaking, would remain with the Administrator, as is the case under existing law. The provisions of section 801 are not intended to limit the Administrator's discretion in the exercise of his authority related to public health and safety issues. (H.R. Rep. No. 1018 at p. 391)

Our proposed interpretation of the EnPA as not limiting the issues for consideration in this rulemaking is consistent with the views we expressed to Congress during deliberations over the legislation. The Chairman of the Senate Subcommittee on Nuclear Regulation requested our views of the bill reported out of conference. The Deputy Administrator of EPA indicated that the NAS Report would provide helpful input. Moreover, EPA's Deputy Administrator pointed to the language, cited above, stating the intent of the conferees not to limit our rulemaking discretion and assured Congress that any standards for radioactive materials that we ultimately issue would be the subject of public comment and involvement and would fully protect human health and the environment. (138 Cong. Rec. S33,955 (daily ed. October 8, 1992)).

Our proposed interpretation also is consistent with the role that both NAS and Congress understood NAS would fulfill. During the Congressional deliberations over the legislation, NAS informed Congress that while it would conduct the study, it would not assume a standard-setting role because that is properly the responsibility of government officials. (138 Cong. Rec. S33,953 (October 8, 1992)).

Our proposed interpretation of the NAS Report also avoids implicating potentially significant Constitutional issues. Construing the EnPA as delegating to NAS the responsibility to determine the health and safety standards at Yucca Mountain may violate the Appointments Clause of the Constitution (Art. II, sec. 2, cl. 2), which imposes restrictions against giving Federal governmental authority to persons not appointed in compliance with that Clause. In addition, the Constitution places restrictions arising under the separation of powers doctrine upon the delegation of governmental authority to persons not part of the Federal government. We are not concluding, at this time, that an alternative interpretation would necessarily run afoul of Constitutional limits. However, we believe it is reasonable both to assume that Congress intended to avoid these issues when it adopted section 801 of the EnPA and to interpret the EnPA accordingly.

In summary, we do not believe we must, in this rulemaking, adopt all of the positions advanced by NAS. At the same time, the statute does give NAS a special role. As noted, the NAS' findings and recommendations have been the starting point for this rulemaking and our proposal is consonant with those findings and recommendations. In fact, the NAS Report influenced us heavily during the development of this proposed rule. We have included many of the findings and recommendations in whole in today's proposal, and we intend to continue to weigh the NAS Report heavily throughout the course of this rulemaking. We will tend to give greatest weight to the judgments of NAS about issues having a strong scientific component, the area where NAS has its greatest expertise. In addition, we will reach final determinations that are congruent with the NAS analysis whenever we can do so without departing from the Congressional delegation of authority to us to

promulgate, by rule, public health and safety standards for protection of the public, which we believe requires the consideration of public comment and our own expertise and discretion.

We request public comment upon how we should view and weigh the NAS' findings and recommendations in this rulemaking. Public commenters should also address this issue in the context of the specific issues presented in this rulemaking. Commenters should indicate whether we have given proper consideration to the NAS' findings and recommendations, whether we should give them more or less weight, and what the resulting outcome should be.

The following sections describe our proposed public health and safety standards for Yucca Mountain and the considerations which underlie the set of standards we are proposing today. The next section addresses the storage portion of the proposed standards. All of the other sections pertain to the disposal portion of the standards.

III.A. What Is the Proposed Standard for Storage of the Waste? (Proposed Subpart A)

Section 801(a)(1) of the EnPA calls for EPA's public health and safety standards to apply to radioactive materials ''stored or disposed of in the repository at the Yucca Mountain site.'' (The repository is the mined portion of the facility constructed underground within the Yucca Mountain site. Hereafter, the term ''repository'' refers to the Yucca Mountain repository.) The EnPA differentiates between waste that is ''stored'' and waste that is ''disposed,'' although it indicates that we must issue standards that apply to both types of activity. Congress was not clear regarding its intended use of the word ''stored'' in this context. Also, NAS did not address the issue of storage (see proposed §§ 197.2 and 197.12 for our proposed definitions of ''storage'' and ''disposal''). The Yucca Mountain repository currently is conceived to be a disposal facility, not a storage facility, but that could change. Therefore, we propose to interpret this language as directing us to develop standards that apply to waste that DOE either stores or disposes of in the Yucca Mountain repository. The public health and safety standards we issue under section 801 of the EnPA would, therefore, apply to waste inside of the repository, whether it is there for storage or disposal.

The Department will also handle and might store radioactive material aboveground (that is, outside the repository). Those activities are covered by our previously promulgated standards for management and storage, codified at subpart A of 40 CFR part 191. The 40 CFR part 191 standards require that DOE manage and store SNF, HLW, and transuranic radioactive wastes at a site, such as Yucca Mountain, in a manner that provides a reasonable expectation that the annual dose equivalent to any member of the public in the general environment will not exceed 25 millirem (mrem) to the whole body. This is the standard which DOE must meet for WIPP and the greater confinement disposal (GCD) facility. (The GCD facility is a group of 120-feet deep boreholes located within the Nevada Test Site (NTS) which contains disposed transuranic wastes.)

The storage standards in 40 CFR 191.03(a) are stated in terms of an older dose-calculation method and are set at an annual whole-body-dose limit of 25 mrem/yr. The proposed storage standards for Yucca Mountain use a modern dose-calculation method known as ''committed effective dose equivalent'' (CEDE).[8] Even though today's proposal uses the modern method of dose calculation, we believe that the proposed dose level essentially maintains a similar risk level as in 40 CFR 191.03(a) at the time of its promulgation (see the discussion of the different dose-calculation methods in the *What Should the Level of Protection Be?* section later in this notice). The difference between these dose calculation procedures presents a problem in combining the doses for regulatory purposes. However, we have begun a rulemaking to amend both 40 CFR Parts 190 and 191. That rulemaking would update these limits to the CEDE methodology. We anticipate that we will finalize the amendments to parts 190 and 191 prior to the finalization of this rulemaking. If that does not occur, we would need to address the calculation of doses under the two methods in another fashion. For example, we could require that the doses occurring as a result of activities outside the repository be converted into annual CEDE for purposes of determining compliance with the storage standard. We request comments upon such an approach.

Section 801 of the EnPA specifically provides that the standards that we issue shall be the only ''such standards'' that apply at Yucca Mountain. Thus, the statute provides that the EnPA is the exclusive authority for ''such standards'' and, in turn, replaces our generally applicable standards for radiation protection to the extent that section 801 requires site-specific standards. Otherwise, our generic standards are not affected. As noted, we propose to interpret the scope of section 801 as applying to both storage and disposal of waste in the repository. Thus, waste inside the repository would be subject to the standards proposed in today's notice. Our generic standards in subpart A of 40 CFR part 191 will apply to waste outside of the repository.

Using this interpretation, we have considered the differences between the conditions covered by the storage standards in 40 CFR 191.03(a) and the conditions which could affect storage in the Yucca Mountain repository. The most significant difference is that the storage in Yucca Mountain would be underground whereas most storage covered under 40 CFR part 191 is aboveground. Otherwise, the technical situations we anticipate under both the existing generic standards and the proposed Yucca Mountain standards are essentially the same. Also, one of our goals in issuing 40 CFR parts 190 and 191 was to bring the entire uranium fuel cycle under consistent EPA standards. Therefore, we are proposing that the part 197 standards continue the coverage of the uranium fuel cycle because SNF, a large part of the waste planned for emplacement in Yucca Mountain, is part of that fuel cycle. Therefore, we are proposing to extend a similar level of protection as in the 1985 version of subpart A of 40 CFR part 191. In other words, under the part 197 storage standards, exposures of members of the public from waste storage inside the repository would be combined with exposures occurring as a result of storage outside the repository but within the Yucca Mountain site. The total dose could be no greater than 150 microsieverts (μSv) (15 mrem) CEDE per year (CEDE/yr).

Our application of subpart A of 40 CFR part 191 to storage activities outside of the repository at the Yucca Mountain site is supported by the WIPP LWA. Section 8 of the WIPP LWA excludes Yucca Mountain from our generic disposal standards but not from the generic management and storage standards found in subpart A of 40 CFR part 191. If we finalize the proposed interpretation of section 801 of the EnPA as applying to radioactive material stored or disposed of in the repository, we would apply subpart A of 40 CFR part 191 to the storage activities outside of the repository at the site without further public notice.

[8] The term ''committed effective dose'' in this rulemaking has the same meaning as the term ''committed effective dose equivalent'' which was used prior to the publication of ICRP Publication No. 60. It is used here since the term is less complicated and more compact. Also, the use of ''committed effective dose'' is consistent with subpart B of 40 CFR part 191 (58 FR 66398, 66402, December 20, 1993).

We request comment upon our proposed interpretation that section 801 of the EnPA directs us to develop new standards that apply only to radioactive materials stored in the repository. We also request public comment upon whether we should instead construe section 801 of the EnPA as providing for the establishment of new storage standards, rather than applying the existing storage standards in 40 CFR part 191 to storage, or handling, of radioactive materials at the Yucca Mountain site prior to their movement into the repository. If we decide, based upon the alternative interpretation of section 801, to promulgate new storage standards for the site, we anticipate that we would adopt standards essentially the same as those in 40 CFR 191.03(a). Thus, we request public comment upon whether we should develop and adopt in this rulemaking, under section 801 of the EnPA, new standards for management and storage activities at the site, and request comments upon the adoption of such standards based upon those in 40 CFR 191.03(a).

III.B. What Is the Standard for Protection of Individuals? (Proposed §§ 197.20 and 197.25)

III.B.1. Should the Limit Be on Dose or Risk?

Although a standard for limiting exposure of people to radiation can take many forms, NAS narrowed its final considerations to risk and dose, that is, a risk-based or dose—based standard. The numeric level of the proposed standard for protecting individual members of the public from radioactive materials disposed of in the Yucca Mountain disposal system is addressed in the *What Should the Level of Protection Be?* section later in this notice. The discussion here explains why we selected a dose-based standard rather than a risk-based standard, as recommended by NAS.

Two forms of radiation exposure can occur depending upon the location of the source relative to the body '' internal and external. Internal exposures occur when a person inhales or ingests contaminated air, food, water, or soil. External exposures occur because a person is near a radionuclide which is emitting X-rays, gamma rays, beta particles, or neutrons. ''Dose'' is a measure of the amount of radiation received by individuals resulting from exposure to radionuclides. ''Risk'' is the probability of an individual incurring an adverse health effect from exposure to radiation. The NAS defined ''risk'' as the product of two parameters: (1) the probability of an individual receiving a dose, and (2) the probability of incurring a health effect because of that dose (NAS Report p. 42). This rulemaking takes both of these factors into account. (The probability of an individual receiving a dose is part of the performance assessment and is discussed in the *What Are the Requirements for Performance Assessments and Determinations of Compliance?* section later in this notice.) As mentioned in the previous section, these standards state radiation risk estimates as the probability of an individual developing a fatal cancer, since fatal cancers are the greatest harm to individuals from low-dose-rate radiation (NAS pp. 37–39).

Section 801(a)(1) of the EnPA directed that our standards for Yucca Mountain ''shall prescribe the maximum annual effective dose equivalent to individual members of the public from releases to the accessible environment from radioactive materials stored or disposed of in the repository....'' At the same time, the EnPA calls for us to issue our standards ''based upon and consistent with'' the findings and recommendations of NAS. The NAS recommended that we adopt a standard expressed as risk rather than the dose standard that Congress prescribed. The NAS offered two reasons for its recommendation. First, a risk-based standard is advantageous relative to a dose-based standard because it ''would not have to be revised in subsequent rulemakings if advances in scientific knowledge reveal that the dose-response relationship is different from that envisaged today'' (NAS Report p. 64). Second, a standard in the form of risk more readily enables the public to comprehend and compare the standard with human-health risks from other sources.

We have reviewed and evaluated the merits of a risk-based standard as recommended by NAS. However, we are proposing a dose-based standard for the following reasons. First, both national and international radiation protection guidelines developed by bodies of non-governmental radiation experts, such as ICRP and NCRP, generally have recommended that radiation standards be established in terms of dose. Also, national and international radiation standards, including the individual-protection requirements in 40 CFR part 191, are established almost solely in terms of dose or concentration, not risk. Therefore, a risk-based standard will not allow a convenient comparison with the numerous existing radiation guidelines and standards that are stated in terms of dose.

Second, we have an established methodology for calculating dose that is described in Federal Guidance Reports Nos. 11 and 12 (Federal Guidance). The development of this methodology was a combined effort of many Federal agencies involved in radiation protection and has become Federal policy. The guidance provides a consistent methodology for calculating doses for regulatory purposes. By contrast, there is currently no Federal Guidance Report, in final form, for calculating risk from radiation exposure.

Third, we have based the proposed dose-based standard upon the risk of developing a fatal cancer as a result of that level of exposure based upon a linear, non-threshold, dose-response relationship. We would establish a risk-based standard in the same manner. Thus, a risk-based standard, like a dose-based standard, depends upon current knowledge and assumptions about the chance of developing fatal cancer from a particular exposure level. Dose and risk are closely related; one can be converted to the other simply by using the appropriate factor. Therefore, both dose- and risk-based standards are based upon scientific assumptions that could change and no matter how it is expressed, the standard is based upon risk.

Finally, section 801(a)(1) of the EnPA specifically calls for a dose-based standard. Most commenters supported this by asking for a dose-based standard rather than a risk-based standard.

Accordingly, we are proposing a standard expressed as a limit on dose. We are requesting comments upon the proposed form of the standard, including whether the standard should be expressed as risk.

III.B.2. What Should the Level of Protection Be?

As noted previously, section 801(a)(1) of the EnPA calls for our Yucca Mountain standards to ''prescribe the maximum annual effective dose equivalent to individual members of the public from releases of radioactive materials.'' Development of the individual-protection standard requires us to evaluate and specify several factors. These factors include the level of protection, who the standards should protect, and how long the standards should provide protection. Determining the appropriate dose level is ultimately a question of both science and public policy. The NAS stated in its Report: ''The level of protection established by a standard is a statement of the level of the risk that is acceptable to society. Whether posed as ''How safe is safe enough?'' or as ''What is an acceptable

level?'', the question is not solvable by science'' (NAS Report p. 49). We seek to find answers to these questions for the Yucca Mountain disposal system through this rulemaking.

We considered the NAS findings and recommendations in our determination of the CEDE level that would be adequately protective of human health. We also reviewed established EPA standards and guidance, other Federal agencies' actions for both radiation and non-radiation-related actions, and other countries' regulations. In addition, we evaluated guidance on dose limits provided by National and international, non-governmental, advisory groups of radiation experts.

The NAS recommended a range of risk levels that we could use as a reasonable starting point in this rulemaking (NAS Report p. 5). The range of annual risk of fatal cancer suggested by NAS was 1 chance in 100,000 (1×10^{-5}) to 1 chance in 1,000,000 (1×10^{-6}) (this corresponds to a range of 20 to 2 mrem CEDE/yr). The NAS based its recommendation upon its review and evaluation of our actions, other Federal actions, guidelines developed by National and international groups, and regulations of other countries. For these standards, we are proposing a limit of 150 μSv (15 mrem) CEDE/yr. This limit corresponds approximately to an annual risk of 7 chances in 1,000,000 (7×10^{-6})—within the range that NAS recommended as a starting point for consideration.

Table 1 below lists the dose limits of other current EPA and NRC regulations (adapted from NAS Report p. 50). Today's proposed standard of 150 μSv (15 mrem) CEDE/yr is within the range of these established standards. Further, it is consistent with the individual-protection standard at 40 CFR 191.15 in our generic disposal standards which limits the annual CEDE to 150 μSv (15 mrem)/yr.

TABLE 1.—CURRENT EPA AND NRC DOSE LIMITS ON VARIOUS ENVIRONMENTAL CONCERNS

Environmental concern	Limit*
Low-Level Waste (10 CFR part 61)	250 μSv (25 mrem)/yr
License Termination (10 CFR part 20)	25 mrem TEDE**/yr
Uranium Fuel Cycle (40 CFR part 190)	25 mrem/yr
Generic Standard for Management and Storage of SNF and HLW (40 CFR 191.03).	25 mrem/yr
Generic Individual-Dose Standard for Disposal of SNF and HLW (40 CFR 191.15).	150 μSv (15 mrem) CEDE/yr
National Emission Standards for Hazardous Air Pollutants (40 CFR part 61, subparts H and I).	10 mrem CEDE/yr
SNF and HLW Disposal Limit for Underground Sources of Drinking Water (40 CFR 191.24).	4 mrem/yr for man-made beta- and photon-emitting radionuclides

*Unless otherwise noted, only whole-body dose limits are listed; there may also be other requirements for any particular environmental concern. The 25-mrem/yr, whole-body-dose limit established in 1985 is essentially equivalent to the risk associated with today's dose rate of 150 μSv (15 mrem) CEDE/yr (58 FR 66402, December 20, 1993).

**TEDE (total effective dose equivalent) is NRC's term for CEDE. This regulation was not included in the NAS Report.

We note that, except for 40 CFR 191.15, 40 CFR part 61, and 10 CFR part 20, the dose limits in Table 1 are stated in terms of an old dose system. For example, the annual limits in 40 CFR 191.03(a) are 25 mrem for the whole body, 75 mrem for the thyroid, or 25 mrem for any other organ (only the whole-body limit is listed in Table 1). We established these dose levels in 1985 (50 FR 38085, September 19, 1985) under a different system for calculating doses than the more recent rulemakings that use the CEDE concept. We estimate that the 25-mrem/yr, whole-body-dose limit established in 1985 is essentially equivalent to the risk associated with today's proposed limit of 150 μSv (15 mrem) CEDE/yr (58 FR 66398, 66402, December 20, 1993).

In addition, the proposed 150-μSv (15 mrem)-CEDE/yr limit in today's proposal is consistent with other current standards. For example, our limits on radiation exposure through the air is part of the set of limits for pollutant releases known as the National Emission Standards for Hazardous Air Pollutants (NESHAPs, 40 CFR part 61). Since our NESHAPs limit of 10 mrem/yr covers radionuclide releases into only the air, the 150 μSv (15 mrem) CEDE/yr standard being proposed for 40 CFR part 197 is consistent with the NESHAPs limit because it applies to all potential pathways, that is, the dose limit is higher but includes other pathways in the analysis.

In summary, based upon our review of the guidance, regulations, and standards cited above, and the NAS Report, we are proposing a standard of 150 μSv (15 mrem) CEDE/yr for the Yucca Mountain disposal system. We request comment upon the reasonableness of this level of protection.

III.B.3. What Factors Can Lead to Radiation Exposure?

Protection of the public from exposure to radioactive pollutants requires knowledge and understanding of three factors: the source of the radiation, the pathways leading to exposure, and the recipients of the radiation. This section provides a discussion of the source of radiation and pathways of exposure. The following two sections discuss the recipients of the dose. The development of standards to protect public health and safety from radionuclides released from waste disposed of in the Yucca Mountain disposal system must include consideration of the sources of radiation and pathways which could lead to exposure of humans. The mechanisms of exposure are the basis of an analysis called the performance assessment. The performance assessment is the quantitative analysis of the projected behavior of the disposal system.

Source. The waste disposed of in Yucca Mountain will contain many different radionuclides including unconsumed uranium, fission products (for example, cesium-137 and strontium-90), and transuranic elements (for example, plutonium and americium).

The inventory of radionuclides over time will depend upon the type and amount of radionuclides originally disposed of in the disposal system, the half-lives of the radionuclides, and the amount of any radionuclides formed from the decay of parent radionuclides (see the BID). In the time frame of tens- to hundreds-of-thousands of years, most

radionuclides initially present in SNF and HLW will decay to essentially no radioactivity. Therefore, the waste will eventually have radiologic characteristics similar to a large uranium ore body (see the BID).

To delay the movement of radionuclides into the biosphere, DOE plans to use multiple barriers. These barriers would be man-made (engineered) and natural based upon the design of, and conditions in and around, the disposal system.

Engineered barriers must be designed to delay release of radionuclides from the repository. For example, an engineered barrier could be the waste form. The Department plans to convert liquid HLW derived from reprocessing of SNF into a solid by entraining the radionuclides into a matrix of borosilicate glass; NRC will likely consider this an engineered barrier. The molten glass then would be poured into and hardened in a second man-made barrier, a metal container (see the BID). In addition, it is possible to have other man-made barriers in the repository to serve as part of the disposal system (see the BID).

Natural barriers at Yucca Mountain also could slow the movement of radionuclides into the accessible environment. For instance, the Department plans to construct the repository in a layer of tuff located above the water table. The relative dryness of the tuff around the repository would limit the amount of water which comes into contact with the waste. It also would retard the future movement of radionuclides from the waste into the underlying aquifer. Any radioactive material that dissolved into infiltrating water, originating as surface precipitation, still would have to be moved to the saturated zone. Minerals, such as zeolites, contained within the tuff beneath the repository could act as molecular filters and ion-exchange agents for some of the released radionuclides, thereby slowing their movement. Such minerals also could limit the amount of water that contacts the waste and could help retard the movement of radionuclides from the waste to the water table. This mechanism would be most effective if flow was predominantly through the pores in the rock, also known as the matrix (see the BID).

Pathways. Once radionuclides have left the waste packages, they could be carried by water or air and reach the public. Upon release from the waste packages, most radionuclides will be carried by ground water away from the repository. However, those in a gaseous form, such as carbon-14 (^{14}C) in the form of carbon dioxide, will be carried by air moving through the mountain.

Movement via water. Radionuclides will not be moved into the water table instantaneously. The length of time it takes depends partly upon how much the water moves via fractures or through the matrix of the rock. Once radionuclides reach the saturated zone, they would move away from the disposal system in the direction of ground water flow.

There are currently no perennial rivers or lakes adjacent to Yucca Mountain to further transport contaminants. Therefore, based upon current knowledge and conditions, ground water and its usage will likely be the main pathway leading to exposure of humans. Current knowledge suggests that the two major ways that people would use the contaminated ground water are: (1) drinking and domestic uses; and (2) agricultural uses (see the BID). In other words, radionuclides that reach the public could deliver a dose if an individual: (1) Drinks contaminated ground water or uses it directly for other household uses; (2) drinks other liquids containing contaminated water; (3) eats food products processed using contaminated water; (4) eats vegetables or meat raised using contaminated water, or (5) is otherwise exposed as a result of immersion in contaminated water or air or inhalation of wind-driven particulates left following the evaporation of the water.

Movement via air. Some radionuclides could be carried by moving air. The largest known source of potential movement by air in Yucca Mountain is carbon dioxide containing ^{14}C. Airborne radionuclides might move through the tuff overlying the repository and exit into the atmosphere following release from the waste package. Once the radioactive gas enters the atmosphere, it would disperse. This dispersion would probably be global and, therefore, become greatly diluted. The major pathway for exposure of people by ^{14}C is the uptake of radioactive carbon dioxide by plants that humans subsequently eat (see the BID).

III.B.4. Who Will Be Representative of the Exposed Population?

To determine whether the Yucca Mountain disposal system complies with the standard, it will be necessary for DOE to calculate the dose to some individual or group of individuals exposed to releases from the repository and compare the calculated dose with the limit established in the standard. The standard must specify, therefore, the individual or group of individuals for whom the dose calculation is to be made.

The NAS definition of critical group. The NAS Report recommended that we base the standards for protection of individuals upon risk incurred by a critical group (CG). The CG would be the group of people which, based upon cautious, but reasonable, assumptions, has the highest risk of incurring health effects due to releases from the disposal system. The ICRP introduced the concept of a CG in order to account for the variation of dose which may occur in a population due to differences in age, size, metabolism, habits, and environment. In other words, the ICRP recommends the use of a group of people because individuals might have personal traits which make them much more or less vulnerable to releases of radiation than the average within a small group of the most highly exposed individuals. The ICRP defines the CG as a relatively homogeneous group of people whose location and habits are such that they represent those individuals expected to receive the highest doses as a result of the discharge of radionuclides. The NAS adapted the CG concept to a risk framework for the development of an individual-risk standard and recommended the following description of the CG (NAS Report p. 53):

> The critical group for risk should be representative of those individuals in the population who, based on cautious, but reasonable, assumptions, have the highest risk resulting from repository releases. The group should be small enough to be relatively homogeneous with respect to diet and other aspects of behavior that affect risks. The critical group includes the individuals at maximum risk and is homogeneous with respect to risk. A group can be considered homogeneous if the distribution of individual risk within the group lies within a total range of a factor of ten and the ratio of the mean of individual risks in the group to the standard is less than or equal to one-tenth. If the ratio of the mean group risk to the standard is greater than or equal to one, the range of risk within the group must be within a factor of 3 for the group to be considered homogeneous. For groups with ratios of mean group risk to the standard between one-tenth and one, homogeneity requires a range of risk interpolated between these limits.

The NAS also recommended that the CG risk calculated for purposes of comparison with the risk limit established in the standard is the average of the risks of all the members in the group. Using the average risk avoids the problem of the outcome being unduly influenced by unusual habits of individuals within the group.

The NAS indicated that in order to select a CG, the person or persons likely

to be at highest risk from among the larger, exposed population must be specified. To accomplish this, one must make assumptions about the nature of human activities, lifestyles, and pathways that affect the level of exposure. The set of circumstances that affects the dose received, such as where people live, what they eat and drink, and other lifestyle characteristics, is a very important part of the exposure scenario. Many human behavior factors important to assessing repository performance vary over periods that are short in comparison with the compliance period proposed for these standards. The past several centuries have seen radical changes in human technology and behavior, many of which were not reasonably predictable. Given this potential for rapid change, we believe that it is not possible to know what patterns of human activity and changes in human biology might occur thousands of years from now. For the purpose of compliance with the standard, therefore, we are proposing that it is appropriate to use many of the current characteristics of members of the public in the vicinity of Yucca Mountain in the compliance assessments required by these standards (see the *What Should Be Assumed About the Future Biosphere? section later in this notice).*

The NAS Report presented two illustrative approaches for formulating an exposure scenario for determining compliance. The NAS also clearly stated that there might be other methods to reach the same objective (NAS Report p. 100). One approach, described in Appendix C of the NAS Report, *A Probabilistic Critical Group,* used statistical methods and probabilities to characterize a CG. The second, *The Subsistence-Farmer Critical Group,* described in Appendix D, identified a subsistence farmer as a principal representative of the CG.

The NAS probabilistic critical group. Appendix C of the NAS Report described a ''probabilistic critical group.'' This section describes the contents of Appendix C of the NAS Report.

The NAS probabilistic CG approach would require use of a theoretical population distribution which we would, or require DOE to, develop by using a mathematical method known as ''Monte Carlo.'' The Monte Carlo method is a mechanism to randomly select values of parameters which have a range of possible values. The parameters would be present-day environmental parameters, including soil quality, land slope, growing season, depth to the aquifer, and population distribution and lifestyles. The individuals who comprise the CG may represent a variety of economic lifestyles and activities. The analysis would then use the variability of those parameters in the region around Yucca Mountain to arrive at the theoretical population for the calculation of radiation exposure. This theoretical population would then, according to NAS, be combined with Monte Carlo simulations of the distribution of contaminated ground water in time and space (NAS Report p. 148). According to NAS, each simulation would generate a plume path which could be overlain on a map of potential farm density or water use to determine a potential exposure area. Each of these potential plume paths is known as a ''realization.'' Values for parameters, including well depths, rates of water use, food sources, and consumption rates, are determined by sampling from the parameter-value distributions. For each plume realization of the contamination in the aquifer, the results of the exposure simulations are combined to give a spatial distribution of maximum exposures for the locations likely to be inhabited. This approach would use a large number of simulations of plume realizations to identify critical subgroups with the highest risk. It would then be used to calculate the arithmetic average of the risk of all critical subgroups over all plume realizations to estimate the risk for the CG. In determining compliance, the Commission would compare this estimate with the risk limit in the standard.

We considered proposing the probabilistic CG approach but are not doing so for the following reasons. First, there is no relevant experience in applying the probabilistic CG approach. Second, the approach is very complex and difficult to implement in a manner that assures it would meet the requirements of defining a CG. Third, we are concerned that this approach does not appear to identify clearly who is being protected. Finally, a significant majority of the comments that we have received upon the NAS Report opposes the probabilistic CG approach.

The NAS subsistence-farmer critical group. The approach in Appendix D of the NAS Report specified one or more subsistence farmers as the CG. It made assumptions designed to define the farmer at maximum risk to be included in the CG. This section describes the contents of Appendix D of the NAS Report.

The subsistence-farmer CG is a definable, highly exposed segment of the larger, exposed population. The subsistence farmer would be assumed to: (1) be a person with eating habits and response to doses of radiation that would be average for present-day people and (2) obtain all potable water and grow all of his or her own food using water withdrawn from the aquifer contaminated with radionuclides from the disposal system. The water used by this CG would be withdrawn at a location downgradient from and outside the footprint of the repository at the point of maximum potential concentration of ground water contamination, provided that no natural geologic features preclude drilling for water at that location. (The footprint of the repository is the circumscription of the outermost, original emplacement locations of the waste.)

Concentrations of radionuclides in the extracted ground water may be smaller than in undisturbed ground water due to pumping; this possibility could be used when evaluating exposures (NAS Report p. 155). As a result of uncertainty, there will be probabilistic distributions of radionuclide concentrations, as they vary in time and space in the aquifer outside the repository footprint, which are the input variables needed to estimate the risk. The radionuclide distributions in the aquifers, in turn, depend upon the performance of the components of the natural and engineered barrier systems. Projections of their performance also contain uncertainty and likely will be subject to probabilistic assessment. Any assessment of the potential doses from the repository, therefore, must consider the probability of processes and events that influence eventual concentrations of radionuclides in aquifers supplying water to the CG.

Overall, the ''expected'' risk for the average member of this CG would be about one-half that of the most-exposed subsistence farmer (NAS Report p. 158). This average risk to the members of the CG would be compared with the standard selected for compliance.

We considered proposing that the protected individual(s) be the subsistence-farmer CG. The CG concept has been utilized within the U.S. in various ways. The NRC uses the CG concept in assessing compliance with NRC standards for radionuclide releases from nuclear facilities. For example, the Commission uses the CG concept in: (1) licensing actions involving dose calculations under 10 CFR part 40, appendix A; (2) its radiological criteria for license termination of all NRC-licensed facilities at 10 CFR part 20, subpart E; and (3) its draft guidance for LLW disposal under 10 CFR part 61. The State of Washington recently

implemented the CG concept in actions relating to U.S. Ecology's LLW site at Hanford, and the State of Texas endorses CG in its decommissioning standards. Also, a great deal of international guidance exists that discusses the use of CG. The ICRP endorses CG, and has recommended the CG concept in numerous documents, both recent and dating back as far as 1977. Canada, Sweden, Switzerland, and the United Kingdom are among those individual nations that have adopted the CG methodology for radioactive waste storage and disposal.

We prefer an approach to exposure assessment that is consistent with other Agency programs (*Guidance on Risk Characterization for Risk Managers and Risk Assessors,* Deputy Administrator F. Henry Habicht II, February 26, 1992) and which we believe provides a level of protection substantially equivalent to that which would be achieved by the CG concept.

Our proposal for the protection of individuals. Most of our programs use an approach for the development of exposure scenarios that involves determining the high-end range of doses or exposures. Conceptually, this range is that above the 90th percentile of the entire (either measured or estimated) distribution of potential doses within the exposed population. Conversely, the NESHAPs program for radionuclides and the individual-protection requirements in the generic SNF and HLW disposal standards at 40 CFR 191.15 require calculation of the individual dose for a person assumed to reside at a location where that person would receive the highest dose. However, other Agency programs use a different approach to protect individuals by using ''reasonable, maximum exposure'' (RME) conditions. The National Contingency Plan describes an approach to be used for the RME scenario to protect individuals as ''a product of factors, such as concentration and exposure frequency and duration, that are an appropriate mix of values that reflect averages and 95th percentile distributions'' (55 FR 8666, 8710, March 8, 1990). In the past, we have defined ''reasonable maximum'' to mean potential exposures that are likely to occur. The method for calculating the RME is to estimate the high-end range of possible exposures by identifying the factors which have the greatest effect upon the size of the dose, and using maximum or nearly maximum values for one or a few of these factors, leaving the others at their average values (57 FR 22888, 22922, May 29, 1992). In this approach, we select a hypothetical individual who would be representative of the most highly exposed individuals. We call this individual the reasonably maximally exposed individual (RMEI). To be effective, the RMEI approach must avoid incompatible combinations of parameter values, such as, low body weight used in combination with high intakes.

Thus, we intend for this procedure to project doses that are within a reasonably expected range rather than projecting the most extreme case. However, the procedure is also meant to identify an individual dose which is well above the average dose in the exposed population. The ultimate goal and purpose is to estimate a level of exposure that is protective of the vast majority of individuals at a site, but is still within a reasonable range of potential exposures.

For the preceding reasons, we are proposing the RMEI concept as our preferred approach instead of the CG approach. The United States and other countries have used the concept of a hypothetical individual to represent future populations in radioactive-waste management programs. This is consistent with widespread practice, current and historical, of estimating dose and risk to highly exposed individuals even when the exposure habits of future people cannot be specified or accurately calculated, as in this case where doses must be projected for very long periods. The approach is straightforward and relatively simple to understand. We believe that this approach provides protection similar to that afforded by the NAS recommendation to use a CG. The RMEI model uses a series of assumptions about the lifestyle of a hypothetical individual. The desired degree of conservatism can be built into the model through choices of assumed values of RME parameters. However, these values would be within certain limits since we are proposing to require the use of Yucca Mountain-specific characteristics in choosing those parameters and their values. In subpart B of 40 CFR part 197, we propose a framework of assumptions for NRC to incorporate into its implementing regulations.

Our proposed RMEI would be representative of a future population group termed ''rural-residential.'' The CEDE received by this RMEI would be calculated by DOE using cautious, but reasonable, exposure parameters and parameter-value ranges. The projected CEDE would be used by NRC in the determination of compliance with the proposed standards. We believe that the results obtained by using this approach would be similar to those which would be obtained by using the subsistence-farmer CG approach put forth in Appendix D of the NAS Report. In both cases, the objective is to determine the magnitude of the potential exposure using reasonable, not extreme, assumptions. Under the proposed standards, the RMEI will have food and water intake rates, diet, and physiology like that of individuals currently living in the downgradient direction of flow of the ground water passing under Yucca Mountain. The Department will perform the dose calculation to estimate exposure resulting from releases from the waste into the accessible environment based upon the assumption of present-day conditions in the vicinity of Yucca Mountain. Presently, we expect the ground water pathway to be the most significant pathway for exposure from radionuclides that are transported from the repository. Our initial evaluation of potential exposure pathways from the disposal system to the RMEI suggests that the dominant fraction of the dose incurred by the RMEI likely will be from ingestion of food irrigated with contaminated water (see the BID). It is possible, however, that another exposure pathway will be determined by DOE and NRC to be more significant for radiation exposure. Consequently, DOE and NRC must consider and evaluate all potentially significant exposure pathways in the performance assessment. As a result of the performance assessment, there will be a distribution of the highest potential doses incurred by the RMEI. We are proposing that the mean or median value (whichever is higher) of that distribution be used by NRC to determine compliance with the individual-protection standard. We request comments upon this method of determining compliance with the individual-protection standard.

We are also requesting comments upon the alternative of adopting the CG approach rather than the RMEI. Comments supporting the CG approach should address the level of detail EPA's rule should include on the parameters of the CG.

Exposure scenario for the RMEI. A major part of the exposure scenario is the location of the RMEI. In preparing to propose a location for the RMEI, we collected and evaluated information on the natural geologic and hydrologic features, such as topography, geologic structure, aquifer depth, aquifer quality, and the quantity of ground water, that may preclude drilling for water at a specific location. Based upon these factors and the current understanding of ground water flow in the area of Yucca

Mountain, it appears that an individual could reside anywhere along the projected radionuclide flow path extending from Forty-Mile Wash, approximately five kilometers (km) from the proposed repository location, to the southwestern part of the Town of Amargosa Valley, Nevada, where the ground water is close to the land surface and where most of the farming in the area is done. However, an individual's ability to reside at any particular point along that path depends upon that individual's purpose and available resources. To explore these variations, we developed the four scenarios described below. We present our evaluation of factors associated with these scenarios more fully in the BID. We welcome comment upon the appropriateness of each of these scenarios and upon our preferred scenario. In developing scenarios, we assumed that the level of technology and economic considerations affecting population distributions and life styles in the future are the same as today (for more detail, see the *What Should Be Assumed about the Future Biosphere?* section below).

The RMEI in the first scenario is a subsistence (low technology) farmer. Such an individual would have continuous exposure to radionuclides in water, air, and soil which are arriving through all exposure pathways. The RMEI's location and habits would be generally consistent with historical locations of Native Americans and early settlements in Amargosa Valley and influenced heavily by easy access to water, that is, where the water table is near the surface (approximately 30–40 km away from the disposal system). In addition, all of the RMEI's water and food would come from contaminated sources. We did not choose this option because we believe that such a scenario is overly conservative given the site-specific characteristics of the area and reasonable consideration of the lifestyles of individuals in that area.

In the second scenario, we considered using a commercial farmer as the RMEI. We evaluated economic factors and current and potential future technologies which could be economically viable. There are areas in the vicinity of Yucca Mountain which are currently being farmed commercially or could be economically farmed based upon reasonable assumptions, current technology, and experience in other arid parts of the western United States. The exposure pathways in this scenario would be the same as those used for the subsistence-farmer scenario. We did not choose this as our preferred scenario since we believe that commercial farming would not be representative of the general population and would not be likely in areas other than where there is currently such farming, approximately 30 kilometers from the disposal system.

The third scenario, selected as our preferred approach, involves a rural-residential RMEI. We assume that the rural-residential RMEI is exposed through the same general pathways as the subsistence farmer. However, this RMEI would not be a full-time farmer but would do personal gardening and earn income from other sources of work in the area. We assume further that all of the drinking water (two liters per day) and some of the food consumed by the RMEI is from the local area. The consumption of two liters per day of drinking water is a high value since people consume water from outside sources, such as commercial products. Similarly, we assume that local food production will use radioactively contaminated water coming from the disposal system. We believe this lifestyle is similar to that of most people living in Amargosa Valley today.

The fourth scenario which we considered is domestic use of an underground source of drinking water (USDW) by a community living near the repository site. A USDW is essentially an aquifer which is large enough to supply or could supply a public water system (the full definition is in 40 CFR 144.3). Based upon current water usage in the arid western United States, a public water supply inside of the current NTS could exist since a community would have greater resources to access and recover water than would most individuals. Such a community water supply would have characteristics similar to DOE's water wells J–12 and J–13. These wells have supplied water needs (including human consumption) since the early 1960s for the Federal government. While we consider such a scenario possible, it could be less protective than the rural-residential scenario because it would not protect individuals from the ingestion of contaminated home-grown food. Also, we consider this scenario less representative of current conditions for most people in the vicinity of Yucca Mountain.

Location of the RMEI. The location of the RMEI is a basic part of the exposure scenario. We considered locations within a region occupying an area bordering Forty-Mile Wash, within a few kilometers of the repository site, to the southwestern border of the Town of Amargosa Valley. This region, which we believe is hydrologically downgradient from Yucca Mountain, can be considered as three general subareas.

The first subarea occupies the land south from near Yucca Mountain to the vicinity of U.S. Route 95. This subarea has deep ground water (up to about 300 meters) which is accessed by Federally owned wells used for DOE activities associated with Yucca Mountain and the NTS. This land is currently under government control and ownership. In addition, the likelihood of small or economically viable agricultural activities in this area is questionable when the depth to the water table is taken into consideration.

The next subarea borders the first and extends several kilometers south of U.S. Route 95. The northern portion of the Town of Amargosa Valley, including the businesses at the intersection of U.S. Route 95 and Nevada State Route 373 (Lathrop Wells), is included in this subarea. This subarea currently includes about 15 residents and no agricultural activities, although abandoned irrigation wells exist (see the BID). The depth to water in this area ranges from slightly more than 100 to about 60 meters. The U.S. Natural Resource Conservation Service has designated the types of soils in this area as suitable for rangeland and wildlife habitat.

The third subarea borders the second and covers the remainder of the Town of Amargosa Valley. This subarea is the closest downgradient location to Yucca Mountain with perennial agricultural activity. The depth to ground water is relatively shallow—approximately 50 to 15 meters. The agriculture consists of both personal gardens and commercial activities. The commercial agriculture is a mainstay of the local economy. Commercial farms produce crops, livestock, and dairy products for either local consumption or for transport out of the region. Most of the residents of the Town of Amargosa Valley are within this subarea, as are the community center, school, clinic, library, post office, and sheriff's office. The population consists of all age groups.

Based upon these considerations of the subareas, we propose that the intersection of U.S. Route 95 and Nevada State Route 373, known as Lathrop Wells, is a likely location for the RMEI. In this example, we do not consider it probable that the rural-residential RMEI would occupy locations significantly north of U.S. Route 95. We make this assumption mainly because the rough terrain and increasing depth to ground water nearer to Yucca Mountain would likely discourage settlement by individuals because access to water is more difficult than it would be a few kilometers

farther south. Also, there are currently several residents and businesses near this location whose source of water is the underlying aquifer (which we understand flows from under Yucca Mountain). Therefore, we believe that it is reasonable to assume that individuals could reside near this intersection in the future.

Farming occurs today farther south, in the southwestern portion of the Town of Amargosa Valley in an area near the California border and west of Nevada State Route 373. However, soil conditions in the vicinity of Lathrop Wells are similar to those in southwestern Amargosa Valley. Therefore, it should be feasible for the RMEI to grow some of his or her own food, including a grazing cow, using a fraction of the water recovered but not used for household purposes. Larger-scale food production at Lathrop Wells is unlikely because of the cost of recovering sufficient water. To supplement the gardening and grazing, we propose that it is also reasonable to assume that the RMEI would obtain much of his or her food from the local area.

Finally, we believe that a rural-residential RMEI near Lathrop Wells would be among the most highly exposed individuals in the downgradient direction from Yucca Mountain. We believe that this is true even though individuals residing closer to the repository (where the ground water is at a greater depth) could be consuming higher concentrations of radionuclides in their drinking water. Because of the significant cost of finding and withdrawing the ground water, we further believe that individuals living nearer the repository are unlikely to withdraw water from the significantly greater depth and in the much larger quantities needed for farming activities. Based upon our analyses of potential pathways of exposure, discussed above, we believe that irrigation would be the most likely pathway for most of the dose from the most soluble, least retarded radionuclides (such as technetium-99 and iodine-129). The percentage of the dose that results from irrigation would depend upon the assumptions about the fraction of all food assumed to be consumed by the RMEI from gardening or other crops grown using contaminated water. We also are proposing that protection of a rural-residential RMEI would be protective of the general population (see the *How Will the General Population Be Protected?* section below).

Our identification of Lathrop Wells as a potential location of the RMEI is based upon a review of available, site-specific information. Of course, DOE and NRC must consider other, more appropriate locations based upon additional data which DOE or others may develop later, but the selection of that other location must be based upon the same considerations used for this example. For example, if DOE subsequently determines that the direction of ground water flow is different than we have assumed, DOE and NRC must choose the location, at the same distance from the center of the repository footprint as the original point of compliance, where the highest radionuclide concentrations occur.

As stated earlier, the method of calculating the RME is to select average values for most parameters except one or a few which are set at their maximum, that is, high-end, values. We believe that the Lathrop Wells location and a consumption rate of two liters per day of drinking water from the plume of contamination represent high-end values for two of these factors. The Commission may identify additional parameters for which to assign high-end values in projecting the dose to the RMEI. To the extent possible, NRC should use site-specific information for any remaining factors. For example, NRC should use the most accurate projections of the amount of contaminated food that would be ingested in the future. Projections might be based upon surveys which indicate the percentage of the total diet of Amargosa Valley residents which is from food grown in the Amargosa Valley area.

We particularly request comment upon whether:

(1) Based upon the above criteria, there is now sufficient information for us to adequately support a choice for the RMEI location in the final rule or should we leave that determination to NRC in their licensing process based upon our criteria;

(2) Another location in one of the three subareas identified previously should be the location of the RMEI; and

(3) Lathrop Wells and an ingestion rate of two liters per day of drinking water are appropriate high-end values for parameters to be used to project the RME. We also request comment upon the potential approaches and assumptions for the exposure scenario to be used for calculating the dose incurred by the RMEI.

III.B.5. How Will the General Population be Protected?

In section 801(a)(2)(A) of the EnPA, Congress asked whether an individual-protection standard could also protect the general population. In response, the NAS concluded that an individual-protection standard could provide such protection for the case of the proposed Yucca Mountain repository. The NAS premised this conclusion upon the condition that the public and policymakers would accept the idea that extremely small individual radiation doses spread out over large populations pose a risk that is negligible (NAS Report p. 57). The NAS refers to this concept as ''negligible incremental risk'' (NAS Report p. 59). Earlier, we described our proposed individual-protection standard for the RMEI which would establish the highest allowable radiation dose. This section of the notice raises another question—should we also adopt a standard to limit the possible widespread exposure of whole populations to extremely small individual doses?

In discussing the feasibility of protecting the general population from releases of radionuclides from Yucca Mountain, NAS considered the potential for the release of gaseous radionuclides. The NAS Report explained how the release of carbon dioxide gas containing ^{14}C from the Yucca Mountain disposal system might expose a large population:

> Global populations might be affected because radionuclide releases from a repository can in theory be diffused throughout a very large and dispersed population. In the case of Yucca Mountain, the likely pathway leading to widely dispersed radionuclides is via the atmosphere beginning with release of carbon dioxide gas containing the carbon-14 (^{14}C) radioactive isotope which might escape from the waste canisters. (NAS Report p. 7)

On page 61 of its Report, NAS estimated that the average dose to members of the global population, based upon this scenario, to be 0.003 μSv/year (0.0003 mrem/yr) and equated that to an annual risk of fatal cancer of 1.5 in 10 billion (1.5×10^{-10}).

The NAS relied upon the recommendations of the NCRP in its report titled ''Limitation of Exposure to Ionizing Radiation'' (NCRP Report No. 116) to support their claim that such doses are negligibly small. In this report, the NCRP stated that a radiation dose of less than 10 μSv (1 mrem)/yr for any source or practice would represent a ''negligible incremental dose.'' The NCRP endorsed the assumption that there is some radiation risk for every radiation exposure. Further, they explained that there are great uncertainties in trying to understand the meaning of radiation effects upon populations, especially when these effects are calculated by summing extremely small individual doses among huge populations. Agreeing with this

concept, the NAS preferred to use risk instead of dose. The NAS then estimated the risk level associated with the NCRP's NID level of 10 μSv/yr and adopted the term ''negligible incremental risk.'' The NAS then proposed this NIR level as the starting point for a process to establish a risk level for individuals that would be ''negligible.''

For different reasons, we provisionally agree with the NAS that an individual-risk standard can adequately protect the general population near Yucca Mountain. Our agreement is based upon the particular characteristics of the Yucca Mountain site. We emphasize that our view relates to the specific circumstances associated only with Yucca Mountain. We are not proposing to adopt either an NID or NIR level. We are concerned that such an approach is not appropriate in all circumstances. Again, our proposed determination that an individual-risk standard is adequate to protect both the local and general population is based upon considerations unique to the Yucca Mountain site—it is not a general policy judgment by us upon other uses of the concept of NID or NIR.

We considered the NAS suggestion to adopt a general NIR level but have not done so because of reservations regarding the reasoning and analysis employed by NAS. As noted above, NAS referred to the NID level of 10 μSv (1 mrem)/yr per source or practice recommended by the NCRP. The International Atomic Energy Agency (IAEA) has made similar recommendations regarding exemptions in its Safety Series No. 89, ''Principles for the Exemption of Radiation Sources and Practices from Regulatory Control.'' The IAEA has recommended that individual doses not exceed 10 μSv (1 mrem)/yr from each exempt practice. The IAEA's recommendations relate to criteria for exempting whole sources or practices, such as waste disposal or recycling generally, not whether radiation doses from a portion of a given practice, such as the release of gases from a specific geologic repository, may be considered negligible. Finally, the IAEA's recommendations intend their exemption to be for sources and practices ''which are inherently safe.'' It is not clear that the low individual doses or risks projected from gaseous releases from the Yucca Mountain repository should be considered on their own as a ''source'' or ''practice'' or that such a source or practice should be considered inherently safe. Also, we believe it to be inappropriate to not calculate a radiation dose merely because the dose rate from a particular source is small.

Further, we are not sure it is appropriate to apply the NIR concept to consideration of population dose. A recent NCRP report questions the application of the negligible incremental dose (NID) concept to consideration of population doses. According to NCRP Report No. 121: ''A concept such as the NID (Negligible Incremental Dose) provides a legitimate lower limit below which action to further reduce individual dose is unwarranted, but it is not necessarily a legitimate cut-off dose level for the calculation of collective dose. Collective dose addresses societal risk while the NID and related concepts address individual risk.'' Based upon this, we think it would be inappropriate to use the negligible incremental dose or risk concept to evaluate whether an individual-protection standard adequately protects the general population.

Although we do not advocate use of the NID concept, we acknowledge that the extremely low levels of individual risk and dose cited by NAS as being associated with the release of ^{14}C from Yucca Mountain are many orders of magnitude below the levels at which we have regulated in other circumstances. For example, we used the following policies under the pre-1990 Clean Air Act (CAA) hazardous air pollution control program: (1) provide public health protection for the greatest number of persons possible based upon a lifetime (70 years) risk level no higher than approximately 1×10^{-6} for an individual, and (2) limit the maximum, individual-lifetime, estimated risk to no higher than 1 in 10,000 (1×10^{-4}) (54 FR 51654, 51655, December 15, 1989). Even though we adopted this approach in a different policy context, it provides insight into how we have dealt with similar risk-management issues in a regulatory context. In 1990, Congress amended the CAA to require us to develop technology-based standards to reduce emissions. At the same time, Congress authorized us to delete categories of sources from regulation if no source in that category could cause a lifetime risk of cancer exceeding 1×10^{-6} for the most-exposed individual in the population. The risk over an individual's lifetime from exposure to gaseous ^{14}C released from the Yucca Mountain repository, as estimated by NAS, would be about 100 times lower than 10^{-6}. This particular risk level is extremely low and well below the risk level that we generally regulate.

The disposal standards in 40 CFR part 191 include release limits (or containment requirements) to protect populations and an individual-protection standard. We rejected adopting only an individual-protection standard in those standards because of a concern that an individual-dose limitation alone might encourage selection of disposal sites that relied upon dilution of radionuclides at the expense of increased overall population exposures. Specifically, we were concerned that, in the absence of release limits, ''disposal sites near bodies of surface water or large sources of ground water might be preferred—which the Agency believes is an inappropriate policy that would usually increase overall population exposures'' (50 FR 38066, 38078, September 19, 1985). For example, it is possible to have a site that could meet the 150 μSv (15 mrem) − CEDE/yr individual-protection standard while still having large numbers of people being exposed to radiation levels just below the standard. This scenario could result in significant numbers of calculated health effects for each generation exposed and very large numbers of calculated health effects over the regulatory period. We believe that the policy embodied in the generic 40 CFR part 191 disposal standards is sound. The provisions in 40 CFR part 191, which could apply to a variety of potential disposal sites, should discourage reliance upon dilution of radionuclides in the general environment as a disposal method.

However, the potential for large-scale dilution of radionuclides, through ground water and into surface water, as modeled in the supporting analyses for 40 CFR part 191, does not exist at Yucca Mountain, thereby minimizing the need for the kind of population-protection requirements found in 40 CFR part 191. Rather, DOE plans to locate the Yucca Mountain repository in an unsaturated rock formation with limited amounts of infiltrating water passing through it and into the underlying tuff aquifer. (''Unsaturated'' means that the rock could absorb more water than it is holding.) That aquifer is, in turn, within a ground water system which discharges into arid areas having high evaporation rates and very little surface water. In other words, we believe that the characteristics of the saturated zone under Yucca Mountain are such that dilution from other sources will be limited and the aquifer does not discharge into any large bodies of surface water. Therefore, our basis for inclusion of a population-protection requirement in 40 CFR part 191 does not appear to apply to the development of site-specific standards for Yucca Mountain.

In addition, we based the release limits in 40 CFR part 191 partly upon technology and partly upon risk levels which we believed to be acceptably small. The technology basis for the release limits was based upon assessments of repository performance of several generic disposal systems, including one located in tuff. In finalizing 40 CFR part 191, we stated:

> [T]he rule cannot be interpreted as setting precedents for ''acceptable risk'' levels to future generations that should not be exceeded regardless of the circumstances. Instead, because of a number of unique circumstances, the Agency has been able to develop standards for the management and disposal of these wastes that are both reasonably achievable . . . and that limit risks to levels that the Agency believes are clearly acceptably small. (50 FR 38066, 38070, September 19, 1985)

We developed these standards during the siting process mandated by the NWPA in the 1980s. The inclusion of release limits pointed to the importance of considering population doses during site selection. We established the standards at a level that appeared to be reasonably achievable for several types of rocks or geologic media and which would keep risks to future populations acceptably small. The assessments we performed in support of these generally applicable standards, however, did not include a gaseous-release pathway similar to that described by NAS for ^{14}C because no one foresaw the potential importance of that pathway at that time. In fact, according to the generic analyses we performed in support of 40 CFR part 191, the unsaturated site in tuff was generally more protective, in terms of limiting total releases, than the other geologic media we evaluated.

For these reasons, we do not believe that these generic analyses and conclusions supporting the development of release limits in 40 CFR part 191 are appropriate for judging the need for population-risk limits or the acceptability of population risks from releases from wastes in the Yucca Mountain disposal system. We are proposing to find that the individual-protection standard is sufficient to protect public health based upon the unique characteristics of the area around the Yucca Mountain site.

In summary, we are proposing to adopt an individual-protection standard for Yucca Mountain that will limit the annual radiation dose incurred by the RMEI to 150 μSv (15 mrem) CEDE. At the same time, we are not proposing to adopt a separate limit on radiation releases for the purpose of protecting the general population, but we are recommending that collective dose be estimated and considered (see the following paragraph). We based this decision upon several factors. The first factor is the NAS projection of extremely small doses to individuals resulting from air releases from Yucca Mountain. That dose level is well below the risk corresponding to our proposed individual-protection standard for Yucca Mountain. It is also well below the level that we have regulated in the past through other regulations. Further, while we decline to establish a general NIR level, we do agree with NAS that estimating the number of health effects resulting from a 0.0003 mrem/yr dose rate, in addition to the dose rate from background radiation, in the general population is uncertain and controversial. The second major factor is that, based upon current and site-specific conditions near Yucca Mountain, there is not likely to be great dilution resulting in exposure of a large population. In addition, we are proposing additional ground water protection standards that would establish specific limits to protect users of ground water and ground water as a resource. Finally, we are still proposing to require that all of the pathways, including air and ground water, would be analyzed by DOE and considered by NRC under the individual-protection standard. We request comment upon this approach. Commenters who disagree with this approach should specifically address why it is inappropriate for the Yucca Mountain disposal system and make suggestions about how we might reasonably address this issue.

While we are not proposing to adopt additional regulatory requirements for collective exposures of the general population from releases from the Yucca Mountain disposal system, we urge DOE to examine design alternatives for the disposal system, for the purpose of reducing potential risk to the general population, in the National Environmental Policy Act (NEPA) process for Yucca Mountain. We received public comments, in response to our request for comments regarding the NAS Report, noting that DOE had already proposed, in its Notice of Intent to prepare a NEPA-prescribed environmental impact statement (EIS) for Yucca Mountain, to evaluate technical alternatives (60 FR 40167, August 7, 1995). In other words, DOE has previously proposed to evaluate technical alternatives as part of its waste containment and isolation strategy for Yucca Mountain (DOE, ''Strategy for Waste Containment and Isolation for the Yucca Mountain Site,'' Preliminary Review Draft, October 9, 1995). Thus, we recommend that DOE incorporate these or similar considerations into its NEPA process to assess the effectiveness of design alternatives to mitigate population exposures.

The following language provides context to the approach we consider appropriate for calculating population exposure in the NEPA process. We recommend that DOE calculate the collective dose without truncation and with full consideration of the appropriate factors. This recommendation is supported by a recent NCRP report upon the principles and application of a collective dose in radiation protection (NCRP Report No. 121). The NCRP advocated the use of collective dose for optimization of protection and provided guidance on future exposures from long-lived radionuclides, the situation that will likely exist at Yucca Mountain:

> The most reasonable risk assessment that can be made for such situations is to calculate potential individual doses for a range of scenarios in order to: (1) evaluate protective measures and (2) to try to place some boundaries on estimates of future individual risks. For the few very long-lived radionuclides that are metabolically regulated in the body and more or less uniformly distributed within the biosphere (e.g., ^{14}C and ^{129}I), future average individual doses may be estimated from total quantities in the environment. . . . (NCRP Report No. 121, pp. 57–58)

III.B.6. What Should Be Assumed About the Future Biosphere?

We propose to require DOE and NRC to use the biosphere assumptions described in this section in all analyses of repository performance, including the performance assessment for determining compliance with the individual-protection standard, the assessment for determining compliance with the ground water standards, and the human-intrusion analysis. Projecting biosphere conditions necessitates making assumptions, many of which are very uncertain and may not be boundable. The NAS stated:

> In view of the almost unlimited possible future states of society and of the significance of these states to future risk and dose, . . . we have recommended that a particular set of assumptions be used about the biosphere (including, for example, how and where people get their food and water) for compliance calculations . . . we recommend the use of assumptions that reflect current technologies and living patterns. (NAS Report p. 122)

The NAS also stated:

> . . . unlike our conclusion about the earth science and geologic . . . factors described [earlier], we believe that it is not possible to

predict on the basis of scientific analyses the societal factors that must be specified in a far-future exposure scenario. . . . Any particular scenario about the future of human society near Yucca Mountain . . . should not be interpreted as reflecting conditions that eventually will occur. Although we recognize the burden on regulators to avoid regulations that are arbitrary, we know of no scientific method for identifying these [exposure] scenarios. (NAS Report p. 96)

We agree with the NAS on this point and propose that speculation concerning some characteristics of the future should not be the focus of the compliance determination process. Instead, we believe that it would be more appropriate to assume that those characteristics will be the same as they are today. No one should interpret this assumption so literally that only current residences and lifestyles of individuals living in the area on the day of promulgation of this part can be considered. Rather, we intend that, based upon current knowledge, DOE and NRC may use those characteristics in combinations in a cautious, but reasonable, manner as input into the Yucca Mountain performance projections. Future characteristics which NRC and DOE may assume to be the same as they are today include the level of human knowledge and technical capability (including medical), human physiology and nutritional needs, general lifestyles of the population, and potential pathways through the biosphere leading to radiation exposure of humans. Also, we propose that it is inappropriate to speculate upon extreme changes in the number of residents, but that consideration should be given to changes in population near the location of the RMEI.

In concert with the NAS Report, we also propose not to allow the assumption that conditions in the future will be the same as present conditions for geologic, hydrologic, and climatic conditions. We are proposing this because we believe the parameter values in the performance assessment which relate to these conditions can be reasonably bounded. We propose to require that these conditions be varied within reasonable bounds over the compliance period and request comment upon this proposed approach.

III.B.7. How Far Into the Future Is It Reasonable To Project Disposal System Performance?

The NAS recommended that the time over which compliance should be assessed, that is, the compliance period, should be ''the time when the greatest risk occurs, within the limits imposed by long-term stability of the geologic environment'' (NAS Report p. 7). The NAS stated that it based this recommendation upon technical, not policy, considerations. However, we believe the selection of the compliance period necessarily involves both technical and policy considerations. For example, NAS stated that we might choose to establish similar policies for managing risks ''from disposal of both long-lived hazardous nonradioactive materials and radioactive materials'' (NAS Report p. 56). As NAS recognized, we must consider, in this rulemaking, both the technical and policy issues associated with establishing the appropriate compliance period for the performance assessment of the Yucca Mountain disposal system.

We request public comment upon two alternatives for the compliance period for the individual-protection standard. One alternative is to adopt a compliance period that is the time to peak dose within the period of geologic stability. The second alternative is to adopt a time period during which the repository must meet the disposal standards. For the reasons described below, we believe that the second alternative is preferable. Therefore, we are proposing that the peak dose within 10,000 years after disposal must comply with the individual-protection standard. Also, the EPA-preferred approach would require calculation of the peak dose within the period of geologic stability. It does not, however, apply a quantitative limit after 10,000 years. The intent of examining disposal system performance after 10,000 years is to estimate the long-term performance of the disposal system to see if dramatic changes in the performance of the disposal system could be anticipated. We would require DOE to include the results and bases of the additional analysis in the EIS for Yucca Mountain as an indicator of the future performance of the disposal system. This analysis also would serve as another source of information for decisionmakers in making both design and licensing decisions. However, NRC is not to use the additional analysis in determining compliance with proposed § 197.20.

The principal tool used to assess compliance with the individual-protection standard is a quantitative performance assessment. This method relies upon modeling of the potential processes and events leading to releases of radionuclides from the disposal system, subsequent radionuclide transport, and consequences upon health. To consider compliance for any length of time, several facets of knowledge and technical capability are necessary. First, the scientific understanding of the relevant, potential processes and events leading to releases must be sufficient to allow a quantitative estimate of projected repository performance. Second, adequate analytical methods and numerical tools must exist to incorporate this understanding into a quantitative assessment of compliance. Third, scientific understanding, data, and analytical methods must be adequately developed to allow evaluation of performance with sufficient robustness to judge compliance with reasonable expectation over the regulatory period. Finally, the analyses must be able to produce estimated results in a form capable of comparison with the standards.

The NAS evaluated these requirements for Yucca Mountain and concluded that those aspects of disposal system and waste behavior that depend upon physical and geologic properties can be estimated within reasonable limits of uncertainty. Also, NAS believed that these properties and processes are sufficiently understood and boundable over the long periods at issue to make such calculations possible and meaningful. The NAS acknowledged that these factors cannot be calculated precisely, but concluded that there is a substantial scientific basis for making such calculations. The NAS concluded that by taking uncertainties and natural variabilities into account, it would be possible to estimate, for example, the concentration of radionuclides in ground water at different locations and the times of gaseous releases. Second, NAS concluded that the mathematical and numerical tools necessary to evaluate repository performance are available or could be developed as part of the standard-setting or compliance-determination processes. Third, NAS concluded that: ''So long as the geologic regime remains relatively stable, it should be possible to assess the maximum risks with reasonable assurance'' (NAS Report p. 69). The NAS used the term ''geologic stability'' to describe the situation where geologic processes, such as earthquakes and erosion, that could affect the performance assessment of the Yucca Mountain site are active (not static) and are expected to occur. Based upon the use of the terms ''stable'' and ''boundable'' throughout the NAS Report, one can infer that NAS applied the term ''geologic stability'' or ''stable'' to the situation where the rate of processes and numeric range of individual physical properties could be bounded with reasonable certainty. The

subsequent use of the term ''stable'' will not imply static conditions or processes. Rather, it will describe the properties and processes that can be bounded. Finally, NAS found that the established procedures of risk analysis should enable the results of each performance simulation of the disposal system to be combined into a single estimate for comparison with the standard.

Time to peak dose within the period of geologic stability. The NAS recommended that the compliance period for the Yucca Mountain disposal system be the time to peak risk within the long-term stability of the geologic environment. Since the time to peak risk is generally the time to peak dose, subsequent discussion of the NAS findings will refer to the time to peak dose. The ''peak dose'' is the mean value of the range of the highest potential annual doses, as determined by the performance assessment, incurred by the RMEI within the compliance period. The NAS based its recommendation to use the time to peak dose upon its review of:

(1) The technical analyses supporting 40 CFR part 191;

(2) Information derived from current performance assessments of the Yucca Mountain disposal system; and (3) The geologic and physical processes that could affect the release and transport of radionuclides to the biosphere.

The 40 CFR part 191 standards contain a compliance period of 10,000 years. There were three reasons that we set this time frame:

(1) After that time, there is concern that the uncertainties in compliance assessment become unacceptably large (50 FR 38066, 38076, September 19, 1985);

(2) There are likely to be no exceptionally large geologic changes during that time (47 FR 58196, 58199, December 29, 1982); and

(3) Using time frames of less than 10,000 years does not allow for valid comparisons among potential sites. For example, for 1,000 years, all of the generic sites analyzed appeared to contain the waste approximately equally because of long ground water travel times at well-selected sites (47 FR 58196, 58199, December 29, 1982).

One purpose of geologic disposal is to provide long-term barriers to the movement of radionuclides into the biosphere (NAS Report p. 19). As described earlier, the Department plans to locate the Yucca Mountain repository in tuff about 300 meters above the local water table. When nongaseous radionuclides are released from the waste packages, they most likely will be transported by rain water that moves from the surface both horizontally within individual tuff layers and vertically downward, through fractures in the tuff layers, toward the underlying aquifer. Once the radionuclides reach the aquifer, they will be carried away from the repository in the direction of ground water flow. The most probable route for exposing humans to radiation resulting from releases from the Yucca Mountain disposal system is via withdrawal of contaminated water for local use. In the case of Yucca Mountain, DOE estimates that most radionuclides would not reach currently populated areas within 10,000 years (see the BID).

While this finding alone seems to indicate that the compliance period for Yucca Mountain should be longer than 10,000 years to be protective, NAS concluded that the need to consider the exposures when they are calculated to occur must be weighed against the problem of cumulative uncertainty. As noted above, exposures could occur over tens-to hundreds-of-thousands of years. However, as the compliance period is extended to such lengths, uncertainty increases and the resulting projected doses are increasingly meaningless from a policy perspective. The NAS stated that there are significant uncertainties in a performance assessment and that the overall uncertainty increases with time. Even so, NAS found that, ''. . . there is no scientific basis for limiting the time period of the individual-risk standard to 10,000 years or any other value'' (NAS Report p. 55). Estimates by NRC and DOE related to the Yucca Mountain disposal system have indicated wide differences in estimates of the time that radionuclides may take to reach the biosphere and cause the peak dose to occur (see the BID). However, while the results have indicated that the time to peak dose may vary anywhere from a few tens-of-thousands to hundreds-of-thousands of years, the estimated values of the peak doses, while separated in time, are similar in magnitude (see the BID). These estimates differ because the analysts used different assumptions and conceptual models for flow and transport of radionuclides through the Yucca Mountain unsaturated zone. We believe that this situation will exist independently of the compliance-period issue. The NAS also stated that data and analyses of some of the factors that are uncertain at one time might be more certain at a later time. For example, there is uncertainty as to how many waste packages might fail in the near term. However, at some later time in the distant future, the uncertainty is very small because when enough time has passed, all of the packages will fail (NAS Report p. 72). Also, NAS stated that many of the uncertainties in parameter values describing the geologic system are not due to the length of time but rather to the difficulty in estimating values of site characteristics which vary across the site. We believe that these difficulties are always present and that analysts must consider them in the compliance assessment for any period chosen (NAS Report p.72).

As NAS noted, evaluating compliance with the 40 CFR part 197 standards depends upon being able to:

(1) Understand and model radionuclide-transport processes and the processes and events that might lead to transport;

(2) Use appropriate analytical methods to determine the levels of human exposure;

(3) Quantify or bound the probabilities of the processes and events, including the related uncertainties; and

(4) State the results in a form capable of being compared with the standards.

The NAS reviewed how radionuclides might enter the biosphere in order to determine the feasibility of evaluating them in a compliance assessment. In addition, to determine whether the modifying processes should also be evaluated in a compliance assessment, NAS analyzed the geologic and physical processes that could modify the properties of the contaminant-containing media and processes by which radionuclides are moved.

The radionuclide-transport processes evaluated by NAS included:

(1) Release from the waste form;

(2) Transport from canisters into the near-field (near the waste canisters) unsaturated zone;

(3) Gas-phase transport from the unsaturated zone into the atmosphere around Yucca Mountain;

(4) Atmospheric circulation leading to dispersal of gaseous radionuclides in the global atmosphere;

(5) Aqueous-phase transport from the unsaturated zone to the water table; and

(6) Transport of radionuclides through the saturated zone beneath the repository to other locations from which water may be extracted by humans or ultimately reach the surface at a discharge area (NAS Report pp. 85–90).

The NAS concluded that these processes are ''sufficiently quantifiable and the uncertainties are sufficiently boundable that they can be included in performance assessments that extend over time frames corresponding to those over which the geologic system is relatively stable or varies in a boundable

manner'' (NAS Report p. 85). The NAS concluded that the ''geologic record suggests that this time frame is on the order of about one million years'' (NAS Report pp. 9 and 85). Likewise, NAS concluded that the probabilities and consequences of these processes and events that could modify the way in which radionuclides are moved in the vicinity of Yucca Mountain, including climate change, seismic activity, and volcanic eruptions, ''are sufficiently boundable so that these factors can be included in performance assessments that extend over periods on the order of about one million years'' (NAS Report p. 91).

Thus, NAS recommended, on a technical basis, that the compliance period for the protection of the individual should extend to the time of the peak dose during the period in which geologic processes are stable or boundable. This would require determining compliance and licensing the disposal system on the basis of projections of performance over tens- to hundreds-of-thousands of years into the future. We believe that such an approach is not practical for Yucca Mountain.

As noted earlier, NAS concluded that ''there is no scientific basis for limiting the time period of the individual-risk standard to 10,000 years or any other value.'' Nevertheless, there is still considerable uncertainty as to whether current modeling capability allows development and validation of computer models that will provide sufficiently meaningful projections over a time frame up to tens-of-thousands to hundreds-of-thousands of years. Simply because such models can provide projections for those time periods does not mean those projections are either meaningful for decisionmakers or accurate. Furthermore, we are not aware of a policy basis that we could use to determine the level of proof or confidence necessary to determine compliance based upon projections of hundreds-of-thousands of years into the future. While NAS indicated that analyses of the performance of the Yucca Mountain disposal system dealing with the far future can be bounded, a large and cumulative amount of uncertainty is associated with those numerical projections. Setting a strict numerical standard at a level of risk acceptable today for the period of geologic stability would tend to ignore this cumulative uncertainty. For example, if the performance assessment indicates that the peak dose occurs 600,000 years in the future at an annual CEDE that has an uncertainty range of 0.1 mrem to 10,000 mrem, does that indicate that the disposal system is safe or unsafe and should NRC license it or not? In light of the cumulative uncertainty for calculations over an extremely long time, it may be more appropriate to consider, in a regulatory decisionmaking, assessments of disposal system performance over such time in a qualitative manner. We request comments upon the reasonableness of adopting the NAS-recommended compliance period or some other approach in lieu of the 10,000-year compliance period which we favor and describe below. We also seek comment upon whether the NAS-recommended compliance period can be implemented in a reasonable manner and how that could be done.

A 10,000-year compliance period (proposed § 197.20). As noted earlier, the selection of the compliance period for the individual-protection standard involves both technical and policy considerations. It is our responsibility to weigh both during this rulemaking. In addition to the technical guidance provided in the NAS Report, we have considered several policy and technical factors that NAS did not fully address.

First, as suggested by NAS, we evaluated the policies for managing risks from the disposal of both long-lived, hazardous, nonradioactive materials and radioactive materials. Second, we evaluated consistency with both 40 CFR part 191 and the issue of consistent time periods for the protection of ground water resources and public health. Third, we considered the issue of uncertainty in predicting dose over the very long periods contemplated in the alternative of peak dose within the period of geologic stability. Finally, we reviewed the feasibility of implementing the alternative of peak risk within the period of geologic stability, as recommended by NAS. As a result of these considerations, we are proposing a 10,000-year compliance period with a quantitative limit and a requirement to calculate the peak dose, using performance assessments, if the peak dose occurs after 10,000 years. Under our proposal, the performance assessment results for the post-10,000-year period must be made part of the public record by DOE including it in the EIS for Yucca Mountain.

In its discussion of the policy issues associated with the selection of the time period for compliance, NAS suggested that we might choose to establish consistent risk-management policies for long-lived, hazardous, nonradioactive materials and radioactive materials. We previously addressed the 10,000-year compliance period in the regulation of hazardous waste subject to land-disposal restrictions. Land disposal, as defined in 40 CFR 268.2(c), includes, but is not limited to, any placement of hazardous waste in land-based units such as landfills, surface impoundments, and injection wells. Facilities may seek an exemption by demonstrating that there will be no migration of hazardous constituents from the disposal unit for as long as the waste remains hazardous (40 CFR 268.6). We have interpreted the phrase ''for as long as the waste remains hazardous'' to mean that the no-migration demonstration shows that hazardous constituents will not exceed acceptable concentration levels for as long as the constituents retain the potential to harm human health and the environment. This period may include not only the operating phase of the facility, but also what may be an extensive period after facility closure. With respect to injection wells, we have specifically required a demonstration that the injected fluid will not migrate within 10,000 years (40 CFR 148.20(a)). We chose the 10,000-year performance period referenced in our guidance upon no-migration petitions, in part, to be equal to time periods cited in draft or final DOE, NRC, and EPA regulations (10 CFR 960, 10 CFR 60, or 40 CFR 191, respectively) governing siting, licensing, and releases from HLW disposal systems. With respect to other land-based units regulated under the Resource Conservation and Recovery Act (RCRA) hazardous-waste regulations, we concluded that the compliance period is specific to the waste and site under consideration. For example, for the WIPP no-migration petition, we found that ''it is not particularly useful to extend this model beyond 10,000 years into the future.* * * [However, t]he agency does believe * * * that modeling over a 10,000-year period provides a useful tool in assessing the long-term stability of the repository and the potential for migration of hazardous constituents'' (55 FR 13068, 13073, April 6, 1990).

Second, the individual-protection requirements in 40 CFR part 191 (58 FR 66398, 66414, December 20, 1993) have a compliance period of 10,000 years. The part 191 standards apply to the same types of waste and type of disposal system as proposed for Yucca Mountain. However, as we explained in the *What Led up to Today's Action?* section earlier in this notice, by statute the part 191 requirements do not apply to Yucca Mountain. If we finally adopt the 10,000-year compliance period, it would require the same compliance period for

the Yucca Mountain disposal system as for other disposal systems subject to 40 CFR part 191. Such a requirement would be consistent with 40 CFR part 191, which we deem appropriate since both sets of standards apply to the same types of waste.

Third, we are concerned that there might be large uncertainty in projecting human exposure due to releases from the repository over extremely long periods. We agree with the NAS conclusion that it is possible to evaluate the performance of the Yucca Mountain disposal system and the lithosphere within certain bounds for relatively long periods. However, we believe that NAS might not have fully addressed two aspects of uncertainty.

One of the aspects of uncertainty relates to the impact of long-term natural changes in climate and its effect upon choosing an appropriate RMEI. For extremely long periods, major changes in the global climate, for example, a transition to a glacial climate, could occur (see the BID). However, over the next 10,000 years, the biosphere in the Yucca Mountain area will probably remain, in general, similar to present-day conditions due to the rain-shadow effect of the Sierra Nevada Mountains, which lie to the west of Yucca Mountain (see the BID). For the longer periods contemplated for the alternative of time to peak dose, the global climate regime is virtually certain to pass through several glacial-interglacial cycles, with the majority of time spent in the glacial state (NAS Report p. 91). These longer periods would require the specification of exposure scenarios that would not be based upon current knowledge or cautious, but reasonable, assumptions, but rather upon potentially arbitrary assumptions. The NAS indicated that it knew of no scientific basis for identifying such scenarios (NAS Report p. 96). It is for these reasons that such extremely long-term calculations are useful only as indicators, rather than accurate predictors, of the long-term performance of the Yucca Mountain disposal system (IAEA TECDOC–767, 1994).

The other aspect of uncertainty concerns the range of possible biosphere conditions and human behavior. It is necessary to make certain assumptions regarding the biosphere, even for the 10,000-year alternative, because the period of 10,000 years represents a very long compliance period for current-day assessments to project performance. For example, it is twice as long as recorded human history (see the *What Should Be Assumed About the Future Biosphere?* section earlier in this notice). For periods approaching the 1,000,000 years that NAS contemplated under the peak-dose alternative, even human evolutionary changes become possible. Thus, reliable modeling of human exposure may be untenable and regulation to the time of peak dose within the period of geologic stability could become arbitrary.

Fourth, many international geologic disposal programs use a 10,000-year regulatory compliance period as a requirement.

Finally, an additional complication associated with the time to peak dose within the period of geologic stability is that it could lead to a period of regulation that has never been implemented in a national or international radiation regulatory program. Focusing upon a 10,000-year compliance period forces more emphasis upon those features over which man can exert some control, such as repository design and engineered barriers. It is unlikely that over much longer time frames that any engineered barrier will be effective. Those features, the geologic barriers, and their interactions define the waste isolation capability of the disposal system. By focusing upon an analysis of the features that man can influence or dictate at the site, it may be possible to influence the timing and magnitude of the peak dose, even over times longer than 10,000 years.

Thus, we request comment upon our proposal of a 10,000-year compliance period to judge compliance with proposed § 197.20 and our proposal to require consideration of the peak dose, using performance assessments, if it occurs after 10,000 years. Again, after 10,000 years, we would not require the calculated level to comply with a specific numerical standard but we would require its consideration as an indicator of longer-term performance and be included in the EIS for Yucca Mountain.

We also request comment upon the appropriateness of a 10,000-year compliance period for the individual-protection standard. Commenters should address the issues that we should consider in determining the appropriate compliance period. We also specifically request comments upon whether the NAS' recommendation of the time to peak dose within the period of geologic stability can be implemented reasonably and, if so, how that could be done.

III.C. What Are the Requirements for Performance Assessments and Determinations of Compliance? (Proposed §§ 197.20, 197.25, and 197.35)

III.C.1. What Limits Are there on Factors Included in the Performance Assessments?

The Commission is responsible for deciding whether or not to license the Yucca Mountain disposal system. It must make that decision based largely upon whether DOE has demonstrated compliance with our standards in 40 CFR part 197. Under the proposed 40 CFR part 197, the quantitative analysis underlying that decision will be a performance assessment (the proposed definition of ''performance assessment'' is in § 197.12). We are proposing that performance assessments be a requirement of licensing. The EnPA requires that the Commission modify its technical requirements for licensing the disposal system to be consistent with our final 40 CFR part 197 standards. Therefore, our standards would require DOE to complete a performance assessment prior to applying for a license and would require NRC to determine, taking into consideration that performance assessment, whether the disposal system's projected performance complies with § 197.20.

We also are proposing, consistent with the performance assessment requirements in 40 CFR part 191:

(1) To exclude from performance assessments those natural processes and events whose likelihood of occurrence is so small that they are very unlikely;

(2) That such performance assessments need not include categories of processes or events that DOE and NRC estimate to have less than a 1 in 10,000 (1×10^{-4}) chance of occurring during the 10,000 years after disposal. Probabilities below this level are associated with events such as the appearance of new volcanoes outside of known areas of volcanic activity or a cataclysmic meteor impact in the area of the repository. We believe there is little or no benefit to public health or the environment from trying to regulate the effects of such very unlikely events; and

(3) That the performance assessment need not evaluate, in detail, the releases from processes, events, and sequences of processes and events estimated to have a likelihood of occurrence greater than 1×10^{-4} of occurring during the 10,000 years following disposal, if there is a reasonable expectation that the time to, or the magnitude of, the peak dose would not be changed significantly by such omissions. As necessary, the Commission may provide specific

guidance upon scenario selection and characterization to assure that processes or events are not excluded inappropriately.

A related issue upon which we request comment is if there is a period of the geologic record which we should require DOE and NRC to use to calculate the probability of processes and events occurring. The probability of a geologic event, such as an earthquake, occurring in the future typically comes from evidence of previous events which is preserved in, and can be dated by using, the geologic record. We believe that the geologic record is best preserved in the relatively recent past.

We are also proposing to require that DOE and NRC use quantitative assessments to determine compliance with the human-intrusion and ground water protection standards (see the *What Is the Standard for Human Intrusion?* and *How Will Ground Water Be Protected?* Sections later in this notice). The human-intrusion analysis would require a separate assessment of the effects of human intrusion upon the resilience of the Yucca Mountain disposal system. Following the recommendation of NAS, we intend the analysis to be an assessment of the disposal system's isolation capability following a single, stylized, human intrusion. The analysis required to determine compliance with the ground water protection standards applies only to undisturbed performance.

We are proposing to allow the exclusion of unlikely natural events from both the ground water and human-intrusion assessments. The approach for the ground water protection requirements is consistent with subpart C of 40 CFR part 191, ''Environmental Standards for Ground-Water Protection'' while the approach for the human-intrusion assessment is consistent with the NAS recommendation (see the *What Is the Standard for Human Intrusion?* section later in this notice). We request public comment upon whether this approach is appropriate for Yucca Mountain.

III.C.2. Is Expert Opinion Allowed?

The quantitative requirements in proposed subpart B of part 197 require:

(1) Evaluation of processes, events, and sequences of processes and events leading to radionuclide releases from the disposal system;

(2) Estimation of the resulting doses or radionuclide concentrations; and

(3) Estimation of the likelihood of the resulting doses or radionuclide concentrations.

The likelihood of the processes, events, and sequences of processes and events occurring should be estimated by DOE and NRC based upon current scientific knowledge of previous occurrences. However, it is likely that there will be processes, events, and sequences of processes and events which have not occurred or occurred too infrequently to be statistically significant. This situation will require the use of expert opinion, for example, scientific and engineering expertise, to arrive at cautious, but reasonable, estimates of the probability of future occurrence. Also, there likely will be many other areas where DOE could use expert opinion, for example, when there are multiple models applicable to the performance assessment or human-intrusion analysis, or significant uncertainties in the variation of parameter values.

There are two commonly used methods for the gathering of expert opinion, namely, expert judgment and expert elicitation. Expert judgment is typically obtained informally from one or more individuals and is noted by the person(s) seeking the judgment in documentation used to support the activity. In contrast, expert elicitation is a formal, structured, and thoroughly documented process. Whether it is appropriate to conduct an expert elicitation depends upon the issue under consideration.

We have considered setting guidelines for the use of expert elicitation. The type of guidelines we considered could include one or all of the following requirements when expert elicitation is used: (1) the Commission needs to consider the source and use of the information so gathered; (2) we would expect the Commission to assure that, to the extent possible, experts with both expertise appropriate for the subject matter and independence from DOE will be on the expert elicitation panel consulted to judge the validity and adequacy of the model(s) or value(s) for use in a compliance assessment; and (3) when DOE presents information to the expert elicitation panel, it should do so in a public meeting, and qualified experts, such as representatives of the State, should be given an opportunity to present information.

If we were to set any requirement, we would have to consider whether NRC may allow DOE to use expert elicitations, which did not follow these rules but were completed prior to the effective date of part 197, for the purpose of determining compliance with the provisions of part 197. We believe that it would probably be an unnecessary use of time and resources to require such work to be repeated or not be used if the Commission judges them to be acceptable.

We request comment upon whether it is appropriate for us to set guidelines for the use of expert opinion in this standard and, if so, what those guidelines should be.

III.C.3. What Level of Expectation Is Required for NRC To Determine Compliance?

While the provisions in this rule establish minimum requirements for implementation of the disposal standards, NRC may establish requirements that are more stringent. As mentioned in the previous section, we are proposing the concept of ''reasonable expectation'' to reflect our intent regarding the level of ''proof'' necessary for NRC to determine whether the projected performance of the Yucca Mountain disposal system complies with the standards (see proposed §§ 197.20, 197.25, and 197.35). We intend for this term to convey our position and intent that unequivocal numerical proof of compliance is neither necessary nor likely to be obtainable. The NRC has used a similar qualitative test, ''reasonable assurance,'' for many years in its regulations. However, the NRC regulations are focused upon engineered systems with relatively short lifetimes, for example, nuclear power reactors. We believe that for very long-term projections, involving the interaction of natural systems with the engineered system and the uncertainties associated with the long time periods involved, a different approach may be more appropriate.

Therefore, we are proposing to require that the test of disposal system compliance be a ''reasonable expectation'' that the standards will be met. In carrying out performance assessments under a ''reasonable expectation'' approach, all parameters that significantly affect performance would be identified and included in the assessments. The distribution of values for these parameters would be made to the limits of confidence possible for the expected conditions in the natural and engineered barriers and the inherent uncertainties involved in estimating those values. Selecting parameter values for quantitative performance assessments would focus upon the full range of defensible and reasonable parameter distributions rather than focusing only upon the tails of the distributions as is more commonly done under the ''reasonable assurance'' approach. The ''reasonable expectation'' approach also would not exclude important parameters from the assessments because they are difficult to

quantify to a high degree of confidence. Some parameters, such as corrosion rates for metal container components, may be quantified with a high degree of accuracy and precision. Others, such as the amount of water entering a waste emplacement drift and dripping onto a waste package, cannot be quantified with a high degree of accuracy and precision, but are very important to a realistic assessment of performance. Overestimating or underestimating the values of parameters, or ignoring the positive effects upon performance for other processes and parameters because they cannot be precisely estimated, would essentially result in the performance assessments actually being analyses of extreme performance scenarios. These extreme assessments have a high probability of being unrealistic or of such low probability that they would not represent the range of likely performance for the disposal system.

We note that if the compliance period for the individual-protection standard extended to the time of peak dose within the period of geologic stability (which NAS estimated to be one million years for the Yucca Mountain site), this test would allow for decreasing confidence in the numerical results of the performance assessments as the compliance period increases beyond 10,000 years. For example, this means that the weight of evidence necessary, based upon reasonable expectation, for a compliance period of 10,000 years would be greater than that required for a compliance period of hundreds of thousands of years.

III.D. Are There Qualitative Requirements To Help assure Protection?

In addition to the quantitative limits in the standards, we considered several qualitative principles called ''assurance requirements.'' We considered including such requirements because of the uncertainties that exist in projecting the effects of releases from radioactive waste over long periods. The intent for such assurance requirements would be to add confidence that the Yucca Mountain disposal system will achieve the level of protection proposed in the quantitative standards. This is the same approach that we require in 40 CFR part 191 and would provide similar protection regarding Yucca Mountain. The NAS also recognized the need for protection beyond that provided by the disposal system when it addressed institutional controls in its Report (NAS Report p. 11).

The assurance requirements we considered included the use of passive and active institutional controls, monitoring, the use of multiple barriers to isolate waste, and the ability to locate and remove the waste after disposal. In 40 CFR part 191, there is a sixth assurance requirement, 40 CFR 191.14(e), which we consider to be inappropriate for the Yucca site. The purpose of that requirement is to avoid sites where there are resources that might increase the likelihood of human intrusion. Congress specifically designated the Yucca Mountain site for characterization, so avoiding sites close to resources is not relevant in this instance. Further, the EnPA specifically dictates that we establish standards for the Yucca Mountain site so the intent of influencing site selection does not apply here.

We recognize that no one can accurately project the increase of protection brought by these assurance requirements. Under 40 CFR part 191, which we promulgated under the authority of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2022), NRC is exempted from the assurance requirements because it included equivalent provisions in 10 CFR part 60, the NRC regulations which implement 40 CFR part 191. The EnPA requires NRC to modify its technical requirements and criteria to be consistent with our standards for Yucca Mountain. We request comment upon whether it is appropriate for us to establish assurance requirements in 40 CFR part 197, and if so, what those requirements should be.

III.E. What Is the Standard for Human Intrusion? (Proposed § 197.25)

Previous standards and regulations for radioactive waste disposal, for example, 40 CFR part 191 for SNF and HLW and 10 CFR part 61 for LLW, included consideration of inadvertent human intrusion which could affect the release rate from, and the resultant quantity of radionuclides leaving, a disposal system.

In section 801(a)(2)(B) of the EnPA, Congress inquired about whether active institutional controls could effectively stop human intrusion into the Yucca Mountain disposal system (see Background on and Summary of the NAS Report section earlier in this notice). In its Report, NAS concluded that the answer to this question was ''no'' (NAS Report p. 11). The NAS reasoned that an answer of ''yes'' would require assumptions that active institutional controls will endure and that future generations are willing to dedicate resources for this purpose for a period longer than recorded human history. In support of its opinion, NAS stated, ''that there is no scientific basis for making projections over the long term of either the social [or] institutional...status of future societies' (NAS Report p. 106).

It was NAS' opinion that human intrusion is plausible at Yucca Mountain and that the standards should, therefore, include consideration of the effects of human intrusion. In order to assess the effects of human intrusion, one must determine the probability of its occurrence sometime in the future and the consequences of that intrusion. Whether it is possible to predict the probability or frequency of human intrusion in a scientifically supportable manner was the third and final question posed by Congress in the EnPA (section 801(a)(2)(C)). The NAS concluded ''that there is no technical basis for predicting either the nature or the frequency of occurrence of intrusions' and that although accurate prediction of the frequency of human intrusion is not possible, calculations can project potential consequences of assumed human-intrusion events (NAS Report p. 106). The NAS thus recommended that we assume that an intrusion will occur and that we specify an intrusion scenario for DOE and NRC to use to evaluate the ''resilience'' of the repository. The NAS stated: ''The key performance issue is whether repository performance would be substantially degraded as a consequence of an inadvertent intrusion....'' (NAS Report p. 121).

In following that recommendation, we are proposing a single-borehole intrusion scenario based upon Yucca Mountain-specific conditions. The intended purpose of analyzing this scenario ''...is to examine the site-and design-related aspects of repository performance under an assumed intrusion scenario to inform a qualitative judgment'' (NAS Report p. 111). The assessment would result in a calculated RMEI dose arriving through the pathway created by the assumed borehole (with no other releases included). Consistent with the NAS Report, we also are proposing ''that the conditional risk as a result of the assumed intrusion scenario should be no greater than the risk levels that would be acceptable for the undisturbed-repository case'' (NAS Report p. 113). We are proposing to interpret the NAS'' term ''undisturbed'' to mean that the Yucca Mountain disposal system is not disturbed by human intrusion but could be disturbed by other processes or events which are likely to occur.

We also are proposing that the human-intrusion analysis of repository

performance use the same methods and RME characteristics for the performance assessment as those required for the individual-protection standard, with two exceptions. Those exceptions are that the human-intrusion analysis would exclude unlikely natural events and that the analysis would only address the releases occurring through the borehole (see the *What Are the Requirements for Performance Assessments and Determinations of Compliance?* section earlier in this notice).

Concerning intentional intrusion, NAS concluded that: ''We also considered intentional intrusion...but concluded that it makes no sense...to try to protect against the risks arising from the conscious activities of future human societies'' (NAS Report p. 114). We agree with this conclusion and propose to find it acceptable to exclude long-term or deliberate, as opposed to acute and inadvertent, human disturbance of the disposal system from the human-intrusion analysis on the theory that society could retain at least some general knowledge of the disposal system and, therefore, would know that such actions could be dangerous. The proposed human-intrusion scenario, therefore, includes only an acute, inadvertent intrusion.

Description of the proposed human-intrusion scenario. To develop an appropriate scenario, we reviewed information about known resources and geologic characteristics of the Yucca Mountain site associated with past and current drilling for resources in the area surrounding Yucca Mountain that could have an effect upon the type of proposed human-intrusion scenario (see the BID). Based upon this examination, we are proposing to adopt the NAS-suggested starting point for a human-intrusion scenario. That scenario is a single, stylized intrusion through the repository to the underlying aquifer based upon current drilling practices. The proposed scenario presumes that the intrusion occurs because of exploratory drilling for water. There are a number of reasons why people in the future could be drilling within the repository area, e.g., archeological pursuits, mineral exploration, or geological investigations. However, we believe that drilling for water is, for regulatory purposes, the best example of an intrusion scenario. The choice of exploratory drilling for water is not a prediction that this type of intrusion will occur or that it will occur on the surface slopes overlying the repository but it is necessary to fulfill the NAS' consideration that a borehole ''of specified diameter [is] drilled from the surface through a canister of waste to the underlying aquifer'' (NAS Report p. 111). Exploratory drilling for water, using current technology, essentially fixes the diameter of the borehole and drilling from the surface necessarily places the drill rig somewhere above the repository, but not necessarily on the crest of Yucca Mountain. For purposes of determining compliance with the human-intrusion standard, DOE must calculate the CEDE incurred by the RMEI using only releases through the pathway created by the assumed borehole (with no other releases included).

Under our proposal, NRC would specify when the intrusion would occur based upon the earliest time that current technology and practices could lead to waste package penetration. However, it must not occur sooner than the cessation of active institutional controls (see the *Are There Qualitative Requirements To Help Assure Protection?* section earlier in this notice). In general, we believe that the time frame for the drilling intrusion should be within the period that a small percentage of the waste packages have failed but before significant migration of radionuclides from the engineered barrier system has occurred since, based upon our understanding of drilling practices, this would be about the earliest time that impact with a waste package would not be recognized by a driller. Our review of information about drilling and experiences of drillers indicates that special efforts, for example, changing to a specialized drill bit, would likely be necessary to penetrate intact, nondegraded waste packages of the type DOE plans to use. As stated earlier, NRC would determine the timing as part of the licensing process. The Department's waste-package performance estimates indicate that a waste package would be recognizable to a driller for at least thousands of years (see the BID).

This is consistent with NAS' example scenario (NAS Report pp. 111–112). It requires evaluation of a single, nearly vertical borehole from the surface that breaches the repository, passes through a degraded waste package, and reaches the water table. We also are proposing that careful sealing of the borehole does not occur, but that natural processes gradually modify the transport characteristics within the borehole. In determining compliance, we are proposing that it is appropriate to assume that the result is no more severe than the creation of a ground water flow path from the crest of Yucca Mountain through the repository and into the ground water table. By proposing this single-borehole, single-waste-package scenario, we are not suggesting that other forms or types of human intrusion, or that intrusion as a result of a resource other than water, will not occur. For example, we know of different drilling techniques such as slanted, horizontal, and robotic which, in theory, could result in more penetrated waste packages. However, we do not believe that more complex scenarios would provide more information about the resilience of the repository than would the proposed scenario.

We also considered use of a human-intrusion scenario consistent with that required in EPA's criteria for certifying WIPP (40 CFR part 194). These criteria required DOE to identify the rate of resource drilling in the area surrounding the WIPP for the past 100 years (approximately the period of recorded history for drilling events in the area). DOE was required to then use this drilling rate in its performance assessment to determine the number of intrusions into the repository over the 10,000-year regulatory period. We considered this approach appropriate for the WIPP facility given the considerable amount of drilling in the vicinity of the site. We chose not to propose this approach for the Yucca Mountain facility given the recommendation in the NAS Report. We request comment upon the reasonableness of the proposed human-intrusion scenario, and whether an approach similar to that used for WIPP is more appropriate.

As noted earlier, we are proposing to use the same RME descriptors for this analysis and scenario as in the assessment for compliance with the individual-protection standard. While one could postulate that an individual occupies a location above the repository footprint in the future and is impacted by radioactive material brought to the surface during an intrusion event, the level of exposure of such an individual would be independent of whether the repository performs acceptably when breached by human intrusion in the manner prescribed in the proposed scenario. Movement of waste to the surface as a result of human intrusion is an acute action with the resulting exposure being a direct consequence of that action. Thus, we propose to interpret the NAS-recommended test of ''resilience'' to be a longer-term test as measured by exposures caused by releases which occur gradually through the borehole, not suddenly as with direct removal. In addition, the effects of direct removal depend upon the specific parameters involved with the drilling and not upon the containment

characteristics of the disposal system. We also are proposing that the test of the resilience of the repository system be the dose incurred by the same RMEI as determined for the individual-protection standard. This is consistent with the NAS' recommendation.

We request comment upon how much the human-intrusion analysis will add to protection of public health. Also, given current drilling practice in the vicinity of Yucca Mountain, we seek comment upon whether our proposed, stylized, human-intrusion scenario is reasonable.

Time frame for the analysis. We are considering two approaches to determine how far into the future that the human-intrusion analyses will be required to project doses. In the first approach, which is proposed in §§ 197.25 and 197.26, we would require the peak dose during the first 10,000 years, as a result of human intrusion, to be less than 150 μSv/yr (15 mrem/yr). In the second approach, DOE would calculate the earliest time that the engineered barrier system would degrade sufficiently that current drilling techniques could lead to complete waste package penetration without recognition by the drillers. If that intrusion can happen within 10,000 years, then DOE must do an analysis which projects the peak dose that would occur as a result of the intrusion within 10,000 years. That dose would have to be less than 150 μSv/yr (15 mrem/yr) for the site to be licensed, considering reasonable expectation. If the undetected intrusion could not occur until after 10,000 years, then DOE would still do the analysis, however the results would not be part of the licensing process but would be included in the Yucca Mountain EIS. This approach mirrors the way that the 10,000-year and post-10,000-year analyses are proposed in the individual-protection standard. This approach has the advantage of encouraging DOE to use a robust engineered design. We request comment upon the appropriateness of using either of these alternatives.

III.F. How Will Ground Water Be Protected? (Proposed § 197.35)

Ground water is a valuable resource with many potential uses. Our proposed ground water protection standards would protect ground water that is being used or might be used as drinking water by restricting potential future contamination. Water from the aquifer which flows beneath Yucca Mountain is currently being used as a source of drinking water 20 to 30 km south of Yucca Mountain in the communities directly protected by the individual-protection standard. It is also a potential source of drinking water for more distant communities and, theoretically, could supply drinking water for several hundred thousand people. For these reasons, we believe it is a resource that needs to be protected. Therefore, we are proposing to protect the ground water to the same level as the maximum contaminant levels (MCLs) for radionuclides which we have established under the authority of the Safe Drinking Water Act (SDWA). This is also consistent with our policy for ground water protection as stated in ''Protecting the Nation's Ground Water: EPA's Strategy for the 1990s'' (''the Strategy,'' EPA 21Z–1020, July 1991). In addition to drinking water, ground water may be a source of radiation exposure when used for irrigation, stock watering, food preparation, showering, or when incorporated into various industrial processes. Ground water contamination is also of concern to us because of potential adverse impacts upon ecosystems, particularly sensitive or endangered ecosystems.

Today's proposal utilizes the current MCLs, but the MCLs might change in the final rule. The Agency recognizes that the current MCLs are based upon the best scientific knowledge regarding the relationship between radiation exposure and risk that existed in 1975 when the MCLs were developed. Scientific understanding has evolved since 1975 and we are working to update the existing MCLs based upon a number of factors, including: the current understanding of the risk of developing a fatal cancer from exposure to radiation; pertinent risk management factors, e.g., information about treatment technologies and analytical methods; and applicable statutory requirements. Particularly relevant statutory requirements, in this context, are the requirements that MCLs be set as closely as feasible to the Maximum Contaminant Level Goal (MCLG) (SDWA section 1412(b)(4)(B)) and that revised drinking water regulations provide for equivalent or greater human health protection than the regulations they replace (SDWA section 1412(b)(9)). The Agency's preliminary efforts indicate that, for the radionuclides of concern at Yucca Mountain, the concentration values for those MCLs are probably not likely to change significantly. However, if those revisions to the MCLs are finalized prior to finalization of the part 197 standards, we plan to adopt those MCLs into the final part 197 standards. If part 197 is finalized first, the MCLs being proposed today would be maintained. We believe that this approach is necessary to provide stability for NRC and DOE in the licensing process. The uncertainty involved in not knowing when a change would occur and what form that change would take could delay the licensing proceeding. We request public comment upon this approach. If you do not consider the proposed approach appropriate, please provide an alternative and rationale.

In July 1991, we issued the Strategy cited above in order to guide future EPA and State activities in ground water protection and cleanup. The Strategy presents an effective approach for protecting the Nation's ground water resources. Our policies, programs, and resource allocations reflect this approach. It guides EPA, State and local governments, and other parties in carrying out ground water protection programs. In addition, our ''Final Comprehensive State Ground-Water Protection Program Guidance'' provides guidance to States for establishing a coordinated approach to their ground water protection.

The key element of our ground water protection strategy is the overall goal of preventing adverse effects upon human health and the environment by protecting the environmental integrity of the Nation's ground water resources. We believe that it is important to protect ground water to ensure that the Nation's currently used and potential USDWs are preserved for present and future generations. Also, we believe that it is important to protect ground water to ensure that where it interacts with surface water it does not interfere with the attainment of surface-water-quality standards. These standards are necessary to protect human health and the integrity of ecosystems.

Our Strategy also recognizes, however, that our efforts to protect ground water must take into consideration the use, value, and vulnerability of the resource, as well as social and economic values. In carrying out our programs, we use MCLs, established under the SDWA, as reference points for water-resource protection efforts when the ground water in question is a potential source of drinking water. Pursuant to section 1412 of the SDWA, we issued the National Primary Drinking Water Regulations for contaminants in drinking water which may cause an adverse effect upon the health of persons and which are known or anticipated to occur in public water systems (see 40 CFR parts 141 and 142). These regulations specify either MCLs or treatment techniques and contain ''criteria and procedures to assure a

supply of drinking water which dependably complies'' with such MCLs (see SDWA § 1401). The relevant MCLs, for water containing less than 10,000 milligrams per liter (mg/L) of total dissolved solids (TDS) and assuming an ingestion rate of 2 L of water per day, are:

(1) 5 picocuries per liter (pCi/L) for combined radium-226 and radium-228;

(2) 15 pCi/L for gross alpha; and

(3) 4 mrem/yr for combined beta particle and photon radiation from man-made radionuclides.

We employ MCLs to protect ground water in numerous regulatory programs. This approach is reflected in our regulations pertaining to hazardous-waste disposal (40 CFR part 264), municipal-waste disposal (40 CFR parts 257 and 258), underground injection control (UIC) (40 CFR parts 144, 146, and 148), generic SNF, HLW, and transuranic radioactive waste disposal (40 CFR part 191), and uranium mill tailings disposal (40 CFR part 192). These Agency programs have demonstrated that such protection is scientifically and technically achievable, within the constraints applied in each of these regulations (''Progress In Ground Water Protection and Restoration,'' EPA 440/6–90–001).

Most ground water in the United States moves slowly, in the range of five to 50 feet per year. This means that a large amount of a contaminant can enter an aquifer and remain undetected until it affects a water well or surface-water body. Contaminants in ground water, unlike those in other environmental media like air or surface water, can move with relatively little mixing or dispersion, so concentrations can remain relatively high. Moreover, because ground water is below the Earth's surface and ''out of sight,'' its contamination is far more difficult to monitor or remove than is contamination in air, surface water, or soil. These plumes of contaminants move slowly through aquifers and may be present for many years, sometimes for decades or longer, potentially making the resource unusable for extended periods of time. Because an individual plume may underlie only a small part of the land surface, it can be difficult to detect by aquiferwide or regional monitoring. In addition, for periods spanning thousands of years, monitoring is unlikely to continue, avoidance of the contamination may be difficult, and the area affected may become large. These factors are part of the reason that our policy emphasizes prevention of ground water pollution.

Regarding this rulemaking, NAS clearly identified the ground water pathway as one of the significant pathways of exposure in the vicinity of the Yucca Mountain site (NAS Report pp. 52 and 81). The NAS also recognized that ground water modeling for the Yucca Mountain site is complex, involving both fracture and matrix flow and, as a result, that there is uncertainty regarding which model or models to use in the analysis:

> Because of the fractured nature of the tuff aquifer below Yucca Mountain, some uncertainty exists regarding the appropriate mathematical and numerical models required to simulate advective transport....[E]ven with residual uncertainties, it should be possible to generate quantitative (possibly bounding) estimates of radionuclide travel times and spatial distributions and concentrations of plumes accessible to a potential critical group. (NAS Report p. 90)

The basis of NRC's determination of compliance with the ground-water protection standards will be DOE projections in the license application of potential future contaminant concentrations that will inevitably contain uncertainty. An important cause of uncertainty, as recognized above by NAS, is the choice of conceptual site models. To illustrate, the conceptual models used for Yucca Mountain can differ fundamentally, that is, water can be presumed to flow through either pores in the rock or conduits through the rock, such as discrete fractures or a network of fractures that may act as preferential pathways for faster ground water flow, or a combination of the two. To further complicate the situation, any of these flow scenarios, with the possible exception of flow through conduits, can occur at Yucca Mountain whether the rock is completely saturated with water or not.

We believe that adequate data and the choice of models will be critical to any compliance calculation or determination. The NAS has examined the use of ground-water flow and contaminant-transport models in regulatory applications (''Ground Water Models: Scientific and Regulatory Applications,'' 1990). In that report, NAS concluded that data inadequacy is an impediment to the use of unsaturated fracture flow models for Yucca Mountain. However, NAS noted that data inadequacy was also an impediment to using models that assume the pores in the rock are either saturated or unsaturated or that assume flow through fractures that are completely filled with water. However, despite the recognition of the importance of the choice of the site conceptual model, the Agency believes that the need for sufficient quantity, types, and quality of data to adequately analyze the site, because of its hydrogeologic complexity, is even more important. In other words, the complexity of the ground water flow system requires adequate site characterization to justify the choice of the conceptual flow model.

The choice of modeling approaches to address the ground water system in the area of Yucca Mountain, based upon the conceptual model of the site developed from site characterization activities, is important to characterize contaminant migration, particularly the mixing of water, contaminated with radionuclides from breached waste packages, with uncontaminated water. The extent of the dilution afforded by mixing contaminated water with other ground water moving through the rocks below the repository but above the water table and the dispersion of the plume of contamination within the saturated zone as the ground water system carries radionuclides downgradient are critical elements of the dose assessments.

At one end of a spectrum of approaches to modeling the site ground water system is the assumption that the system can be modeled based upon flow through pores over the area of total system assessments (tens of square kilometers). At the other extreme is the assumption that radionuclides are carried through fast-flow, fracture pathways in the unsaturated zone separately from uncontaminated ground water also passing through the repository footprint. Those radionuclides then are assumed to be carried through the saturated zone in fractures that allow little or no dispersion within, or mixing with, uncontaminated water in the saturated zone. This is essentially ''pipe flow'' from the repository to the receptor. Although the flow of ground water at the site is influenced strongly by fractures, which should be reflected in the models, we believe that it is unreasonable to assume that no mixing with uncontaminated ground water would occur along the radionuclide travel paths. We request comment upon this approach, including consideration of the practical limitations on characterizing the flow system over several or tens of square kilometers.

Our intention is to develop ground water protection standards that are implementable by NRC. In this regard, NAS indicated that quantitative estimates of ground water contamination should be possible (NAS Report p. 90). We are proposing to require DOE to project the level of radioactive contamination it expects to be in the representative volume of ground water. The representative

volume could be calculated to be in any aquifer which contains less than 10,000 mg/L of TDS and is downgradient from Yucca Mountain. By proposing this method, we intend to avoid requiring DOE and NRC to project the contamination in a small, possibly unrepresentative amount of water since we believe that this is not practical (see the discussion of ''representative volume of ground water'' immediately below). For example, we do not intend that NRC must consider whether a few gallons of water in a single fracture would exceed the standards. Thus, we are proposing to allow use of a larger volume of water which must, on average, meet the standards. This larger volume, the ''representative volume,'' is discussed below.

Since the intended purpose of the engineered and natural barriers of the geologic repository is to contain radionuclides and minimize their movement into the general environment, we anticipate that radionuclide releases from the repository will not occur for long periods of time. With this in mind, we believe that ground water protection for the Yucca Mountain site should focus upon the protection of the ground water as a resource for future human use. It is the general premise of this proposal that the individual-protection standard would adequately protect those few current residents closest to the repository. The proposed ground water standards are directed to protecting the aquifer as a resource for current users, and a potential resource for larger numbers of future users either near the repository or for communities farther away comprised of as many as several hundred thousand people. To implement this conceptual approach and develop an approach for compliance determinations, we believe that the ground water standards currently used, the MCLs, should apply to public water supplies downgradient from the repository in aquifers at risk of contamination from repository releases. Applying the MCLs assures that the level of protection currently required for public water supplies elsewhere in the Nation is also maintained for future communities using the water supply downgradient from the Yucca Mountain repository.

To implement the standards in § 197.35, we are proposing that DOE use the concept of a ''representative volume'' of ground water in which DOE and NRC would project the concentration of radionuclides released from the Yucca Mountain disposal system for comparison against the MCLs. The representative volume will be the volume of water that would supply the annual water demands of a defined hypothetical community that could exist in the future at the point of compliance for the ground water protection standards. We believe that community size and water demand estimates should reflect the current, general lifestyles and demographics of the area, but not be rigidly constrained by current activities since any potential contamination would occur far into the future. In the area south of Yucca Mountain, the ground water is currently used for domestic purposes, commercial agriculture (for example, dairy cattle, feed crops, other crops, and fish farming), residential gardening, commercial, and municipal uses. The water resources, as reflected by estimates of current usage and aquifer yields, indicate that there is theoretically enough water to support communities of hundreds to thousands of people at the four alternative proposed locations for the point of compliance. This sets an upper bound on the size of the hypothetical community and its water demand. On the other hand, the SDWA defines the minimum size for a public water system as a system with 15 service connections or, regularly supplying at least 25 people.

For the four alternative proposed downgradient distances for the point of compliance (approximately 5, 18, 20, and 30 km from the repository), current populations vary from hundreds of persons around 30 km, to about 10 people residing at 18–20 km, to no residents at 5 km. Current projections of population growth in the area indicate increases at both the 20– and 30–km locations. Based upon current water usage, lifestyles, projections of population increases, and the potential number of people that could be supported by available ground water, there is a range of annual ground water volumes that could correspond to possible future public water system uses. While we believe that, ideally, the representative volume should be fully consistent with the protection objectives of the ground water protection strategy, we also recognize the unique features of this proposal. The extraordinary 10,000-year compliance period introduces unresolvable uncertainties that make this situation fundamentally different from the situations of clean-up or foreseeable, near-term potential contamination to which the strategy ordinarily applies. We therefore request comment upon a proposed representative ground water volume and upon possible alternatives for the size of the representative volume of ground water. These alternatives are based upon variations in possible lifestyles for residents downgradient from the repository and upon current and near-term projections of population growth and land use in the area.

The proposed representative volume is based upon a small farming community of 25 people and 255 acres of alfalfa cultivation, the current economic base in the Amargosa Valley. This approach assumes a community whose water needs include an agricultural component comparable to present water usage in the vicinity of the repository. The size of the average area of alfalfa cultivation, 255 acres, is based upon site-specific information for the nine alfalfa-growing operations which range in size from about 65 acres to about 800 acres. Using a water demand for alfalfa farming in Amargosa Valley of 5 acre-feet per acre per year, we estimate the water demand for the average operation to be 1275 acre-feet per year. As discussed below, it is appropriate to add 10 acre-feet per year for domestic uses resulting in 1285 acre-feet per year.

We request comment upon whether this approach is the most appropriate representative volume of ground water, or whether other values within the ranges discussed below are more appropriate. We believe that there may be significant technical, policy, or practical obstacles with the use of either very small or very large water volumes.

We considered using volumes of 10 and 120 acre-feet per year. Although the character of ground water movement in the saturated zone makes it progressively more difficult to model smaller volume flow, we are interested in comment upon the use of and whether, or how, it would be practical and feasible, using scientifically defensible methods, for the Commission to determine compliance with an alternative which specifies smaller representative volumes, such as 10 acre-feet and 120 acre-feet per year. A volume of 10 acre-feet would be representative of the annual water use of a non-farming family of four with average domestic water usage, including a garden. This is also the lower bound for the amount of water that would be used through 15 connections serving at least 25 persons in a public water supply, as defined in the SDWA. As mentioned in earlier discussions regarding the nature of ground water flow in fractured rocks, modeling the flow of ground water and the movement of contaminants involves significant uncertainties in the exact quantitative relationship between ground water

movement in fractures versus its movement in the rock pore spaces. Modeling these processes, of necessity, requires simplifying assumptions and approximations that lower the level of confidence that can be attached to estimating contaminant concentrations in progressively smaller volumes of ground water. From our understanding of the complexity of the flow system at Yucca Mountain and the surrounding area, and the uncertainties involved in modeling it, a small representative volume such as 10 acre-feet would be difficult to model with a sufficient degree of certainty for regulatory confidence. The Agency, of course, wants the size of the representative volume used in compliance calculations to be scientifically defensible in order to provide the public a reasonable certainty of their accuracy.

An annual water demand of 120 acre-feet assumes a community of 150 persons and is based upon current water use data for the area. This population estimate is based upon recent population increases in the area and 20-year projections of land use at the 20-km location, as described in county planning documents. In such a scenario, it would be important for commenters to look at whether it is appropriate to assume this community would have an agriculture component, or whether a primarily residential community is more appropriate.

We also considered using a volume of 4,000 acre-feet which would be representative of the estimated perennial yield of the Jackass Flats hydrographic sub-basin in which the proposed Yucca Mountain repository is located. This volume represents the annual sustainable quantity of water which could be removed from this sub-basin without significantly decreasing the subsequent water yield and quality in the future. This volume is not directly linked to any specific use, but rather is included as representative of the volume of the water resource for potential future, large-scale, sustainable ground water use.

As already stated, we believe that there may be significant technical, policy, or practical obstacles that preclude the use of such a large volume. Releases from the repository will migrate downward and into the saturated zone where the contaminated ground water will move generally southward. The Jackass Flats sub-basin covers a large area, most of which is east of the repository site and not in the path of ground water flow from the repository. The Agency did not include this alternative in the rule since the use of 4,000 acre-feet would result in a contaminant estimate based upon dilution by a large volume of unaffected water. We are requesting comment upon the use of 4,000 acre-feet as the basis for the Commission to determine compliance with an alternative which specifies this volume as representative of the ground water resource.

To implement these options, the Department would project the radionuclide concentration in the representative volume or the resultant doses, for the option selected, and compare them against the appropriate MCLs. For these calculations, the movement of radionuclides released from the repository must be calculated as they move downgradient toward the compliance point. For the purpose of demonstrating compliance with the ground water protection standards, we intend for DOE and NRC to use the performance assessments to determine compliance with the individual-protection standard to calculate the concentration of radionuclides in the ground water.

There are two basic approaches between which DOE must choose for calculating the concentrations of radionuclides at the point of compliance. The Department may perform this analysis by determining how much contamination is in: (1) a ''well-capture zone''; or (2) a ''slice of the plume.'' (These approaches are explained immediately below.) For either approach, the volume of water used in the calculations is equal to the representative volume, i.e., the annual water demand for the proposed future group using the ground water.

The ''well-capture zone'' is the volume from which a water supply well, pumping at a defined rate, is withdrawing water from an aquifer. The dimensions of the well-capture zone are determined by the pumping rate in combination with aquifer characteristics assumed for calculations, such as hydraulic conductivity, gradient, and the screened interval. If this approach is used, DOE must assume that the:

(1) Well has characteristics consistent with public water supply wells in Amargosa Valley, for example, well bore size and length of the screened interval;

(2) Screened interval is centered at the highest concentration in the plume of contamination at the point of compliance; and

(3) Pumping rate is set to produce an annual withdrawal equal to the representative volume.

To include an appropriate measure of conservatism in the compliance calculations for the well withdrawal approach, we are proposing that, for the purpose of the analysis, DOE should assume that the community water demand would be supplied from one pumping well located in the center of any projected plume of contamination originating in the repository. Conservatism is achieved by requiring that the entire water demand is withdrawn from one well intercepting the center of the plume of contamination so that the highest radionuclide concentrations in the plume are included in the volume used for the compliance calculations.

The ''slice of the plume'' is a cross-section of the plume of contamination centered at the point of compliance with sufficient thickness parallel to the prevalent flow of the plume such that it contains the representative volume. If DOE uses this approach, it must:

(1) Propose to NRC, for its approval, where the edge of the plume of contamination occurs, for example, where the concentration of radionuclides reaches 0.1% of the level of the highest concentration at the point of compliance;

(2) Assume that the slice of the plume is perpendicular to the prevalent direction of flow of the aquifer; and

(3) Set the volume of ground water contained within the slice of the plume equal to the representative volume.

In both alternatives, we are proposing that DOE must determine the physical dimensions and orientation of the representative volume during the licensing process, subject to approval by the Commission. Factors that would go into determining the orientation of the representative volume would include hydrologic characteristics of the aquifer and the well.

Under our proposal, the Department must demonstrate compliance with the proposed ground water protection standards (§ 197.35) assuming undisturbed performance of the disposal system. The term ''undisturbed performance'' means that human intrusion or the occurrence of unlikely, disruptive, natural processes and events do not disturb the disposal system. This approach recognizes that human behavior is difficult to predict and, if human intrusion occurs, that individuals may be exposed to radiation doses that would be more attributable to human actions than to the quality of repository siting and design (NAS Report p. 11). The requirement that DOE project performance for comparison with the ground water protection standards based upon undisturbed-performance scenarios is consistent with our generally applicable standards for SNF, HLW, and transuranic waste in 40 CFR part 191 (58 FR 66402,

December 20, 1993; 50 FR 38073 and 38078, September 19, 1985).

We also are proposing to require that DOE combine certain estimated releases from the Yucca Mountain disposal system with the pre-existing naturally occurring or man-made radionuclides to determine the concentration in the representative volume (see Table 1 in the *What Should the Level of Protection Be?* section earlier in this notice for particular cases). This means that the releases of radionuclides from radioactive material in the Yucca Mountain disposal system must not be allowed to cause the projected level of radioactivity at the point of compliance to exceed the limits in § 197.35 with reasonable expectation.

We request public comment upon these approaches. Comments also are requested upon whether it is desirable and appropriate for us to provide more quantitative requirements for the proposed representative volume in the final standards. If so, please provide specifics.

III.F.1. Is the Storage or Disposal of Radioactive Material in the Yucca Mountain Repository Underground Injection?

We first addressed the issue of whether the disposal of radioactive waste in geologic repositories might be considered a form of underground injection in a rulemaking to amend 40 CFR part 191. In the preamble to the final amendments (58 FR 66398), we stated that it was unnecessary to address whether the disposal of radioactive waste in a geologic repository covered under 40 CFR part 191 constitutes underground injection under the SDWA since the ground water protection requirements in 40 CFR part 191 conformed with the MCLs. We also noted that in *NRDC* v. *EPA*, 824 F.2d at 1270–71, the First Circuit Court of Appeals itself did not resolve the underground injection issue. The Court stated only that disposal in geologic repositories would ''likely'' constitute underground injection. Also, in the preamble to the 40 CFR part 191 amendments, we reviewed the SDWA, its legislative history, and the regulations governing the UIC program. We concluded that the underground disposal of containerized radioactive waste in geologic repositories subject to 40 CFR part 191 does not constitute underground injection within the meaning of the SDWA or our regulations governing the UIC program (58 FR 66398, 66408–66411, December 20, 1993). Similarly, in the present rulemaking, we propose to find that the storage or disposal of containerized radioactive waste in Yucca Mountain does not constitute underground injection.

Section 1421 of the SDWA defines ''underground injection'' as ''the subsurface emplacement of fluids by well injection.'' 42 U.S.C. 300h(d)(1). The statute defines neither ''fluids'' nor ''well injection.'' Moreover, neither the statute nor the legislative history directly addresses whether the underground storage or disposal of containerized radioactive waste constitutes the ''subsurface emplacement of fluids by well injection.'' Even though the legislative history states, ''[t]he definition of 'underground injection' is intended to be broad enough to cover any contaminant which may be put below ground level and which flows or moves, whether the contaminant is in semi-solid, liquid, sludge, or any other form or state,'' (H.R. Rep. No. 1185, 93d Cong., 2d Sess. 31 (1974)), it does not specifically address whether the underground storage or disposal of containerized radioactive waste in a geologic repository, such as Yucca Mountain, constitutes the ''subsurface emplacement of fluids by well injection.''

In this rulemaking, we are proposing to conclude that the underground storage or disposal of containerized radioactive waste in the Yucca Mountain repository does not constitute underground injection both because the materials to be emplaced are not ''fluids'' and because the mode of emplacement of these materials is not ''well injection.'' We do not consider the type of containerized radioactive wastes covered under today's proposal to be ''fluids.'' Instead, DOE plans for the wastes to consist entirely of solid materials and to be enclosed in thick metal waste packages. We do not believe that the SDWA's reference to ''subsurface emplacement of fluids'' was intended to address the subsurface storage or disposal of solid, containerized materials. As noted above, neither the statute nor the legislative history specifically address the subsurface emplacement of containerized materials or solids. On the other hand, the legislative history does address the injection of liquid materials that flow or move at the time they are emplaced into the ground. For example, in floor debate, Sen. Domenici stated that ''the [UIC] regulations would cover all types of injection wells from industrial and nuclear disposal wells, oil and gas injection wells, solution mining wells or any hole in the ground designed for the purpose of injecting water or other fluids below the surface'' (see 126 Cong. Rec. 30189, November 19, 1980, remarks of Sen. Domenici). Indeed, in amending the SDWA in 1985, Congress stated ''underground injection is the process of forcing liquids underground through a well.'' H.R. Rep. No. 168, 99th Cong., 1st Sess. 30 (1985). Moreover, it is clear from the legislative history of the SDWA that Congress intended to ratify EPA's policy regarding deep-well injection contained in Administrator's Decision Statement #5, entitled ''Subsurface Emplacement of Fluids,'' (39 FR 12922, April 2, 1974, H.R. Rep. No. 1185, 93rd Cong., 2d Sess. 31–32 (1974)). Administrator's Decision Statement #5 contains parameters for well injection including, among other things, data requirements for volume, rate, and injection pressure of the fluid; degree of fluid saturation; and formation and fluid pressure (39 FR 12923, April 9, 1974). Like the legislative history itself, the policy does not mention the subsurface emplacement of containerized radioactive wastes, but it does address the injection of noncontainerized liquids as an object of regulatory concern.

The legislative history of the SDWA indicates that Congress was concerned about contamination of ground water from a variety of sources of noncontainerized liquids and sludges. Quoting from a U.S. Department of Health, Education and Welfare report entitled ''Human Health and the Environment—Some Research Needs,'' Representative Rogers noted in floor debate that ground water pollution was rapidly increasing from sources including ''. . . waste water sludges and effluents . . . mine drainage, subsurface disposal of oil-field brines, seepage from septic tanks and storage transmission facilities, and individual on-site waste-water disposal systems.'' (123 Cong. Rec. 22460 (July 12, 1977)). Later in 1985, Congress made clear its intent that there would be early detection of fluid migration into or in the direction of a USDW (H.R. Rep. No. 168, 99th Cong., 1st Sess. 30 (1985)). Again, there is no mention that Congress intended that the SDWA cover the subsurface emplacement of containerized radioactive wastes.

Reflecting this statutory approach, our UIC regulations similarly do not treat containerized radioactive wastes as fluids or liquids for the purpose of control under the UIC program. Our regulations at 40 CFR 146.3 define ''fluid'' as ''material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.'' In adopting this regulatory definition of fluid, we did not consider the emplacement of containerized

radioactive wastes into geologic repositories to be fluids subject to the UIC regulations. There is no mention of this activity in the preambles to the proposed or final UIC regulations. On the contrary, the fluids regulated by our UIC program include: (1) Brines from oil and gas production; (2) hazardous and industrial waste waters; (3) liquid hydrocarbons (gasoline, crude petroleum, and others); (4) solution mining fluids from uranium, sulfur, and salt solution mining; and (5) sewage and treated effluent (40 CFR 144.6). All of these materials can flow or move at the time they are emplaced into the ground. There is no indication of any intention to cover containerized materials as fluids under the UIC regulations.

Finally, we have never interpreted our UIC regulations to include the subsurface emplacement of containerized wastes or solid materials that do not flow or move. As explained in greater detail below, we have stated instead that placement of containerized hazardous waste in geologic repositories such as underground salt formations, mines, or caves, is regulated under Subtitle C of the RCRA hazardous waste program. Subtitle D of RCRA regulates the disposal of containerized, nonhazardous wastes pursuant to the regulatory provisions at 40 CFR 257.1. Today's proposed standards for Yucca Mountain regulate the emplacement and disposal of containerized radioactive wastes including SNF and HLW.

In *NRDC* v. *EPA*, 824 F.2d 1258, the First Circuit was concerned that radiation itself might be considered a fluid within the meaning of the SDWA and EPA's UIC regulations (40 CFR 146.3). We believe that radiation itself does not meet the UIC regulatory or statutory definition of ''fluid.'' Radioactivity is a specific characteristic of the radionuclides in the waste but does not define the form of the waste. Also, radioactivity results in the emission of ionizing radiation in the form of electromagnetic energy or subatomic particles. Electromagnetic radiation is a form of energy, not a ''material or substance.'' Hence, it is not a ''fluid.'' Subatomic particles, such as alpha and beta particles, will be absorbed in either the waste or the container and, therefore, not travel beyond the container, or will travel very short distances, perhaps a few inches. In any event, as set forth above, we believe that since the activity at the Yucca Mountain repository will consist of the emplacement of containers of radioactive wastes underground, this activity is emplacement of solid materials, not ''fluids.'' Even though these materials might eventually disintegrate or dissolve and release some radiation, liquids, or gases, the activity in question still consists of emplacement of containers and solid materials that will not flow or move at the time of emplacement underground.

Moreover, we do not consider the emplacement into the Yucca Mountain repository of containerized and solid wastes that do not flow or move to be subsurface emplacement ''by well injection.'' At the Yucca Mountain repository as currently conceived, a rail car will be used to carry the containerized waste into the repository. The waste containers then will be emplaced in drifts mined into the geologic formation. Once enough containers are accumulated, each drift will be closed. Closure of the disposal system will occur when all of the openings into the repository have been backfilled and all entrance ramps sealed.

Our UIC regulations define ''well injection'' as ''subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension'' (40 CFR 146.3). The regulations define a ''well'' as ''a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension'' (Id.). Although movement of the materials underground in the Yucca Mountain repository will involve waste handling, it will be drifts, that is, tunnels, through which containerized solid materials are transported and emplaced, not ''wells'' into which fluids are being ''injected'' within the meaning and intent of the SDWA or our UIC regulations. In addition, the overall configuration of the repository is far different from that of a ''drilled,'' ''driven,'' or ''dug'' injection well.

We noted in the preamble to the proposed UIC rules setting forth the definitions of ''well'' and ''well injection'' that the definitions cover not only ''conventional'' deep wells, but also drilled, bored, and driven wells. Dug wells and non-residential septic tanks also fall under the term. We further stated, however, that ''although the definition is broad, it is not without limitation.'' (44 FR 23738, 23740, April 20, 1979) For example, we stated that the term does not cover simple depressions in the land or single-family domestic cesspools or septic systems, nor does it cover surface impoundments (Id.). Although we had been concerned initially about whether the UIC regulations should impose conditions upon surface impoundments, generally referred to as ''pits, ponds, and lagoons,'' since they pose a threat to ground water, we noted that standards to control such contamination are under the RCRA hazardous-waste management program (44 FR 23740, April 20, 1979). Thus, we recognized that there are some disposal practices that might contaminate ground water that would not be covered under the UIC program.

Similarly, we do not believe that the UIC program should cover emplacement of containerized waste by way of a drift. Such emplacement is in no way similar to the pressurized or gravity-driven flow of fluids, liquids, or sludges injected into a well that has been the traditional focus of the UIC program (for example, 41 FR 36726, 36732, August 31, 1976). Even Class-V wells, a general category of injection wells, are not used for the disposal of containerized waste. Class V covers the subsurface emplacement of fluids, usually by gravity-driven flow, into the injection well. Although Class-V wells include some types of wells that traditionally might not be thought of as injection wells, for example, septic systems, all of the well types involve the emplacement of noncontainerized fluids into drilled, bored, dug, or driven wells, typically through gravity-driven flow rather than pressurized flow.

We specifically addressed the status of containerized waste under RCRA and SDWA in the preamble to the final rule promulgating standards for miscellaneous units used for the disposal of hazardous wastes under subpart X of the RCRA regulations (40 CFR part 264). In the preamble to the final rule, we stated: ''Placement of containerized hazardous waste or bulk non-liquid hazardous waste in geologic repositories such as underground salt formations, mines, or caves, either for the purpose of disposal or long-term retrievable storage, is included under subpart X'' (52 FR 46946, 46952, December 10, 1987).

We promulgated the subpart X regulations to address hazardous-waste management technologies not covered under 40 CFR part 264 (RCRA regulations for the disposal of hazardous waste) or 40 CFR part 146 (UIC program technical criteria and standards). As we indicated in the preamble to the subpart X regulations, the 40 CFR part 146 technical standards do not address practices other than the injection of noncontainerized liquids, slurries, and sludges, and do not fully address some potential disposal or storage practices that may fall under our regulatory definition of well injection (52 FR 46946, 46953, December 10, 1987). In the subpart X rule, we provided that, to the extent that miscellaneous disposal practices subject to subpart X might be

underground injection, a subpart X permit would constitute a UIC permit for well injection of hazardous waste for which current 40 CFR part 146 technical standards are not generally appropriate. We stated, however, that we were not ''specifying that these miscellaneous management practices constitute underground injection'' (Id.).

Thus, we have never expressed an intent that the disposal of containerized waste, including containerized radioactive waste, in geologic repositories is an activity covered by the UIC program. Instead, injection wells have been described as ''facilities [within] which wastes, in a fluid (usually liquid) state, are injected into the land under a pressure head greater than the pressure head of the ground water into or above which they are injected for the purpose of disposal. Discharge to the ground water is either direct or by direct seepage of leachate from the well outlet (46 FR 11126, 11137–38, February 5, 1981).

Moreover, we have never intended for the regulatory criteria and standards applicable to underground injection, contained in 40 CFR parts 144 and 146, to apply to a geologic repository such as Yucca Mountain. The concepts of area of review, pressure buildup and pressure monitoring, restrictions upon injection pressure, other operating requirements, and mechanical-integrity testing of injection wells, that are included in the 40 CFR part 146 regulations, are meaningless as applied to Yucca Mountain. Further, as noted above, the Yucca Mountain disposal system will have mined containment areas in which humans operate mechanical equipment to emplace waste packaged in containers surrounded by both engineered and natural barriers designed to isolate such waste from the environment. The UIC regulations are directed at injection of fluids by pressure or gravity flow where they are then in direct contact with the natural, underground media; this activity is far different, from an engineering perspective, than the subsurface emplacement of containerized wastes planned for Yucca Mountain.

Finally, as explained below, we are proposing specific ground water protection standards, in addition to other public health and safety standards, to protect ground water resources in the vicinity of Yucca Mountain. We believe these standards are adequate to protect public health and the environment from the radiation exposure resulting from releases following the emplacement of these containerized radioactive wastes into the Yucca Mountain disposal system. Thus, it is not necessary to expand the scope of the UIC program to cover this activity.

III.F.2. Does the Class-IV Well Ban Apply?

Today's action provides protection, with one possible exception, substantively similar to the SDWA through the proposed adoption of the MCLs to protect ground water resources in the vicinity of Yucca Mountain (proposed § 197.35). The possible exception relates to the provision of 40 CFR 144.13 banning ''Class IV'' injection wells. As defined in 40 CFR 144.6(d), such wells include those which dispose of radioactive waste into or above a formation which contains a USDW within one-quarter (¼) mile of the well. In the preamble to the amendments to 40 CFR part 191 (58 FR 66398, 66410, December 20, 1993), we said we would further consider the Class-IV well-ban issue in the context of the Yucca Mountain rulemaking. We have done so and are proposing in this rulemaking not to apply the Class-IV injection-well ban to the Yucca Mountain repository. Our position is that this is appropriate in light of the statutory and regulatory provisions, discussed above, relating to ''underground injection'' and the differences in the purposes of the UIC program and the authority delegated to us under the EnPA to establish public health and safety standards for Yucca Mountain.

The UIC regulations mandate minimum requirements for State programs to prevent underground injection which endangers USDWs, while the 40 CFR part 197 standards proposed for Yucca Mountain are directed toward protecting ground water in the accessible environment in the vicinity of the Yucca Mountain site and establish requirements for performance of the Yucca Mountain disposal system. As discussed below, we believe that the proposed standards for the Yucca Mountain disposal system achieve public health and environmental protections comparable to those of the UIC program. Moreover, as discussed above, we do not believe that the emplacement of radioactive waste in the Yucca Mountain disposal system is a form of underground injection. Therefore, we are proposing to find that the Class-IV well ban does not apply to, and is not needed, in the case of the Yucca Mountain disposal system.

It is important to emphasize that our proposed decision not to apply the Class-IV well ban to Yucca Mountain does not affect other disposal systems that dispose of hazardous or radioactive waste into or above a formation which, within one-quarter (¼) mile of the disposal system, contains a USDW. We are basing today's proposal upon site- and facility-specific characteristics of the Yucca Mountain repository, and today's proposal is limited to the Yucca Mountain repository.

The Class-IV well ban is part of the UIC program and is recognized in section 3020 of RCRA. As explained previously, the UIC program addresses ''well injection'' in the common-sense meaning of that term. In contrast, the proposed 40 CFR part 197 regulations address emplacement of radioactive wastes into a uniquely designed and utilized facility. The Yucca Mountain disposal system is planned to be subjected to extremely sophisticated site characterization, design, engineering, containerization, and operational requirements. Given such intense scrutiny, applying a blunt instrument akin to the Class-IV well ban as a siting prohibition appears to be both unnecessarily restrictive and a poor substitute for more sophisticated site characterization studies that may preclude siting of a disposal facility for reasons other than those embodied in the Class-IV restriction. Further, if Congress intended that the Yucca Mountain disposal system be subject to and summarily precluded by the Class-IV well ban, we seriously question whether Congress would have specifically directed us, under the EnPA, to establish public health and safety standards for Yucca Mountain.

Previously, we explained our proposed conclusion that emplacement of radioactive material into the Yucca Mountain disposal system is not underground injection. The materials to be disposed are solid, containerized radioactive wastes emplaced in a mined containment system in which humans operate heavy mechanical equipment. Such emplacement and such materials do not fall under the intent or meaning of the UIC concepts or programs, or more specifically, the Class-IV well ban at 40 CFR 144.13, but are judged more appropriately by the standards mandated by Congress under the EnPA specifically for Yucca Mountain. Further, the ground water protection alternatives presented in today's proposal provide protections very comparable to those under the UIC program.

Taken together, we believe these distinctions are sufficient to justify nonapplicability of the Class-IV well ban under the SDWA. We request comment upon our position that application of the UIC Class-IV well ban is neither legally required nor

appropriate for the Yucca Mountain disposal system. Further, we will not address in this rulemaking the relevance of the Class-IV well ban to underground repositories generally.

III.F.3. Which Ground Water Should Be Protected?

Although we propose to find that the Yucca Mountain disposal system is not a form of underground injection in the context of the SDWA, we nevertheless consider the ground water protection principles embodied in the SDWA to be important. Therefore, while not applying all aspects of the SDWA, we are proposing ground water protection standards consistent with the levels of the radionuclide MCLs.

We request public comment upon the proposal and the other approaches, described below, that are designed to protect ground water resources in the vicinity of the repository. We are concerned that ground water resources in the vicinity of Yucca Mountain receive adequate protection from radioactive contamination. The primary purpose of our proposed standards is to prevent contamination of drinking-water resources. (Since the proposed compliance period is 10,000 years after disposal, references to levels of contamination mean those levels projected to exist at specific future times, unless otherwise noted. However, these projections will be made at the time of licensing.) This prevents placing the burden upon future generations to decontaminate that water by implementing expensive clean-up or treatment procedures. We believe it is prudent to protect drinking water from contamination through prevention rather than to rely upon clean-up afterwards. The cost to remediate the effects of radionuclides released from a geologic disposal system, such as Yucca Mountain, could far exceed the costs typically associated with near-surface Superfund sites. Moreover, absent this protection through prevention, the disposal system itself could become subject to clean-up by future generations. Thus, our proposed ground water protection standards stress pollution prevention and provide protection from contamination of sources of drinking water containing up to 10,000 mg/L of TDS. We emphasize that all ground water pathways, including drinking water, are also covered under the proposed individual-protection standard (§ 197.20).

The definition of USDW received extensive discussion in the legislative history of the SDWA as reflected in the report of the House Committee on Interstate and Foreign Commerce. To guide the Agency, the Committee Report suggested inclusion of aquifers with fewer than 10,000 mg/L of TDS (H.R. Rep. No. 1185, 93d Cong., 2d Sess. 32, 1974). We have reviewed the current information on the use of aquifers for drinking water which contain high levels of TDS. This review found that ground water containing up to 3,000 mg/L of TDS that is treated is in widespread use in the U.S. In the Yucca Mountain vicinity, with few exceptions (one being the Franklin Playa area), ground water contains less than 1,000 mg/L of TDS. Our review also found that ground water elsewhere in the Nation, containing as much as 9,000 mg/L of TDS, currently supplies public water systems. Based upon this review and the legislative history of the SDWA, we are proposing that it is reasonable to protect the aquifers potentially affected by releases from the Yucca Mountain disposal system. Therefore, the provisions found in proposed § 197.35 would apply to all aquifers, or their portions, containing less than 10,000 mg/L of TDS. The proposed definitions associated with § 197.35 are taken directly from our UIC regulations found in 40 CFR parts 144–146.

III.F.4. How Far Into the Future Should Compliance Be Projected?

We are proposing a 10,000-year compliance period for ground water protection. This is consistent with the 10,000-year compliance period we are proposing for the individual-protection standard and, therefore, provides internal consistency within the proposed standards. This time period would also make the ground water protection compliance period consistent with 40 CFR part 191. Consistency also is achieved with regulations covering long-lived chemically hazardous wastes which present potential health risks similar to those from radioactive waste.

In addition to trying to achieve consistency with our other hazardous and radioactive-waste programs, we are concerned about the uncertainty associated with projecting radiation doses over periods longer than 10,000 years. The NAS indicated that beyond 10,000 years uncertainty will likely continue to increase (NAS Report p. 72). As a result, it will become increasingly difficult to discern a difference between the radiation dose from drinking water containing radionuclides (limited by the MCLs) and the total dose arriving through all pathways (which is limited by the individual-protection standard).

In fact, we considered incorporating a compliance period of time-to-peak concentration within the geologic stability of the site. However, this approach may be unworkable and duplicative of the requirements already promulgated in the MCLs. The current MCLs for radionuclides are expressed both in terms of radiation dose and concentration. For man-made beta and photon emitters, the MCL is a dose limit of 4 mrem/yr, with specific instructions for determining radionuclide-specific concentrations corresponding to that dose (40 CFR part 141.16(b)). For radium-226 (^{226}Ra) and ^{228}Ra combined, the MCL is a concentration level of 5 pCi/L of water, while for gross-alpha activity (including ^{226}Ra but excluding radon and uranium), the MCL is a concentration level of 15 pCi/L (40 CFR 141.15(a) and 141.15(b), respectively).

The Yucca Mountain disposal system will contain all of these types of radionuclides. To express a regulatory limit for ground water protection in terms of a single limit on peak concentration may be impractical because of the separate, multiple, and distinct MCLs established by regulation. Although the gross-alpha limit is set at 15 pCi/L to limit lifetime cancer risk to about 1×10^{-4}, the concentrations of specific alpha-emitting radionuclides corresponding to this risk level may vary widely. For various thorium isotopes, concentrations of 50 to 125 pCi/L are equivalent to this risk, while for either neptunium-237 or plutonium-238, a concentration of 7 pCi/L corresponds to a lifetime cancer risk of 1×10^{-4} (56 FR 33050, 33121, July 18, 1991). To develop a limit on the peak concentration for each radionuclide would be unwieldy, because of the large number of radionuclides involved. To establish a single, overall, limiting peak concentration applicable to all radionuclides would be, at best, an approximation of the public-health protection already embodied in the MCLs. For these reasons, we are concerned that expressing ground water protection requirements in terms of a single, peak concentration or numerous radionuclide-specific limits is not appropriate.

We request comment upon our proposal to impose the ground water protection standards during the first 10,000 years following disposal and whether we should, instead, adopt a compliance period of time-to-peak concentration (see the *How Far Into the Future Should Compliance Be Projected?* section earlier in this notice for a discussion of time-to-peak-dose compliance period which is the basis of this concept). Commenters recommending the time-to-peak-concentration approach should address our concerns, particularly those related to implementability, as expressed above.

III.F.5. How Will the Point of Compliance Be Identified?

To provide a basis for determining projected compliance with § 197.35, it is necessary to establish a geographic location where DOE must project the concentrations of radionuclides in the ground water over the compliance period. We refer to this location as the ''point of compliance.''

In this section, we will discuss two alternative approaches for determining the location of the point of compliance. In the final rule, we will specify the location to be used by NRC and DOE as the point of compliance. One approach (used in Alternatives 1 and 4) would establish the maximum size for an area around the repository (that is, a ''controlled area'') which would be exempt from the ground water protection standards. In demonstrating compliance, the Department would choose the point on the area's boundary located above the primary ground water flow pathway and where the highest concentrations of radionuclides are expected to be found. Under the second approach (used in Alternatives 2 and 3), we would specify a specific geographic location where we believe the primary ground water flow pathway and the highest concentrations of radionuclides will be. If the Department's improved knowledge of ground water flow direction changes the expected location of the highest concentrations of radionuclides, DOE must propose that location to NRC as an alternative point of compliance. This new point of compliance, however, must be at the same distance from the repository as the originally promulgated point of compliance. As discussed below, DOE must obtain the approval of the Commission prior to using the alternative point for demonstrating compliance.

Under the ''controlled area'' approach of Alternatives 1 and 4, the standards would designate an area within which DOE would not have to demonstrate compliance with the ground water protection standards. These standards would apply outside of that area. Under this approach, we are proposing that the Department would have to determine the point on the boundary of the controlled area where the highest projected concentrations of radionuclides will occur. That location would become the point of compliance. In effect, a certain volume of the geologic medium would be dedicated to delaying or keeping releases from the waste within the controlled area and away from the accessible environment. We adopted a generic definition of controlled area in 40 CFR part 191. The definition of controlled area for this rulemaking could take into account unique features in the vicinity of the Yucca Mountain site or we could adopt the definition from part 191. An alternative for each definition is presented and discussed below.

Not applying the ground water protection standards inside a controlled area is consistent with the approach in 40 CFR Part 191 in which the natural geologic barriers surrounding radioactive-waste repositories are a part of the disposal system and may be dedicated for this purpose (50 FR 38066, 38077, September 19, 1985). We implemented this concept in 40 CFR part 191 by requiring compliance with ground water standards outside of the controlled area. This concept was upheld by the First Circuit in *NRDC* v. *EPA*, 824 F.2d at 1272–73 & 1277–79. The court reasoned that allowing for contamination of some area surrounding a geologic repository was consistent with the site-selection provisions of the NWPA and that Congress expected DOE to rely upon geologic barriers and, therefore, ''knew of the inevitability of some contamination of ground water in the immediate area of the stored waste.'' *NRDC* v. *EPA*, 824 F.2d at 1278.

For Yucca Mountain, the EnPA also generally follows the approach of dedicating some portion of the surrounding geology for containment and requiring compliance in the accessible environment outside of such an area. For example, section 801(a)(1) of the EnPA specifically uses the term ''accessible environment'' (that is, outside of the controlled area) when calling for us to prescribe standards for ''releases to the accessible environment from radioactive materials stored or disposed of in the repository.'' The EnPA also specifically incorporates the definition from 40 CFR part 191 in its direction to NAS to address whether a health-based standard based upon doses to individual members of the public ''from releases to the accessible environment (as that term is defined in the regulations in subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on November 18, 1985)'' will provide a reasonable standard for protection of the general public.

The second approach (Alternatives 2 and 3) for establishing a point of compliance is the identification of a specific location where DOE must project the concentration of radionuclides. Rather than designating a ''controlled area,'' under this approach we would specify a specific point as the point of compliance. This approach relies upon current knowledge of the ground water flow system in the region around Yucca Mountain with a realization that more information may be available to DOE and NRC at the time of licensing. Therefore, if this approach is the one we adopt in the final standard, it is important to explain our current understanding of ground water flow in the area and to establish a mechanism which allows flexibility for selecting an alternative point of compliance during licensing if the current conceptual model proves no longer valid at the time of licensing. Despite the fact that a particular point would be designated, please note that this approach would allow radioactive contamination in the path of the plume of contamination between the repository footprint and the point of compliance. In fact, the intervening area could contain ground water which is contaminated above the ground water protection standards. However, with this approach, those standards could not be exceeded at or beyond the point of compliance during the proposed 10,000-year compliance period.

Our understanding, based upon current knowledge, of the flow of ground water passing under Yucca Mountain is as follows. The general direction of ground water movement in the aquifers under Yucca Mountain is south and southwest. The major aquifers along the flow path are in tuff, alluvium, and, underlying both of these, much deeper carbonate rocks. At the edge of the repository, even the tuff aquifer is relatively (several hundred meters) deep. It gets closer to the surface as it moves toward its natural discharge points. Potential releases of radionuclides from the engineered barrier system into the surrounding rocks would be highly directional and would reflect the orientation of fractures, rock unit contacts, and ground water flow in the area downgradient from Yucca Mountain. Directly under the repository, we anticipate that any waterborne releases of radionuclides will move through the unsaturated zone and downward into the tuff aquifer, in an easterly direction, between layers of rocks which slant to the east, and then horizontally. The layer of tuff gradually thins proceeding south (downgradient) from Yucca Mountain. As the tuff thins, the overlying alluvium becomes thicker until the tuff disappears and the water in the aquifer moves into the alluvium to become the ''alluvial aquifer.'' Along the flow path, there might be movement of water between the carbonate aquifer and either the tuff or alluvial aquifers. If there is significant upward flow from the carbonate aquifer, contamination in

overlying aquifers could be diluted. It is generally believed, however, that any such flow would not significantly affect the concentration of radionuclides in the overlying aquifers. Conversely, downward movement of ground water from the tuff aquifer could contaminate the carbonate aquifer. Today, most of the water for human use is withdrawn between 20 and 30 km away from the repository footprint (that is, at Lathrop Wells and farther south through the Town of Amargosa Valley) where it is more easily and economically accessed for agricultural use and human consumption. It is likely that water within the alluvial aquifer is the source of this water.

Another basis of our understanding is the historical record of water use in the region. That record indicates that significant, long-term human habitation has not occurred in the southwestern area of the NTS, or for that matter anywhere in the vicinity of Yucca Mountain, except where ground water is very easily accessible, for example, in Ash Meadows. This observation coincides with current practice whereby the number of wells generally decreases relative to the greater depth to ground water. The difficulty in accessing ground water in the tuff aquifer in the near vicinity of Yucca Mountain is made more difficult by the rough terrain, the relative hardness of the tuff formations containing the aquifer, and the great depth to ground water there. As described earlier, the ground water flow from under Yucca Mountain is thought to be generally south and southwest. In those directions, the ground water gets progressively closer to the Earth's surface the farther away it gets from Yucca Mountain until it is thought to discharge to surface areas 30–40 km away (the southern boundary of NTS is about 18 km from Yucca Mountain). This means that access into the upper aquifer is easier at increasing distance from Yucca Mountain. It should also be pointed out, the Yucca Mountain site is on several Federally controlled areas of land, i.e., the Nellis Test Range, NTS, and Bureau of Land Management land. In these areas, the U.S. government is the senior appropriator and holds water rights, i.e., water is appropriated for beneficial use by and for the U.S. government.

Because of DOE's ongoing site characterization studies, it is possible that, at the time of licensing, data not now available will reveal important inaccuracies in the preceding conception of ground water flow. In proposing Alternatives 2 and 3 (see discussion below), we intend that the location of the point of compliance will be where the highest concentrations of radionuclides within the plume are projected by DOE and NRC to be. We believe, based upon current information, that the locations specified for the proposed alternative points of compliance in Alternatives 2 and 3 are likely to include such concentrations.

However, if DOE and NRC determine that the direction of ground water flow or location of the highest concentration is different than now believed because new knowledge is available at the time of licensing, we propose to require the Department to propose to the Commission the location where the highest concentration is projected to be. Any such new point of compliance would replace the one we specify in the final rule only if it is at the same distance from the repository as the original point of compliance and is approved by the Commission. It may be moved only to account for new information regarding flow-direction or the location of the highest concentration. We believe such flexibility will enhance the quality of NRC's licensing decision and will provide greater protection of public health and the environment by taking into account the latest available information. We request comment upon this approach.

III.F.6. Where Will the Point of Compliance Be Located?

Introduction to the alternatives. We are presenting four alternatives for comment prior to determining the location of the point of compliance. They are presented in the proposed regulatory text (see proposed § 197.37) and are discussed here in no particular order of preference. For convenience, we refer to them as Alternatives 1, 2, 3, and 4, respectively.

We note that Alternatives 2 and 3 rely upon our current knowledge of ground water flow and use in the region. As discussed above, we are also proposing a method for proceeding under Alternatives 2 and 3, if further knowledge changes the understanding of the flow of the region's ground water or the location of the highest concentrations of radionuclides.

Alternatives in proposed § 197.37. Alternative 1 would establish a ''controlled area.'' In this case, we would define the extent of the controlled area (in proposed § 197.12) as it is in 40 CFR part 191 (with the substitution of the term ''repository footprint'' for the original wording, ''outer boundary of the original location of the radioactive wastes in a disposal system''):

(1) A surface area, identified by passive institutional controls, that encompasses no more than 100 square kilometers and extends horizontally no more than five kilometers in any direction from the repository footprint; and (2) the subsurface underlying the surface area.

The Department would determine where on the controlled area's boundary to place the point of compliance based upon the projected direction of ground water flow and the expected locations of the highest concentrations of radionuclides.

As mentioned earlier, this approach would be consistent with 40 CFR part 191 and would, therefore, maintain consistency with the generic standards which apply to WIPP, GCD, and any future disposal system for SNF, HLW, and transuranic radioactive waste which is subject to 40 CFR part 191. (As described earlier, the GCD facility is a complex of 120-foot deep boreholes, located within NTS, which contains disposed transuranic radioactive waste and WIPP is a geologic disposal system, in New Mexico, for defense-related transuranic radioactive waste.) While this alternative would not provide explicitly for consideration of site-specific factors in determining the size of the controlled area, it would ensure that the boundary of the controlled area would not extend substantially beyond Yucca Mountain itself. This alternative would have the effect of providing natural topographic constraints on access to ground water within the controlled area. Therefore, it would provide a safeguard against use of ground water within the controlled area during the compliance period.

In Alternative 2, we would specify the location of the point of compliance. In this case, the point of compliance would be located near the intersection of U.S. Route 95 and Nevada State Route 373, commonly referred to as Lathrop Wells (Lathrop Wells is actually an area within the Town of Amargosa Valley and is the location closest to Yucca Mountain where the general population currently consumes water). We have found that the depth to the water currently withdrawn for domestic use within the Town of Amargosa Valley ranges from a few meters in the southern parts of the town to 110 meters near Lathrop Wells (see the BID). This alternative would put the point of compliance near the currently assumed location of the RMEI.

In Alternative 3, we would establish an area located about 30 km south of Yucca Mountain within which DOE and NRC would identify a specific point as the point of compliance. The area would be bounded by Frontier Street on the

north, Nevada State Route 373 on the east, the Nevada-California border on the south/southwest, and Casada Way on the west. About 75% of the current population and about 60% of the current water-supply wells in what we understand to be the downgradient direction from Yucca Mountain are within this area. This is an area where it is relatively easy to access ground water (see the BID). This option would, therefore, provide direct protection for most of the population currently using drinking water from the alluvial aquifer.

In Alternative 4, the Department, with the consent of NRC, would establish a controlled area outside of which the ground water standards would apply. Its size would be determined by DOE (without exceeding the limits set by us). This controlled area would be a combination of Alternative 1 and site-specific considerations for Yucca Mountain. The site-specific consideration is the proximity of the repository footprint and NTS. The boundary of the controlled area could be no more than five kilometers from the footprint (the same limit applied in Alternative 1), except in those cases where the five kilometers is located within the NTS. In that case, DOE may extend the controlled area to include all or part of the NTS.

We base this alternative, in part, upon the fact that NTS has existed under the control of DOE for about 50 years. Another basis is that we believe that future generations will be aware of the extensive, well-publicized nuclear activities that occurred there. This will likely increase the effectiveness of the passive institutional controls, as discussed below. The NTS is well-known around the world for many reasons but most notably for the approximately 900 tests of nuclear weapons conducted there. This makes NTS unique in the Western Hemisphere because of the resultant presence of hundreds of millions of curies of radionuclides (see the BID). This will presumably lead the Federal government to document the extent of radionuclide contamination and the activities which occurred there, including the Yucca Mountain disposal system, more thoroughly and retain records for longer periods than might occur elsewhere.

To repeat for clarification, the conceptual difference between Alternatives 1 and 4 and Alternatives 2 and 3 is that in Alternatives 1 and 4, we will define an area surrounding the repository outside of which the ground water standards would apply, whereas for Alternatives 2 and 3, we will specify limited areas downgradient from the repository within which DOE and NRC must place the point of compliance.

We request comment upon all of the alternatives discussed above. Commenters should address the effectiveness of these or other alternatives for protecting ground water, including consideration of site-specific characteristics and reasonable methods of implementing the alternatives.

IV. Specific Questions for Comment

In addition to requesting comment upon all aspects of this rulemaking, many of which we have highlighted in the preceding sections of this notice, we also request comment based upon the following specific questions. To be most useful to us, please provide your reasoning in your answers.

1. The NAS recommended that we base the individual-protection standard upon risk. Consistent with this recommendation and the statutory language of the EnPA, we are proposing a standard in terms of annual CEDE incurred by individuals. Is our rationale for this aspect of our proposal reasonable?

2. We are proposing an annual limit of 150 μSv (15 mrem) CEDE to protect the RMEI and the general public from releases from waste disposed of in the Yucca Mountain disposal system. Is our proposed standard reasonable to protect both individuals and the general public?

3. To define who should be protected by the proposed individual-protection standard, we are proposing to use an RMEI as the representative of the rural-residential CG. Is our approach reasonable? Would it be more useful to have DOE calculate the average dose occurring within the rural-residential CG rather than the RMEI dose?

4. Is it reasonable to use RME parameter values based upon characteristics of the population currently located in proximity to Yucca Mountain? Should we promulgate specific parameter values in addition to specifying the exposure scenarios?

5. Is it reasonable to consider, select, and hold constant today's known and assumed attributes of the biosphere for use in projecting radiation-related effects upon the public of releases from the Yucca Mountain disposal system?

6. In determining the location of the RMEI, we considered three geographic subareas and their associated characteristics. Are there other reasonable methods or factors which we could use to change the conclusion we reached regarding the location of the RMEI? For example, should we require an assumption that for thousands of years into the future people will live only in the same locations that people do today? Please include your rationale for your suggestions.

7. The NAS suggested using an NIR level to dismiss from consideration extremely low, incremental levels of dose to individuals when considering protection of the general public. For somewhat different reasons, we are proposing to rely upon the individual-protection standard to address protection of the general population. Is this approach reasonable in the case of Yucca Mountain? If not, what is an alternative, implementable method to address collective dose and the protection of the general population?

8. Is our rationale for the period of compliance reasonable in light of the NAS recommendations?

9. Does our requirement that DOE and NRC determine compliance with § 197.20 based upon the mean of the distribution of the highest doses resulting from the performance assessment adequately address uncertainties associated with performance assessments?

10. Is the single-borehole scenario a reasonable approach to judge the resilience of the Yucca Mountain disposal system following human intrusion? Are there other reasonable scenarios which we should consider, for example, using the probability of drilling through a waste package based upon the area of the package versus the area of the repository footprint or drilling through an emplacement drift but not through a waste package? Why would your suggested scenario(s) be a better measure of the resilience of the Yucca Mountain disposal system than the proposed scenario?

11. Is it reasonable to expect that the risks to future generations be no greater than the risks judged acceptable today?

12. What approach is appropriate for modeling the ground water flow system downgradient from Yucca Mountain at the scale (many kilometers to tens of kilometers) necessary for dose assessments given the inherent limitations of characterizing the area? Is it reasonable to assume that there will be some degree of mixing with uncontaminated ground water along the radionuclide travel paths from the repository?

13. Which approach for protecting ground water in the vicinity of Yucca Mountain is the most reasonable? Is there another approach which would be preferable and reasonably implementable? If so, please explain the approach, why it is preferable, and how it could be implemented.

14. Is the 10,000-year compliance period for protecting the RMEI and ground water reasonable or should we

extend the period to the time of peak dose? If we extend it, how could NRC reasonably implement the standards while recognizing the nature of the uncertainties involved in projecting the performance of the disposal system over potentially extremely long periods?

15. As noted by NAS, some countries have individual-protection limits higher than we have proposed. In addition, other Federal authorities have suggested higher individual-dose limits with no separate protection of ground water. Therefore, we request comment upon the use of an annual CEDE of 250 μSv (25 mrem) with no separate ground water protection, including the consistency of such a limit with our ground water protection policy.

16. We are proposing to require, in the individual-protection standard, that DOE must project the disposal system's performance after 10,000 years. Are the specified uses of the projections appropriate and adequate?

V. Regulatory Analyses

V.A. Executive Order 12866

Section 3(f) of Executive Order 12866 (E.O. 12866) defines ''significant regulatory action'' for purposes of centralized regulatory review by the Office of Management and Budget (OMB) to mean any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect upon 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.

We are classifying this proposed action as significant under the fourth clause. These standards have been mandated by the EnPA which gave us, for the first time, the authority to set site-specific environmental radiation protection standards. Also, the subject of this rulemaking, Yucca Mountain, Nevada, is a unique facility since it is the first and only one of its kind in the United States being studied for the potential disposal of SNF and HLW.

The OMB has reviewed the text of the draft of this rulemaking and associated materials. In accordance with § 6(a)(3)(E) of E.O. 12866, we have placed interagency review materials into the docket and other locations listed at the beginning of this notice. The interagency materials include: (1) the draft document(s) provided to OMB; and (2) document(s) identifying the substantive changes made between the draft submitted to OMB and the proposed rulemaking, and identifying those changes that we made at the suggestion or recommendation of OMB.

V.B. Executive Orders on Federalism

Under Executive Order 12875 (E.O. 12875), ''Enhancing Intergovernmental Partnerships,'' we 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 unless we consult with those governments. If we comply by consulting, E.O. 12875 requires us to provide to OMB a description of the extent of our prior consultation with representatives of affected State, local, and tribal governments; the nature of their concerns; any written communications from the governments; and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires us 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 upon State, local, or tribal governments. The rule does not impose any enforceable duties upon those entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule. Despite this fact, we nonetheless held public meetings in Nevada and Washington, D.C. in September 1995 (see the *How Has the Public Participated in Our Review of the NAS Report?* section earlier in this notice) during which we received comments from and had discussions with representatives of the State of Nevada and county officials. There were also informal meetings with State and local officials in which those personnel were apprised of the status of the rulemaking.

Finally, while there is a new executive order on federalism, it will not go into effect for 90 days. In the interim, under the current Executive Order 12612 on Federalism, this rule does not have a substantial direct effect upon States, upon the relationship between the national government and the States, or upon the distribution of power and responsibilities among the various levels of government, because the rule only prescribes standards appropriate for one facility in one State.

V. C. Executive Order 12898

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations And Low-income Populations (Environmental Justice),'' directs us to incorporate environmental justice as part of our overall mission by identifying and addressing disproportionately high and adverse human health and environmental effects of programs, policies, and activities upon minority populations and low-income populations.

We find no disproportionate impact in the outcome of this rulemaking. No plan has thus been devised to address a disproportionate impact.

V. D. Executive Order 13045

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

This proposed rule is not subject to E.O. 13045 because we do not have reason to believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. The public is invited to submit or identify peer-reviewed studies and data, of which we may not be aware, that assessed results of early life exposure to radiation.

V. E. Executive Order 13084

Under Executive Order 13084 (E.O. 13084), ''Consultation and Coordination with Indian Tribal Governments,'' we 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 upon those communities, unless the Federal government provides the funds necessary to pay the direct

compliance costs incurred by the tribal governments, or we consult with those governments. If we comply by consulting, Executive Order 13084 requires us to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of our 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 us 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 implements requirements specifically set forth by the Congress in the EnPA without the exercise of any discretion by us. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

V. F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our 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 us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. This proposed rulemaking does not involve technical standards. Therefore, we are not considering the use of any voluntary consensus standards.

We request public comment upon this aspect of the proposed rulemaking and, specifically, ask you to identify potentially applicable voluntary consensus standards and to explain why such standards could be used in this regulation.

V. G. Paperwork Reduction Act

We have determined that this proposed rule contains no information requirements within the scope of the Paperwork Reduction Act, 42 U.S.C. 3501–20.

V. H. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, agencies must prepare and make available for public comment an initial regulatory flexibility analysis assessing the impact of a proposed rule upon ''small entities'' (5 U.S.C. 603). ''Small entities'' include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000 (5 U.S.C. 601). However, the requirement to prepare a regulatory flexibility analysis does not apply if the Administrator certifies that the rule will not, if promulgated, have a significant economic impact upon a substantial number of small entities (5 U.S.C. 605(b)). The rule proposed today would establish requirements that apply only to DOE. Therefore, it does not apply to small entities. Accordingly, I hereby certify that the rule, when promulgated, will not have a significant economic impact upon a substantial number of small entities.

V.I. 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 upon State, local, and tribal governments and the private sector. Under section 202 of UMRA, we generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before we promulgate a rule for which a written statement is needed, section 205 of UMRA generally requires us 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 us to adopt an alternative other than the least costly, most cost-effective, or least burdensome if the Administrator publishes with the final rule an explanation as to why that alternative was not adopted. Before we establish any regulatory requirements that significantly or uniquely affect small governments, including tribal governments, we must develop, under section 203 of 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 into the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule is not subject to the requirements of sections 202 and 205 of UMRA because it implements requirements specifically set forth by the Congress in section 801 of the EnPA. We are proposing rules which, when final, would establish requirements that DOE and NRC must follow in connection with licensing the Yucca Mountain disposal system. The EnPA directs the Administrator of EPA to promulgate standards for the protection of the public from releases from radioactive materials stored or disposed of in the repository at Yucca Mountain, Nevada.

Also, today's proposed rule does not impose new, enforceable duties upon State, local, or tribal governments, or the private sector. Thus, we have determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments as contemplated in section 203 of UMRA.

List of Subjects in 40 CFR Part 197

Environmental protection, Nuclear energy, Radiation protection, Radionuclides, Uranium, Waste treatment and disposal, Spent nuclear fuel, High-level radioactive waste.

Dated: August 18, 1999.

Carol M. Browner,

Administrator.

The Environmental Protection Agency is proposing to add a new part 197 to Subchapter F of Chapter I, title 40 of the Code of Federal Regulations, as follows:

SUBCHAPTER F—RADIATION PROTECTION PROGRAMS

PART 197—ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Subpart A—Environmental Standards for Storage

Sec.

197.1 What does subpart A cover?
197.2 What definitions apply in subpart A?
197.3 How is subpart A implemented?
197.4 What is DOE required to do relative to stored radioactive material?
197.5 When will this part take effect?

Subpart B—Environmental Standards for Disposal

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197.11 What does subpart B cover?
197.12 What definitions apply in subpart B?
197.13 How is subpart B implemented?
197.14 What is reasonable expectation?
197.15 How must DOE take into account the changes that will occur during the next 10,000 years?

Individual-Protection Standard

197.20 What standard must DOE meet?
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Human-Intrusion Standard

197.25 What standard must DOE meet?
197.26 What are the circumstances of the human intrusion?

Other Considerations

197.30 What other projections must be made by DOE?

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197.35 What standards must DOE meet?
197.36 What is a representative volume?
197.37 Where is the point of compliance?

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197.40 Are there limits on what must be considered in the performance assessments?
197.41 Can the EPA amend this rule?

Authority: Sec. 801, Pub. L. 102–486, 106 Stat. 2921, 42 U.S.C. 10141 n.

Subpart A—Environmental Standards for Storage

§ 197.1 What does subpart A cover?

This subpart covers the storage of radioactive materials by DOE in the Yucca Mountain repository and on the Yucca Mountain site.

§ 197.2 What definitions apply in subpart A?

Annual committed effective dose equivalent means the committed effective dose equivalent plus the effective dose equivalent received by an individual in one year from radiation sources external to the individual.

Committed effective dose equivalent means the total effective dose equivalent received by an individual from radionuclides internal to the individual following a one-year intake of those radionuclides.

DOE means the Department of Energy.

Effective dose equivalent means the sum over specified tissues of the products of the dose equivalent received following an exposure of, or an intake of radionuclides into, specified tissues of the body, multiplied by appropriate weighting factors.

EPA means the Environmental Protection Agency.

General environment means everywhere outside the Yucca Mountain site, the Nellis Air Force Range, and the Nevada Test Site.

High-level radioactive waste means high-level radioactive waste as defined in the Nuclear Waste Policy Act of 1982 (Public Law 97–425).

Member of the public means anyone who is not a radiation worker for purposes of worker protection.

NRC means the Nuclear Regulatory Commission.

Radioactive material means matter composed of or containing radionuclides subject to the Atomic Energy Act of 1954, as amended. Radioactive material includes, but is not limited to, high-level radioactive waste and spent nuclear fuel.

Spent nuclear fuel means spent nuclear fuel as defined in the Nuclear Waste Policy Act of 1982 (Public Law 97–425).

Storage means retention (and any associated activity, operation, or process necessary to carry out successful retention) of radioactive material with the intent or capability to readily access or retrieve such material.

Yucca Mountain repository means the mined portion of the facility constructed underground within the Yucca Mountain site.

Yucca Mountain site means the site recommended by the Secretary of DOE to the President under section 112(b)(1)(B) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132(b)(1)(B)) on May 27, 1986.

§ 197.3 How is subpart A implemented?

The NRC implements this subpart A. The DOE must demonstrate to NRC that operations on the Yucca Mountain site will occur in compliance with this subpart before NRC may grant to DOE a license to receive and possess radioactive material on the Yucca Mountain site.

§ 197.4 What is DOE required to do relative to stored radioactive material?

(a) The DOE must ensure that no member of the public in the general environment receives more than an annual committed effective dose equivalent of 150 microsieverts (15 millirems) from the combination of:

(1) Management and storage (as defined in 40 CFR 191.02) of radioactive material which:

(i) Is subject to 40 CFR 191.03(a); and

(ii) Occurs outside of the Yucca Mountain repository but within the Yucca Mountain site; and

(2) Storage (as defined in § 197.02) of radioactive material inside the Yucca Mountain repository.

§ 197.5 When will this part take effect?

The standards in this part take effect on [sixty days after publication of the final standards in the **Federal Register**].

Subpart B—Environmental Standards for Disposal

Introduction

§ 197.11 What does subpart B cover?

This subpart covers the disposal of waste in Yucca Mountain by DOE.

§ 197.12 What definitions apply in subpart B?

All definitions in subpart A of this part and the following:

Active institutional control means controlling access and/or performing work on the Yucca Mountain site by any means other than passive institutional controls.

Aquifer means an underground geological formation, group of formations, or part of a formation that can yield a significant amount of water to a well or spring.

Barrier means any material, structure, or feature that, for a period to be determined by NRC, prevents or substantially reduces the rate of movement of water or radionuclides from the Yucca Mountain repository, or prevents the release or substantially reduces the release rate of radionuclides from the waste. For example, a barrier may be a geologic feature, an engineered structure, a canister, a waste form with physical and chemical characteristics that significantly decrease the mobility of radionuclides, or a material placed over and around the waste, provided that the material substantially delays movement of water or radionuclides.

Alternative 1 for § 197.12, Definition of Controlled Area:

Controlled area means:

(1) A surface area, identified by passive institutional controls, that encompasses no more than 100 square kilometers and extends horizontally no more than five kilometers in any direction from the repository footprint; and

(2) The subsurface underlying the surface area. [This definition would be included only if Alternative 1 for § 197.37 were chosen.]

Alternative 2 for § 197.12, Definition of Controlled Area:

Controlled area means:

(1) A surface area, identified by passive institutional controls, that extends horizontally no more than five kilometers in any direction from the repository footprint except that DOE may include in the controlled area any

contiguous area within the boundary of the Nevada Test Site (as established as of the date of promulgation of this part); and

(2) The subsurface underlying the surface area. [This definition would be included only if Alternative 4 for § 197.37 were chosen.]

Disposal means emplacement of radioactive material into the Yucca Mountain disposal system with the intent of isolating it for as long as reasonably possible and with no intent of recovery, whether or not the design of the disposal system permits the ready recovery of the material. Disposal of radioactive material in the Yucca Mountain disposal system begins when all of the ramps and other openings into the Yucca Mountain repository are backfilled and sealed.

Ground water means water below the land surface and in a saturated zone.

Human intrusion means breaching of any portion of the Yucca Mountain disposal system by human activity.

Passive institutional controls means:

(1) Markers, as permanent as practicable, placed on the Earth's surface;

(2) Public records and archives;

(3) Government ownership and regulations regarding land or resource use; and

(4) Other reasonable methods of preserving knowledge about the location, design, and contents of the Yucca Mountain disposal system.

Peak dose means the highest annual committed effective dose equivalent projected to be received by the reasonably maximally exposed individual.

Performance assessment means an analysis that:

(1) Identifies the processes, events, and sequences of processes and events (except human intrusion), and their probabilities of occurring over 10,000 years after disposal, that might affect the Yucca Mountain disposal system;

(2) Examines the effects of those processes, events, and sequences of processes and events upon the performance of the disposal system; and

(3) Estimates the annual committed effective dose equivalent received by the reasonably maximally exposed individual, including the associated uncertainties, as a result of releases caused by all significant processes, events, and sequences of processes and events.

Period of geologic stability means the time during which the variability of geologic characteristics and their future behavior in and around the Yucca Mountain site can be bounded, that is, they can be projected within a reasonable range of possibilities.

Plume of contamination means that volume of ground water that contains radioactive contamination from releases from the Yucca Mountain disposal system. It does not include releases from any other potential sources on or near the Nevada Test Site.

Point of compliance is the place where DOE must project the amount of radionuclides in the ground water for purposes of § 197.35. The point of compliance is located above the highest concentration in the plume of contamination as specified in § 197.37.

Repository footprint means the outline of the outermost locations of where the waste is emplaced in the Yucca Mountain repository.

Slice of the plume means a cross-section of the plume of contamination with sufficient thickness parallel to the prevalent flow of the plume that it contains the representative volume.

Total dissolved solids means the total dissolved (filterable) solids in water as determined by use of the method specified in 40 CFR part 136.

Undisturbed performance means that human intrusion or the occurrence of unlikely, disruptive, natural processes and events do not disturb the disposal system.

Waste means any radioactive material emplaced for disposal into the Yucca Mountain disposal system.

Well-capture zone means the volume from which a well pumping at a defined rate is withdrawing water from an aquifer. The dimensions of the well-capture zone are determined by the pumping rate in combination with aquifer characteristics assumed for calculations, such as hydraulic conductivity, gradient, and the screened interval.

Yucca Mountain disposal system means the combination of underground engineered and natural barriers at the Yucca Mountain site which prevents or substantially reduces releases from the disposed radioactive material.

§ 197.13 How is subpart B implemented?

The NRC implements subpart B. In the case of the specific numerical requirements in this subpart, NRC will determine compliance based upon the mean or median (whichever is higher) of the highest results of DOE's performance assessments projecting the performance of the Yucca Mountain repository for 10,000 years after disposal. The DOE must demonstrate to NRC that there is a reasonable expectation of compliance with this subpart before NRC can issue a license.

§ 197.14 What is reasonable expectation?

Reasonable expectation means that the Commission is satisfied that compliance will be achieved based upon the full record before it. Reasonable expectation:

(a) Requires less than absolute proof because absolute proof is impossible to attain for disposal due to the uncertainty of projecting long-term performance;

(b) Is less stringent than the reasonable assurance concept that NRC uses to license nuclear power plants;

(c) Takes into account the inherently greater uncertainties in making long-term projections of the performance of the Yucca Mountain disposal system;

(d) Does not exclude important parameters from assessments and analyses simply because they are difficult to precisely quantify to a high degree of confidence; and

(e) Focuses performance assessments and analyses upon the full range of defensible and reasonable parameter distributions rather than only upon extreme physical situations and parameter values.

§ 197.15 How must DOE take into account the changes that will occur during the next 10,000 years?

The DOE should not attempt to project changes to society, human biology, or increases or decreases to human knowledge. In all analyses done to demonstrate compliance with this part, DOE must assume that all of those factors remain constant as they are at the time of license submission to NRC. However, DOE must vary factors related to the geology, hydrology and climate based on environmentally protective but reasonable scientific predictions of the changes that could affect the Yucca Mountain disposal system over the next 10,000 years.

Individual-Protection Standard

§ 197.20 What standard must DOE meet?

The DOE must demonstrate, using performance assessment, that there is a reasonable expectation that for 10,000 years following disposal the reasonably maximally exposed individual receives no more than an annual committed effective dose equivalent of 150 microsieverts (15 mrem) from releases from the undisturbed Yucca Mountain disposal system. The DOE's analysis must include all potential pathways of radionuclide transport and exposure.

§ 197.21 Who is the reasonably maximally exposed individual (RMEI)?

The RMEI is a hypothetical person who could meet the following criteria:

(a) Based upon current understanding, lives within one-half kilometer of the junction of U.S. Route 95 and Nevada State Route 373, unless NRC determines that the RMEI would receive a higher dose living in another location at the same distance from the Yucca Mountain repository;

(b) Has a diet and living style representative of the people who are now residing in the Town of Amargosa Valley, Nevada. The DOE must use the most accurate projections which might be based upon surveys of the people residing in the Town of Amargosa Valley, Nevada, to determine their current diets and living styles and use the mean values in the assessments conducted for §§ 197.20 and 197.25; and

(c) Drinks 2 liters of water per day from wells drilled into the ground water at the location where the RMEI lives.

Human-Intrusion Standard

§ 197.25 What standard must DOE meet?

Alternative 1 for § 197.25:

The DOE must demonstrate that there is a reasonable expectation that for 10,000 years following disposal the reasonably maximally exposed individual receives no more than an annual committed effective dose equivalent of 150 microsieverts (15 mrem) as a result of a human intrusion. The DOE's analysis of human intrusion must include all potential environmental pathways of radionuclide transport and exposure.

Alternative 2 for § 197.25:

The DOE must determine the earliest time after disposal that the waste package would degrade sufficiently that a human intrusion (see § 197.26) could occur without recognition by the drillers. The DOE must:

(a) Demonstrate that there is a reasonable expectation that the reasonably maximally exposed individual receives no more than an annual committed effective dose equivalent of 150 microsieverts (15 mrem) as a result of a human intrusion, if complete waste package penetration can occur at or before 10,000 years after disposal. The analysis must include all potential environmental pathways of radionuclide transport and exposure; and

(b) Include the results of the analysis and its bases in the environmental impact statement for Yucca Mountain as an indicator of long-term disposal system performance, if the intrusion cannot occur before 10,000 years after disposal.

§ 197.26 What are the circumstances of the human intrusion?

For the purposes of the analysis of human intrusion, DOE must make the following assumptions:

(a) There is a single human intrusion as a result of exploratory drilling for ground water;

(b) The intruders drill a borehole directly through a degraded waste container into the uppermost aquifer underlying the Yucca Mountain repository;

(c) The drillers use the common techniques and practices that are currently employed in the region surrounding Yucca Mountain;

(d) Careful sealing of the borehole does not occur, instead natural degradation processes gradually modify the borehole;

(e) Only releases of radionuclides that occur as a result of the intrusion and that are transported through the resulting borehole to the saturated zone are projected;

(f) No releases are included which are caused by unlikely natural processes and events; and

(g) The intrusion occurs at a time or within a range of time determined by NRC. The NRC must make that determination based upon the following factors

[Paragraph (g) would be included only if Alternative 1 for § 197.25 is chosen]:

(1) The earliest time that current drilling techniques could lead to waste package penetration without recognition by the drillers;

(2) The time it would take for a small percentage of waste packages to fail but before significant migration of radionuclides has occurred; and

(3) Intrusion would not occur during the period of active institutional control.

Other Considerations

§ 197.30 What other projections must be made by DOE?

To complement the results of § 197.20, DOE must calculate the peak dose of the reasonably maximally exposed individual that would occur after 10,000 years following disposal but within the period of geologic stability. While no regulatory standard applies to the results of this analysis, DOE must include the results and their bases in the environmental impact statement for Yucca Mountain as an indicator of long-term disposal system performance.

Ground Water Protection Standards

§ 197.35 What standards must DOE meet?

In its license application to NRC, DOE must provide a reasonable expectation that, for 10,000 years of undisturbed performance after disposal, releases of radionuclides from radioactive material in the Yucca Mountain disposal system will not cause the level of radioactivity in the representative volume of ground water at the point of compliance to exceed the limits in Table 1 as follows:

TABLE 1.—LIMITS ON RADIONUCLIDES IN THE REPRESENTATIVE VOLUME.

Radionuclide or type of radiation emitted	Limit	Is natural background included?
Combined radium-226 and radium-228	5 picocuries per liter	Yes
Gross alpha activity (including radium-226 but excluding radon and uranium).	15 picocuries per liter	Yes
Combined beta and photon emitting radionuclides	40 microsieverts (4 millirem) per year to the whole body or any organ.	No

§ 197.36 What is a representative volume?

(a) It is the volume of ground water that would be withdrawn annually from an aquifer containing less than 10,000 milligrams of total dissolved solids per liter of water to supply a given water demand. The DOE must project the concentration of radionuclides from the Yucca Mountain repository that will be in the representative volume. The DOE must then use the projected concentrations to demonstrate to NRC compliance with § 197.35. The DOE must make the following assumptions concerning the representative volume:

(1) It is centered on the highest concentration level in the plume of contamination at the point of compliance;

(2) Its position and dimensions in the aquifer are determined using average hydrologic characteristics for the aquifers along the radionuclide migration path from the Yucca Mountain repository to the compliance point as determined by site characterization; and

(3) It contains 1285 acre-feet of water (about 1,591,023,000 liters or 418,690,000 gallons).

(b) The DOE must use one of two alternative methods for determining the dimensions of the representative volume. The DOE must propose the method, and any underlying assumptions, to NRC for approval.

(1) The dimensions may be calculated as a well-capture zone. If this approach is used, DOE must assume that the:

(i) Water supply well has characteristics consistent with public water supply wells in Amargosa Valley, Nevada, for example, well bore size and length of the screened intervals;

(ii) Screened interval is centered in the highest concentration in the plume of contamination at the point of compliance; and

(iii) Pumping rate is set to produce an annual withdrawal equal to the representative volume.

(2) The dimensions may be calculated as a slice of the plume. If this approach is used, DOE must:

(i) Propose to NRC, for its approval, where the location of the edge of the plume of contamination occurs. For example, the place where the concentration of radionuclides reaches 0.1% of the level of the highest concentration at the point of compliance;

(ii) Assume that the slice of the plume is perpendicular to the prevalent direction of flow of the aquifer; and

(iii) Assume that the volume of ground water contained within the slice of the plume is equal to the representative volume.

§ 197.37 Where is the point of compliance?

Alternative 1 for § 197.37:

The point of compliance is any point on the boundary of the controlled area.

Alternative 2 for § 197.37:

The point of compliance is any point within a one-half kilometer radius of the intersection of U.S. Route 95 and Nevada State Route 373. However, if NRC determines that there is another location, at the same distance (approximately 20 kilometers) from the center of the repository footprint, where the representative volume would have a higher concentration of radionuclides which were released from the Yucca Mountain disposal system, NRC must specify that location the point of compliance.

Alternative 3 for § 197.37:

The point of compliance is any point within the Town of Amargosa Valley, Nevada, and within the area bounded by Frontier Street on the north, Nevada State Route 373 on the east, the Nevada-California border on the south/southwest, and Casada Way on the west (as they are located at the time of promulgation of this part). However, if NRC determines that there is another location, at approximately 30 kilometers, from the center of the repository footprint where the representative volume would have a higher concentration of radionuclides which were released from the Yucca Mountain disposal system, NRC must specify that location as the point of compliance.

Alternative 4 for § 197.37:

The point of compliance is any point on the boundary of the controlled area.

Additional Provisions

§ 197.40 Are there limits on what must be considered in the performance assessments?

Yes. The DOE's performance assessments should not include consideration of processes or events that are estimated to have less than one chance in 10,000 of occurring within 10,000 years of disposal. The NRC may change this limit to exclude slightly higher probability events. In addition, with the NRC's approval, DOE's performance assessments need not evaluate, in detail, the impacts resulting from any processes and events or sequences of processes and events with a higher chance of occurrence if the results of the performance assessments would not be changed significantly.

§ 197.41 Can EPA amend this rule?

Yes. We can amend this rule by another notice-and-comment rulemaking. However, if we amend this rule, there must be a public comment period of at least 90 days and we must, at a minimum, hold hearings in Washington, D.C. and the Nevada Counties of Nye and Clark.

[FR Doc. 99–21913 Filed 8–26–99; 8:45 am]

BILLING CODE 6560–50–P

federal register

Friday
August 27, 1999

Part III

Department of the Interior

Bureau of Land Management

43 CFR Part 3730 et al.

Location, Recording, and Maintenance of Mining Claims or Sites; Interim Final Rule

43 CFR Part 3730 et al.

Locating, Recording, and Maintaining Mining Claims or Sites; and Extension of Currently Approved Information Collection, OMB Approval Number 1004–0114; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3730, 3820, 3830, and 3850

[WO–620–1430–00–24 1A]

RIN 1004–AD31

Location, Recording, and Maintenance of Mining Claims or Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rule.

SUMMARY: The Bureau of Land Management (BLM) is promulgating this rule to amend regulations on locating, recording, and maintaining mining claims or sites. In this rule, BLM amends the regulations to respond to a recent law that continues to require claimants to pay location and maintenance fees on unpatented mining claims or sites and to provide annual maintenance fee waivers to small miners until September 30, 2001. BLM collected these fees and provided for waivers under the existing regulations based on a previous law that expired on September 30, 1998. The new law—

Moves the annual payment and waiver filing deadline from August 31 to September 1 to coincide with the beginning of the assessment year;

Allows time to cure a small miner waiver application defect; and

Allows maintenance fee payment after the payment deadline instead of forfeiting a claim or site in an incurable waiver.

The interim final rule is necessary to implement and publicize the changes made by Congress. Elsewhere in this issue of the **Federal Register** appears a proposed rule that makes these changes and also reorganizes and simplifies the regulations on locating and maintaining mining claims and sites.

DATES: The interim final rule is effective August 27, 1999. If you wish to comment on the interim final rule, you should submit your comments by October 26, 1999. In developing a final rule, BLM may not consider comments postmarked or received in person or by electronic mail after this date.

ADDRESSES: You may mail comments to Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, DC 20240. You may also hand-deliver comments to BLM at Room 401, 1620 L Street, NW, Washington, DC. For information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section under PUBLIC COMMENT PROCEDURES and ''Electronic access and filing address.''

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202) 452–0355 or Ted Hudson in Regulatory Affairs at (202) 452–5042. For assistance in reaching the above contacts, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-(800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Interim Final Rule
IV. Procedural Matters

I. Public Comment Procedures

General Comment Procedures

Comments on the interim final rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, your comments should refer to the specific section or paragraph of the interim final rule that you are addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES.**) or comments delivered to an address other than those listed above (see **ADDRESSES.**).

BLM will make your comments, including your name and address, available for public review at the ''L Street'' address listed in **ADDRESSES** above during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays). BLM will also post all comments on its home page (http://www.blm.gov) at the end of the comment period.

Under certain conditions, BLM can keep your personal information confidential. You must prominently state your request for confidentiality at the beginning of your comment. BLM will consider withholding your name, street address, and other identifying information on a case-by-case basis to the extent allowed by law. BLM will make available to the public all submissions from organizations and businesses and from individuals identifying themselves as representatives or officials of organizations or businesses.

Electronic Access and Filing Address

You may view an electronic version of this interim final rule at BLM's Internet home page: www.blm.gov. You may also comment via the Internet to: WOComment@blm.gov. Please also include ''Attention: AD31'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030.

Comments on Rule Format

We also welcome your comments on how we could make this interim final rule easier to understand, including answers to the following questions:

- Are the requirements clearly stated?
- Does it contain unclear technical language or jargon?
- Does the format aid or reduce its clarity?
- Would it be easier to understand if it were divided into more sections?
- Is the description in the ''supplementary information'' section helpful?

Please send format comments to the Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C St., NW, Washington, DC 20240, or e-mail them to Execsec@ios.doi.gov.

II. Background

We explain the role of BLM in administering the mining law, the regulatory context for this rule, and the types of claims and sites that you may locate (legally establish) on public lands, in a related proposed rule appearing elsewhere in this issue of the **Federal Register**.

Since 1992, Congress has passed three short-term laws requiring claimants to pay various fees when locating, recording, and maintaining mining claims or sites on public lands. As the collector of the fees, BLM has implemented each of these laws by amending its regulations. This rule implements the third of these short-term laws—the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act) (section (e) of Pub. L. 105–277, 112 Stat. 2681–232, 2681–235, 30 U.S.C. 28f–28k), enacted on October 21, 1998. Before that, on August 10, 1993, Congress enacted Pub. L. 103–66, 107 Stat. 405, 30 U.S.C. 28f–k, which required claimants to pay a $25 one-time location fee and a $100 annual maintenance fee per claim or site, and added qualifiers for small miner waivers. To implement the 1993 Act, BLM published a rule amending 43 CFR parts 3730, 3821, 3833, and 3850 on August 30, 1994, at 59 FR 44857. The 1993 Act expired on September 30, 1998. The FY99 Act renewed and modified somewhat the provisions of the 1993 Act.

Earlier, on October 5, 1992, Congress enacted Pub. L. 102–381, 106 Stat. 1374, 1378–1379, which required claimants to

pay mining claim rental fees of $100 per claim or site and provided exemptions for claimants with approved notices or plans of operations for actual exploration work or mineral production. To implement this Act, BLM published a rule amending 43 CFR parts 3730, 3821, 3833, and 3850 on July 15, 1993, at 58 FR 38197. The Act expired on September 30, 1994, and was superseded by the 1993 Act.

The successive statutes also changed some of the pertinent terminology: Rental fees in the 1992 Act became maintenance fees in the 1993 Act, and exemptions became waivers.

III. Discussion of Interim Final Rule

Why the Rule Is Being Published on an Interim Final Basis

BLM is adopting this interim final rule solely to implement the requirements of the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act), section (e) of Pub. L. 105–277, 112 Stat. 2681–232, 2681–235, 30 U.S.C. 28f–28k, enacted by Congress on October 21, 1998. We are not making any other changes in this rule.

The Department of the Interior for good cause finds under 5 U.S.C. 553(b)(3)(B) that notice and public procedure for this rule are unnecessary and that this rule may properly take effect upon publication. The reasons are as follows:

- This rule merely codifies procedural changes required by Congress;
- There is insufficient time for a public comment period and preparation of a final rule before the time when the procedural requirements must be in place. This rule affects payments that are due to BLM by September 1, 1999.
- Publishing the regulations in final form gives the public extra time to get accustomed to the new procedures and deadlines before their implementation on September 1, 1999.
- On this same date, we are publishing a proposed rule with a 60-day comment period reorganizing the mining law regulations relating to location and maintenance of mining claims. That proposed rule also includes the same regulatory changes included here. If comments on the proposed rule reveal the need for changes in the regulation text, we will make the changes when finalizing the proposed rule.

Nevertheless, this interim final rule also includes opportunity for public comment. Comments raising urgent concerns about this rule may cause us to make changes in a separate final rule before the more comprehensive rulemaking effort also initiated today is completed.

We also determine under 5 U.S.C. 553(d) that there is good cause to place the rule into effect on the date of publication. First, the matters addressed in the rule are required by statute. Second, the payments this rule affects are due to BLM by September 1, 1999. Therefore, the public needs certainty in advance of that date to make its payments properly.

Changes Made by the FY99 Act in BLM's Current Requirements

The FY99 Act does not change the requirements for all claimants to pay a one-time $25 location fee and a $100 annual maintenance fee, or the provision for small miner and other waivers. BLM had collected these fees and waivers under the Interior and Related Agencies Appropriations Act for Fiscal Year 1994 (Pub. L. 103–66; 107 Stat. 405), which expired on September 30, 1998. The FY99 Act extends BLM's authority from October 1, 1998, to September 30, 2001. This rule reflects this extension.

The Act makes two important changes. First, it moves the annual payment deadline from August 31 to September 1, which is the first day of the assessment year.

Second, the FY99 Act gives claimants more time to cure defective small miner waiver applications. Under existing BLM practice, if you, as a claimant, filed a waiver application on time but received notification that the waiver was defective, you had 30 days after the notification date to cure the defect, if it was curable. You also had the option of paying the maintenance fee instead of curing the defect as long as the payment deadline had not passed. If the payment deadline had passed and you failed to cure the defect within 30 days, you forfeited the claims or sites. Since waiver applications and maintenance fees are both due on the same date, claimants rarely had the option of paying the maintenance fee instead of curing the defect. Therefore, if the defect was incurable, you generally forfeited the claims or sites.

Under the FY99 Act, you have 60 days instead of 30 days after receiving written notification from BLM to cure a defective small miner waiver application. The FY99 Act also gives you the option to pay the maintenance fee instead of curing the defect during this 60-day period, regardless of whether the payment deadline has passed.

Organization of the Interim Final Rule

This interim final rule amends the existing regulations. It contains only the specific amendments required by the FY99 Act. Except for new § 3833.4–1, which includes the new provision on curing defects in waiver requests, all of the amendments appear as line-by-line edits. While this presentation may be somewhat harder to follow, especially if you do not have a current Code of Federal Regulations containing the existing regulations being amended, we have chosen this method to make it clear that we are not making changes beyond those called for by Congress in the FY99 Act.

The only changes we have made in these line-by-line edits are—

- Changes in citations and authorities to reflect the new statute;
- Changes in filing deadlines from August 31 to September 1; and
- Changes in the expiration date of the regulations from 1998 to 2001.

In new § 3833.4–1 you will find the only new provisions required by the FY99 Act. The FY99 Act gives you 60 days instead of 30 days to cure defective small miner waiver applications if BLM receives them by the payment deadline. The FY99 Act also gives you the same 60 days to pay the maintenance fee if the defective small miner waiver application is incurable. Section 3833.4–1 is added to implement these changes.

V. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, BLM has determined that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under Executive Order 12866.

- The rule will not 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. These changes do not significantly change the substance of current mining claim administration within BLM. The annual revenue received from the collection of the congressionally mandated oil shale, maintenance, and location fees has averaged $32 million since August of 1993. This rule will not change the fee amounts and thus will not have a significant impact on fees collected.
- This rule will not create inconsistencies with other agencies'

actions. It does not change the relationships of BLM to other agencies and their actions.

- This rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. The rule does not address any of these programs.
- This rule will not raise novel legal or policy issues because it makes no major substantive changes in the regulations. The Constitutionality of the rental and maintenance fees has been challenged in the Federal Courts. The Courts have consistently upheld the 1992 and 1993 Acts and their implementing regulations.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The rule will not have an impact because the fees paid by small entities will not change. Deadlines for paying them and complying with other regulatory requirements are relaxed somewhat. A final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

For the purposes of this section a ''small entity'' is an individual, limited partnership, or small company, at ''arm's length'' from the control of any parent companies, with fewer than 500 employees or less than $5 million in revenue. This definition accords with Small Business Administration regulations at 13 CFR 121.201.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- Does not have an annual effect on the economy of $100 million or more. As explained in section 1 above, the revised regulations will not materially alter current BLM policy or the fees paid by mining claimants.
- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The changes implemented by this rule are likely to leave all other economic aspects of BLM unaffected.
- Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

- This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is unnecessary.
- This rule will not produce a Federal mandate of $100 million or greater in any year. It is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The changes implemented in this rule do not require anything of any non-Federal governmental entity.

Executive Order 12630, Takings

In accordance with Executive Order 12630, the rule does not have takings implications. A takings implication assessment is not required. This rule does not substantially change BLM policy. Nothing in this rule constitutes a taking. The Federal Courts have heard a number of suits challenging the imposition of the rental and maintenance fees as a taking of a right, or, alternatively, as an unconstitutional tax. The Courts have upheld the 1992 and 1993 Acts and the BLM rules as a proper exercise of Congressional and Executive authorities.

Executive Order 12612, Federalism

In accordance with Executive Order 12612, BLM finds that the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule does not change the role or responsibilities between Federal, State, and local governmental entities, nor does it relate to the structure and role of States or have direct, substantive, or significant effects on States.

Executive Order 12988, Civil Justice Reform

In accordance with Executive Order 12988, BLM finds that the rule does not unduly burden the judicial system and therefore meets the requirements of sections 3(a) and 3(b)(2) of the Order. BLM consulted with the Department of the Interior's Office of the Solicitor throughout the drafting process.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the interim final rule under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, and has assigned clearance number 1004–0114.

This rule does not require a new information collection approval under the Paperwork Reduction Act. However, the existing OMB approval of the information collection under ICB 1004–0114 expires in September 1999. Therefore, BLM is applying for renewal of the approval at this time, using a proposed rule published elsewhere in this issue of the **Federal Register** as an opportunity to notify the public.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 318 DM 2.2(g) and 6.3(D). Since no substantial changes are proposed, this rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Because this rule does not substantially change BLM's overall management objectives or environmental compliance requirements, it would have no impact on, or only marginally affect, the following critical elements of the human environment as defined in Appendix 5 of the BLM National Environmental Policy Act Handbook (H–1790–1): Air quality, areas of critical environmental concern, cultural resources, Native American religious concerns, threatened or endangered species, hazardous or solid waste, water quality, prime and unique farmlands, wetlands, riparian zones, wild and scenic rivers, environmental justice, and wilderness.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have considered the impact of this rule on the interests of Tribal governments. Because this rule does not specifically involve Indian reservation lands, government-to-government relationships will remain unaffected.

The principal author of this interim final rule is Ted Hudson in the Regulatory Affairs Group, assisted by Roger Haskins in the Solid Minerals Group, Washington Office, BLM.

List of Subjects

43 CFR Part 3730

Administrative practice and procedure; Mines; Public lands-mineral resources; Reporting and record keeping requirements; Surety bonds.

43 CFR Part 3820

Mines; Monuments and memorials; National forests; National parks; Public lands-mineral resources; Reporting and record keeping requirements; Surety bonds; Wilderness areas.

43 CFR Part 3830

Maintenance fees; Mines; Public lands—mineral resources; Reporting and record keeping requirements.

43 CFR Part 3850

Mines; Public lands-mineral resources.

For the reasons stated in the preamble, and under the authority of section (e) of the Act of October 21, 1998 (P.L. 105–277; 112 Stat. 2681–232, 2681–235); sections 441 and 2478 of the Revised Statutes, as amended (43 U.S.C. 1201 and 1457); section 2319 of the Revised Statutes, as amended (30 U.S.C. 22); sections 310 and 314 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1740 and 1744); and the Act of April 16, 1993 (43 U.S.C. 299(b)); parts 3730, 3810, 3820, 3830, 3840, and 3850, Groups 3700 and 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are amended on an interim basis as follows:

PART 3730—PUBLIC LAW 359; MINING IN POWERSITE WITHDRAWALS: GENERAL

1. Revise the authority citation for part 3730 to read as follows:

Authority: 69 Stat. 681, 30 U.S.C. 621–625; 43 U.S.C. 1701 *et seq.*; 30 U.S.C. 28f–28k, as amended.

2. Amend section 3730.0–9 by revising the last sentence of paragraph (a) to read as follows:

§ 3730.0–9 Information collection.

(a) * * * A response is required to obtain a benefit in accordance with the Act of August 11, 1955 (30 U.S.C. 621–625), section 314 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1744), and 30 U.S.C. 28f–28k, as amended by the Act of October 21, 1998 (112 Stat. 2681–232, 2682–235).

* * * * *

PART 3820—AREAS SUBJECT TO SPECIAL MINING LAWS

3. The authority citation for part 3820 continues to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 1201 and 1740.

Subpart 3821—O and C Lands

4. Revise section 3821.0–3 to read as follows:

§ 3821.0–3 Authority.

The authorities for the regulations in this subpart are the Act of April 8, 1948 (62 Stat. 162); Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744); and 30 U.S.C. 28f–28k, as amended by the Act of October 21, 1998 (112 Stat. 2681–232, 2681–235).

PART 3830—LOCATION OF MINING CLAIMS

5. The authority citation for part 3830 is revised to read as follows:

Authority: 30 U.S.C. 22, 28, and 28f–k; 43 U.S.C. 299 and 1201; 31 U.S.C. 9701; 16 U.S.C. 1901, 1907; 43 U.S.C. 1740 and 1744; 30 U.S.C. 242; 50 U.S.C. Appendix 565; 112 Stat. 2861–235.

§ 3833.0–3 [Amended]

6. Amend § 3833.0–3 as follows:

a. Remove from the first sentence of paragraph (a) the phrase ''the Act of August 10, 1993 (30 U.S.C. 28f–k, 107 Stat. 405),'' and add in its place the phrase ''30 U.S.C. 28f–k, as amended by the Act of October 21, 1988 (112 Stat. 2681–235),''

b. Remove from the first sentence of paragraph (e) the phrase ''Sections 10101–10106 of the Act of August 10, 1993 (Pub. L. 103–66, 107 Stat. 405) require'', and add in its place the phrase ''The Act of October 21, 1998 (112 Stat. 2681–232, 2681–235, 30 U.S.C. 28f–28k) requires'; and

c. Remove from the third sentence of paragraph (e) the phrase ''the Act of August 10, 1993,'' and add in its place the phrase ''30 U.S.C. 28f.''

§ 3833.0–5 [Amended]

7. Amend § 3833.0–5 as follows:

a. Remove from the second sentence of paragraph (o) the phrases ''December 30, 1999,'' and ''the Act of August 10, 1993,'' and add in their places, respectively, the phrases ''December 30, 2002,'' and ''the Act of October 21, 1998,''

b. Remove from the first sentence of paragraph (v) the phrase ''the Act of August 10, 1993 (Pub. L. 103–66, 107 Stat. 312)'' and add in its place the phrase ''30 U.S.C. 28f, as amended by the Act of October 21, 1998 (112 Stat. 2681–235)'';

c. Remove from the second sentence of paragraph (v) the phrase ''September 29, 1998'' and add in its place the phrase ''September 29, 2001'';

d. Remove from the first sentence of paragraph (w) the phrases ''the Act of August 10, 1993,'' and ''September 30, 1998'', and add in their places, respectively, the phrases ''30 U.S.C. 28g, as amended by the Act of October 21, 1998,'' and ''September 30, 2001''; and

e. Remove from the first sentence of paragraph (y) the phrase ''the Act of August 10, 1993,'' and add in its place the phrase ''30 U.S.C. 28g, as amended by the Act of October 21, 1998.''

§ 3833.0–9 [Amended]

8. Amend § 3833.0–9 by removing from the last sentence of paragraph (a) the phrase ''the Act of April 16, 1993 (Public Law 103–23, 107 Stat. 60), and the Act of August 10, 1993 (Public Law 103–66, 30 U.S.C. 28f–k, 107 Stat. 405)'' and adding in its place the phrase ''43 U.S.C. 299, and 30 U.S.C. 28f–k, as amended by the Act of October 21, 1998 (112 Stat. 2681–235).''

§ 3833.1–3 [Amended]

9. Amend § 3833.1–3 by removing from each place it appears in paragraph (c)(2) the phrase ''August 31'' and adding in its place the phrase ''September 1.''

§ 3833.1–4 [Amended]

10. Amend § 3833.1–4 by removing from paragraph (b) the phrase ''September 30, 1998'' and adding in its place the phrase ''September 30, 2001.''

11. Amend § 3833.1–5 as follows:

a. Remove from the last sentence of the introductory text the phrases ''the Act of August 10, 1993,'' and ''September 1, 1999'' and add in their places, respectively, the phrases ''30 U.S.C. 28f'' and ''September 1, 2002,''

b. Remove from each place it appears in paragraph (a)(1) the phrases ''an August 31'' and ''August 31,'' and add in place thereof the phrase ''September 1,''

c. Remove from the first sentence of paragraph (b) the phrases ''the Act of August 10, 1993'' and ''August 31'' and add in their places, respectively, the phrases ''30 U.S.C. 28f'' and ''September 1'';

d. Revise the second sentence of paragraph (b) to read as set forth below; and

e. Remove from paragraph (e) the phrase ''December 31'' and add in its place the phrase ''December 30.''

§ 3833.1–5 Maintenance Fees.

* * * * *

(b) * * * The payments are due on each September 1 through September 1, 2001. * * *

12. Amend § 3833.1–6 as follows:

§ 3833.1–6 [Amended]

a. Remove from the section heading the phrase ''Act of August 10, 1993'' and add in its place the phrase ''30 U.S.C. 28f'', and remove from the section heading the phrase ''applicable from 12 o'clock noon on September 1, 1993, until 12 o'clock noon September 1, 1999'';

b. Remove from the first sentence of paragraph (a)(1) the phrase ''August 31'' and add in its place the phrase ''September 1'';

c. Remove from the second sentence of paragraph (b) the phrase ''August 31'' and add in its place the phrase ''September 1'';

d. Remove from paragraph (d)(2) the phrase ''August 31 immediately preceding'' and add in its place the phrase ''September 1 at the beginning of''; and

e. Remove from the third sentence of paragraph (e) the phrase ''August 31'' and add in its place the phrase ''September 1.''

§ 3833.1–7 [Amended]

13. Amend § 3833.1–7 as follows:

a. In paragraph (d) remove the first sentence, and remove from the second sentence the phrases ''August 31'' and ''August 31, 1998'', and add in their places, respectively, the phrases ''September 1'' and ''September 1, 2002'', and remove the word ''thereafter''; and

b. In paragraph (d)(3) remove the phrase ''August 31'' and add in its place the phrase ''September 1.''

§ 3833.2–3 [Amended]

14. Amend § 3833.2–3 as follows:

a. Remove from the section heading the phrase ''the Act of August 10, 1993'' and add in its place ''the Act of October 21, 1998'';

b. Remove from paragraph (d) the phrases ''Act of August 10, 1993,'' ''September 1, 1999,'' and ''December 30, 2000,'' and add in their places, respectively, the phrases ''30 U.S.C. 28f,'' ''September 1, 2002,'' and ''December 30, 2003''; and

c. Remove from paragraph (e) the phrases ''September 1, 1998,'' ''September 29, 1998,'' and ''September 1, 1999'', and add in their places, respectively, the phrases ''September 1, 2001,'' ''September 29, 2001,'' and ''September 1, 2002.''

§ 3833.4 [Amended]

15. Amend § 3833.4 by removing from paragraph (a)(1) the phrase ''August 31'' and add in its place the phrase ''September 1.''

16. Add § 3833.4–1 to read as follows:

§ 3833.4–1 Curing defective waivers.

(a) If BLM finds a defect in a waiver request, BLM will send a notice to the claimant by certified mail—return receipt requested, to the address given on the waiver request.

(b) The claimant must cure the defective waiver or pay the annual maintenance fees within 60 days of receiving BLM notification of the defects. Otherwise the claims covered by the defective waiver are forfeited.

PART 3850—ASSESSMENT WORK

17. The authority citation for part 3850 continues to read as follows:

Authority: 30 U.S.C. 22 et seq.; 30 U.S.C. 28–28k; 50 U.S.C. Appendix 565; 107 Stat. 405.

Subpart 3851—Assessment Work: General

17. Amend § 3851.3 by removing from the first sentence of paragraph (c) the phrase ''Act of August 10, 1993'' and add in its place the phrase ''30 U.S.C. 28f.''

Dated: July 26, 1999.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

[FR Doc. 99–21910 Filed 8–25–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3730, 3810, 3820, 3830–3840, and 3850

[WO–620–1430–00–24 1A]

RIN 1004–AD31

Locating, Recording, and Maintaining Mining Claims or Sites; and Extension of Currently Approved Information Collection, OMB Approval Number 1004–0114

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule and notice and request for comment on information collection.

SUMMARY: The Bureau of Land Management (BLM) is proposing this rule to amend regulations on locating, recording, and maintaining mining claims or sites. In this proposed rule, BLM is seeking to amend regulations to respond to a recent law that continues to require claimants to pay location and maintenance fees on unpatented mining claims or sites and to provide annual maintenance fee waivers to small miners until September 30, 2001. BLM collected these fees and provided for waivers under the existing regulations based on a previous law that expired on September 30, 1998. The new law—

Moves the annual payment and waiver filing deadline from August 31 to September 1 to coincide with the beginning of the assessment year;

Allows time to cure a small miner waiver application defect; and

Allows maintenance fee payment after the payment deadline instead of forfeiting a claim or site in an incurable waiver.

In addition to making these changes in the regulations, the proposed rule would streamline the regulations by consolidating provisions on location, recording, and maintenance of mining claims or sites in one CFR part, clarifying conflicting language, eliminating duplication, and removing obsolete provisions. These revisions are part of BLM's overall effort to rewrite regulations in plain language to make them easier for the public to use and understand.

The BLM is also taking this opportunity to announce its intention to request an extension of its current approval to collect certain information from holders of unpatented mining claims, mill, and tunnel sites.

DATES: Proposed rule: You should submit your comments by October 26, 1999. In developing a final rule, BLM may not consider comments postmarked or received in person or by electronic mail after this date.

Proposed information collection renewal: You should submit your comments by October 26, 1999. BLM may not consider comments postmarked or received by electronic mail after the above date in the decision-making process on the proposed information collection.

ADDRESSES: Please comment separately on the proposed rule or the information collection renewal. You may hand-deliver comments on the proposed rule or the proposed information collection renewal to Bureau of Land Management, Administrative Record, Room 401, 1620 L St., NW, Washington, DC, or mail comments to Bureau of Land Management, Administrative Record, Room 401LS, 1849 C St., NW, Washington, DC 20240. For information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section under ''Public Comment Procedures'' and ''Electronic access and filing address.''

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202)452–0355 or Ted Hudson in Regulatory Affairs at (202)452–5042. For assistance in reaching the above contacts, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-(800)877–8339 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Section-by-Section Analysis
V. Procedural Matters

I. Public Comment Procedures

General Comment Procedures

Comments on the proposed rule or the information collection should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Please submit your comments on issues related to the proposed rule or information collection renewal, in writing, according to the **ADDRESSES** section above. Please comment separately on the proposed rule or on the information collection renewal. Your comments should explain the need for any changes you recommend and, where possible, refer to specific sections or paragraphs in the proposed rule.

BLM will make your comments, including your name and address, available for public review at the ''L Street'' address listed in **ADDRESSES** above during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays). BLM will also post all comments on its home page (http://www.blm.gov) at the end of the comment period.

Under certain conditions, BLM can keep your personal information confidential. You must prominently state your request for confidentiality at the beginning of your comment. BLM will consider withholding your name, street address, and other identifying information on a case-by-case basis to the extent allowed by law. BLM will make available to the public all submissions from organizations and businesses and from individuals identifying themselves as representatives or officials of organizations or businesses.

Electronic Access and Filing Address

You may view an electronic version of this proposed rule at BLM's Internet home page: www.blm.gov. You may also comment via the Internet to: WOComment@blm.gov. Please also include ''Attention: AD31'' for the proposed rule or ''Attention: 1004–0114'' for the proposed information collection renewal, and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030.

Comments on Rule Format

We also welcome your comments on how we could make this proposed rule easier to understand, including answers to the following questions:

- Are the requirements clearly stated?
- Does it contain unclear technical language or jargon?
- Does the format aid or reduce its clarity?
- Would it be easier to understand if it were divided into more sections?
- Is the description in the ''supplementary information'' section helpful?

Please send format comments to the Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C St., NW, Washington, DC 20240, or e-mail them to Execsec@ios.doi.gov.

II. Background

BLM has primary responsibility for the administration of mining claims or sites on Federal lands. At the end of fiscal year (FY) 1998, there were 289,054 mining claims and sites maintained on the Federal lands. During FY 1998, claimants recorded 34,756 new mining claims and sites. In addition, BLM processed 4,121 waiver documents containing 27,498 mining claims and sites and processed 256,593 annual maintenance fee transactions. BLM also collected a total of $29,968,000 in location and maintenance fees. BLM deposits these collected fees into a special fund, and Congress appropriates money to BLM from the fund to pay for the personnel and operations of the Mining Law Administration program which includes, among other things, mining claim recording and fee collection, processing patent applications and plans of operations, inspecting operations and enforcing the regulations.

A. Mining Claims or Sites

A mining claim, which can be either lode or placer, comprises a parcel of Federal land that contains a valuable mineral deposit. In contrast, a mill site is located on non-mineral land and used to support a lode or placer mining claim operation or support itself independent of a particular claim. A tunnel site contains a tunnel to a lode mine or is used to discover unknown lode mineral deposits. See 30 U.S.C. 22–42.

A mineral entry occurs when a patent applicant has met all patenting requirements for the mining claims or mill sites that are included in a mineral patent application. This means that except for the confirmation of a discovery of a valuable mineral deposit or validation of proper use and occupancy, a claimant of a mining claim or mill site is otherwise qualified to receive a mineral patent to the lands applied for. However, in the context of land withdrawals, the term ''closed to mineral entry'' means only that the lands are withdrawn from mining claim or site location under the General Mining Law.

B. Current Regulations

Organization of the Current Regulations

Regulations on location, recording, and maintenance of mining claims or sites are scattered throughout Groups 3700 and 3800. BLM and the General Land Office (GLO), BLM's predecessor, created them piece by piece since 1939, when the first Code of Federal Regulations (CFR) was issued. Past practice of the BLM and GLO was to create a new subpart if Congress amended the General Mining Law or passed new laws affecting mining claims or sites. For this reason, current regulations are disjointed and contain conflicting or duplicative information. This rule is BLM's first attempt to consolidate, clarify, and eliminate duplications in these regulations.

Other Regulations Related to This Rule.

This rule concerns the location, recording, and maintenance of mining claims and associated mineral rights on the Federal lands of the United States that are subject to the General Mining Law. In order to obtain permission to occupy or disturb the surface or subsurface of your mining claims or sites, you must follow the Surface Management regulations of the surface management agency.

- For BLM administered lands, you must follow 43 CFR part 3715, 3802, 3809, or 3814 as applicable.
- On National Forest lands, you must follow 36 CFR part 228.
- On National Park System lands, you must follow 36 CFR part 9.
- In addition, most States have mining and reclamation permits that you must obtain before beginning surface disturbing operations on Federal lands.

To apply for a mineral patent for your mining claim or mill site, you must follow the regulations at 43 CFR part 3860. However, due to a Congressional budget moratorium in effect since September 30, 1994, BLM cannot accept any new mineral patent applications until Congress removes the moratorium.

Previously Proposed Rules Related to This Rule

Since 1992, Congress has passed three short-term laws requiring claimants to pay various fees when locating, recording, and maintaining mining claims or sites. As the collector of the fees, BLM has implemented each of these laws by amending its regulations. This proposed rule would implement the third of these short-term laws—the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act) (section (e) of Pub. L. 105–277, 112 Stat. 2681–232, 2681–235, 30 U.S.C. 28g–28k), enacted on October 21, 1998. Before that, on August 10, 1993, Congress enacted Pub. L. 103–66, 107 Stat. 405, 30 U.S.C. 28f–k, which required claimants to pay a $25 one-time location fee and a $100 annual maintenance fee per claim or site, and added qualifiers for small miner waivers. To implement the 1993 Act, BLM published a rule amending 43 CFR parts 3730, 3821, 3833, and 3850 on August 30, 1994, at 59 FR 44857. The 1993 Act expired on September 30, 1998.

Earlier, on October 5, 1992, Congress enacted Pub. L. 102–381, 106 Stat. 1374, 1378–1379, which required claimants to pay mining claim rental fees of $100 per claim or site and provided exemptions for claimants with approved notices or plans of operations for actual exploration work or mineral production. To implement this Act, BLM published a rule amending 43 CFR parts 3730, 3821, 3833, and 3850 on July 15, 1993, at 58 FR 38197. The Act expired on September 30, 1994, and was superseded by the 1993 Act.

The successive statutes also changed some of the pertinent terminology: Rental fees in the 1992 Act became maintenance fees in the 1993 Act, and exemptions became waivers.

C. Statutory History

Originally, all commercially valuable minerals were locatable under the General Mining Law, 30 U.S.C. 21 *et seq*. Congress has, over time, added minerals to, or removed minerals from, the General Mining Law through amendments and the passage of the Mineral Leasing Act, 30 U.S.C. 181 *et seq.*, the Geothermal Steam Act, 30 U.S.C. 1001 *et seq.*, and the Surface Resources Act, 30 U.S.C. 601, 603. As a result, locatable minerals are defined by the intersection of these statutes with the General Mining Law. The Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1701 *et seq.*, affects location, recording, and maintenance of mining claims or sites through its broad directive to the Secretary of the Interior to manage all public lands. In addition, Congress requires special procedures for locating or maintaining claims or sites that fall under the Stockraising Homestead Act or the Energy Policy Act.

1. The Federal Land Policy and Management Act

The Federal Land Policy and Management Act of 1976 (FLPMA) gives the Secretary broad-ranging authority to manage all public lands. This Act resulted from Congress completely overhauling the entire public land management system of the United States. Relevant sections in FLPMA:

- Require recording all mining claims or sites with BLM, and maintenance of those claims or sites, or they are forfeited (section 314, 43 U.S.C. 1744);
- Make knowing disregard or circumvention of any regulation issued under the authority of FLPMA a Federal offense (section 303, 43 U.S.C. 1733).

2. The General Mining Law

How to locate minerals under the General Mining Laws

The General Mining Laws, as amended, which generally comprises chapters 2, 11, 12, 12A, 15, 16, and 20, and section 161 of title 30 of the United States Code, are the primary statutes governing disposition of minerals on Federal lands by location. Locating claims or sites has five elements:

- Discovering a valuable mineral deposit
- Locating mining claims or sites
- Recording mining claims or sites
- Maintaining mining claims or sites
- Patenting mining claims or sites

Claimants who comply with the first four elements gain a right of possession to the deposit, or a right to explore for, extract and develop the minerals. This right includes the use of the surface for exploration, mineral development, mineral extraction, and uses reasonably incident to exploration, extraction, and development. This right is a property interest and may be bought, sold, transferred, leased, rented, devised or inherited. The Federal Government retains ownership and title to the land, even while a claimant is developing the mineral deposit. On lands where the United States is not the owner of the surface estate, which is the situation on Stockraising Homestead Act lands, the surface owner retains title to the surface of the land and BLM administers the mineral estate reserved to the United States. Under certain circumstances, a claimant may qualify for a mineral patent and receive title to the land.

3. Mineral Leasing Act

The Mineral Leasing Act allows leasing of the Federal lands for development of certain types of minerals. The Act made several minerals that were once locatable or not available under the General Mining Law leasable after February 25, 1920, including:

- Oil and gas
- Coal
- Potassium, sodium, and phosphate
- Oil shale, tar sands, native asphalt, solid and semisolid bitumen
- Oil recovered from oil sands after the deposit is mined or quarried
- Sulphur in Louisiana and New Mexico that belongs to the U.S.

4. Mineral Materials Act and Surface Resources Act

The Mineral Materials Act and the Surface Resources Act govern sale of mineral materials on Federal land. These mineral materials include petrified wood and common variety mineral materials. Common variety mineral materials were locatable until July 23, 1955, when the Surface Resources Act made all deposits of common varieties of sand, stone, gravel, pumice, pumicite, and cinders salable and therefore no longer locatable. Uncommon varieties of mineral materials, which have distinct and special value, are still locatable under the General Mining Law.

5. Stockraising Homestead Act and the Homestead Act

Claimants must follow additional procedures when seeking to locate mining claims or sites on lands which were patented under the Stockraising Homestead Act (SRHA) of 1916 (43 U.S.C. 291–299) or, in some instances, the Homestead Act (43 U.S.C. 161–284). The United States owns only the mineral estate in these lands.

Under the Homestead Act, the United States granted land patents (or title) to homesteaders who wanted to enter and cultivate the land. However, in some situations, particularly in the arid West, some land was not suitable for traditional crop farming. The SRHA allowed homesteaders to use the land for grazing, instead of traditional farming. For those who already had an application (entry) under the Homestead Act but could not meet the cultivation and irrigation requirements, the SRHA permitted conversion of the Homestead entry into an SRHA entry. These converted patents were issued under the Homestead Act. However, unlike other Homestead Act patents which granted title to both the surface and mineral estates, the converted patents conveyed title to the surface estate only and reserved the mineral estate to the United States under the SRHA.

Thus, certain lands that appear to have been patented under the authority of the Homestead Act after December 29, 1916, were patented under the SRHA with a Federal mineral estate reservation. Mining claims or tunnel sites may be located on these reserved mineral estates. However, since the United States is not the surface owner of the land, claimants must notify both the surface owner and BLM before locating mining claims or tunnel sites.

Congress enacted amendments to the Stockraising Homestead Act in 1993 that impose notification requirements on anyone other than the surface owner who wants to enter Stockraising Homestead Act lands to explore for minerals and locate mining claims. Act of April 16, 1993; Pub. L. 103–23; 43 U.S.C. 299(b).

6. Energy Policy Act

The Energy Policy Act (30 U.S.C. 242) no longer requires assessment work for oil shale placer claims. Instead, it requires payment of an annual $550 fee for most oil shale claims, and requires an annual filing of a notice of intent to hold. In cases where $550 is due, the claimant is not required to pay an additional maintenance fee.

7. Federal Oil and Gas Royalty Management Act

The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188(f)) provides that a claimant may seek to convert an oil placer mining claim that was validly located before February 24, 1920, to a noncompetitive oil and gas lease. This lease would be effective as of the date the mining claim is deemed abandoned because the claimant failed to comply with section 314 of FLPMA. The claimant's failure must be inadvertent, justifiable, or not due to his or her lack of reasonable diligence.

8. State Laws

Most States have passed their own laws about mining claim location, recording, and annual maintenance as authorized by the General Mining Law. In addition to BLM's regulations, these State law requirements will apply to you.

III. Discussion of Proposed Rule

Organization of the Proposed Rule

This proposed rule would consolidate information about locating, recording, and maintaining mining claims or sites. Two parts would be reserved so that other related information may eventually be relocated into this part. These reserved parts will address mineral lands available for location and recording, and notification requirements under special Acts.

Proposed part 3830 contains several sections. Each of the sections, located directly under part 3830 (in sections numbered 3830.xx), contains general information that is applicable throughout part 3830 and the succeeding parts 3831 through 3839. In old regulations, BLM used section numbers in the format xxxx.0-x for the sections providing this general information. To conform more closely with the standard numbering system for the Code of Federal Regulations, we eliminated the zero and dash.

To make regulations on mining claims or sites easier to use, this rule organizes sections within each part so that:

- Sections xxxx.1-xxxx.9 are introductory sections containing general information applicable to the part;
- Sections xxxx.x0, such as xxxx.10, xxxx.20, and xxxx.30, mark the beginning of new topic areas within the part;
- Sections under these ''new topic'' sections, such as xxxx.12, xxxx.26, or xxxx.38, are related to the topic areas; and
- Sections xxxx.90–xxxx.99 tell you how to cure defects in your compliance with the requirements in that part.

Why BLM is Proposing This Rule

BLM is proposing this rule for two reasons:

- To implement the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act), section (e) of Pub. L. 105–277, 112 Stat. 2681–232, 2681–235, 30 U.S.C. 28f–28k, enacted by Congress on October 21, 1998; and
- To make it easier for you, as claimants and other interested persons, to find and understand relevant requirements.

How the FY99 Act Changes BLM's Current Requirements

The FY99 Act does not change the requirements that all claimants pay a one-time $25 location fee and a $100 annual maintenance fee, or the provision for small miner and other waivers. BLM had collected these fees and waivers under the Interior and Related Agencies Appropriations Act for Fiscal Year 1994 (Pub. L. 103–66; 107 Stat. 405), which expired on September 30, 1998. The FY99 Act extends BLM's authority from October 1, 1998, to September 30, 2001. This rule reflects this extension.

The Act makes two important changes. First, it moves the annual payment deadline to September 1, which is the first day of the assessment year.

Second, the FY99 Act gives claimants more time to cure defective small miner waiver applications. Under current regulations, if you, as a claimant, filed a waiver application on time and received notification that the waiver was defective you had 30 days from the notification date to cure the defect. You also had the option of paying the maintenance fee instead of curing the defect as long as the payment deadline had not passed. If the payment deadline had passed and you failed to cure the defect within 30 days, you forfeited the claims or sites. Since waiver applications and maintenance fees are both due on the same date, you rarely had the option of paying the maintenance fee instead of curing the defect. Therefore, if the defect was incurable, you generally forfeited the claims or sites.

Under the FY99 Act, you have 60 days instead of 30 days after receiving written notification from BLM to cure a defective small miner waiver application. The FY99 Act also gives you the option to pay the maintenance fee instead of curing the defect during this 60-day period, regardless of whether the payment deadline has passed. These changes required under the FY99 Act affect payments due to BLM on September 1, 1999. Because the entire rulemaking process will not be finished by that date, BLM is adopting an interim final rule to make these changes. Elsewhere in this issue of the **Federal Register**, you will find that interim final rule that makes these changes, and only these changes, in the context of the existing regulations. You may also comment on that interim final rule as stated in its preamble, but the changes contained in it are effective on publication so that new deadlines will be in place for the opening of the next assessment year. Once this proposed rule is published in final form, it will supersede the interim final rule. If comments on the interim final rule require urgent changes, we will make them in an expedited, separate, final rule.

How This Proposed Rule Streamlines and Clarifies the Regulations

BLM seeks to improve regulations on mining claims or sites by making them easier to use and understand. First, this rule would make it easier for the public to find and follow regulations on mining claims or sites by consolidating most of the regulations about mining claim or site location, recording, and maintenance in one part, 43 CFR part 3830. These regulations are currently scattered throughout Groups 3700 (Multiple Use Mining) and 3800 (Mining Claims under the General Mining Laws). Two parts in the series of parts beginning with 3830 would be reserved so that BLM can redesignate other regulations, including those on special mining act requirements and mineral lands availability, in future rulemakings.

Eventually, BLM plans to consolidate all mining claim requirements, except for mineral patenting and surface management requirements, into part 3830. Mineral survey and patenting regulations will stay in part 3860. BLM wants to assist you in finding the information you need by combining all mining claim and site information into one part.

Second, this rule would make regulations easier to understand by removing conflicts in requirements, eliminating duplication, and removing outdated or inapplicable provisions. Some of the language in existing regulations dates back to the late 1890s and we must remove them if they are unnecessary or rewrite them in plain language.

Effect of the Streamlining and Clarifying Changes

The organizational changes in this proposed rule are not intended to make a significant change in the meaning of the regulations in any way. BLM wants to make the regulations easier for the public to use and understand.

IV. Section-by-Section Analysis

This section-by-section analysis will briefly outline how the new regulations would be organized and highlight the few minor substantive changes. Although the following paragraphs use descriptive rather than conditional language in most cases to describe the proposed regulations, none of the following descriptions will be effective unless and until promulgated in a final rule. (Of course, to the extent that this analysis reflects reorganization rather than substantive amendment, many of the provisions described here are already in effect.)

The chart below provides a map of the proposed numbering changes to help guide you through the new consolidated part. The column on the left shows the section numbers in this proposed rule, and the column on the right shows the sections from which the proposed provisions are derived or states that they are new. Sections ending in ''0'' are generally introductory sections leading into a series of related substantive sections.

Proposed regulations	Existing regulations
PART 3830	
3830.1	New; 3833.01.
3830.2	3832; 3833.0–1; 3833.5(e).
3830.3	New; 3833.0–3.
3830.5	New; 3833.0–5.
3830.6	3833.5(g).
3830.9	3833.0–9.
3830.10	
3830.11	3811.1; 3812.1.
3830.12	New; 3711; 3812.1.
3830.20.	
3830.21	New; 3833.1–1; 3833.1–4; 3833.1–5; 3852.2.
3830.22	3833.1–1.
3830.23	3833.1–3; 3833.1–4.
3830.24	3833.1–3; 3833.0–5(m).
3830.25	3833.1–3.
3830.90	

Proposed regulations	Existing regulations
3830.91	New.
3830.92	3833.4(f).
3830.93	New; 3833.5(f).
3830.94	New; 3833.4(b); 3833.4(c); 3833.5(d); 3833.5(f).
3830.95	New; 3833.1–3(b); 3833.4(a).
3830.96	3833.1–3(d); 3833.4(b).
3830.97	3833.5(h).
PART 3832	
3832.1	New.
3832.10	
3832.11	3831.1; 3833.1–2(b); 3841.4–4; 3841.4–5; 3841.4–6.
3832.20	
3832.21	3812.1; 3842.2; 3842.4.
3832.22	3841.4–1; 3841.4–2; 3842.1–2.
3832.30	
3832.31	New; 3844.
3832.32	New; 3844.
3832.33	New; 3844.
3832.34	New; 3844.
3832.40	
3832.41	New; 3843.
3832.42	3843.
3832.43	3843.
3832.44	3843.1.
3832.45	New; 3843.
3832.90	
3832.91	New; 3841.4–2
PART 3833	
3833.1	New; 3833.0–1; 3833.0–2; 3833.4(d).
3833.10	
3833.11	3833.1–2(a); 3833.1–2(b)(1)–(4); 3833.5(c).
3833.20	
3833.21	New; 3833.0–5(p).
3833.22	New; 3833.0–5(p).
3833.30	
3833.31	3833.3.
3833.32	New; 3833.3(c).
3833.33	3833.3(a).
3833.34	New; 3842.1–1.
3833.90	
3833.91	New; 3833.4(a); 3833.5(a).
3833.92	New; 3833.4(c).
3833.93	3833.5(f).
PART 3834	
3834.10	
3834.11	3833.1–5(b) & (e).
3834.12	3833.1–5(a), (b), & (e).
3834.13	3833.1–5(c).
3834.14	New; 3833.1–5(a) & (d).
3834.20	
3834.21	3833.1–5(h).
3834.22	3833.1–5(h)(1).
3834.23	New; 3833.1–5(h)(2).
PART 3835	
3835.1	New; 3833.1–5 & 3833.1–6.
3835.10	
3835.11	New; 3833.1–7(d).
3835.12	3833.1–6(a)–(d) & (f); 3833.1–7(c).
3835.13	3833.1–6(a)–(d); 3833.1–7(d) & (e).
3835.14	New; 3833.1–6; 3833.1–7(d); 3851.1(b).
3835.15	New; 3833.1–7(d); 3833.2–2(c).
3835.16	New; 3833.1–6(b); 3833.2–2(c); 3851.1; 3851.3.
3835.20	New; 3833.1–5(g).
3835.30	
3835.31	New; 3833.0–5(n); 3833.2–3(c); 3851.1.
3835.32	3833.1–5(e) &(f); 3833.1–6(b)–(d) & (f).
3835.33	3833.2–4.
3835.34	3833.2–4(c); 3833.2–5.
3835.90	
3835.91	3833.2–3(a) and (b); 3833.4(a).
3835.92	3833.4(a).
3835.93	New.
PART 3836	
3836.10	
3836.11	3851.1(b)–(c).
3836.12	New; 3851.2.
3836.13	3851.2.
3836.14	3851.2.
3836.15	3833.4(a); 3851.3.
3836.20	New; 3852.0–3.
3836.21	3852.1.
3836.22	3852.2.
3836.23	3852.3.
3836.24	3852.4.
3836.25	3833.1–7(e); 3852.5.
PART 3837	
3837.10	
3837.11	3851.4(a) and (d).
3837.20	
3837.21	New; 3851.4(b).
3837.22	3851.4(a).
3837.23	New; 3851.4(b).
3837.24	New; 3851.4.
3837.30	New.
PART 3838	
3838.1	New.
3838.2	New.
3838.10	
3838.11	New; 3833.0–3(g); 3833.1–2(c) & (d).
3838.12	New; 3833.1–2(d).
3838.13	New; 3833.1–2(d).
3838.14	3833.0–3(g); 3833.1–2(c).
3838.15	3833.0–3(g); 3833.1–2(c).
3838.16	3833.1–2(c).
3838.90	
3838.91	New; 3833.4(a).

Part 3730—Public Law 359; Mining in Powersite Withdrawals: General

Cross references in § 3734.1 are amended to reflect the reorganization of part 3830.

Part 3810—Lands and Minerals Subject to Location

The description of minerals that are subject to location, subpart 3812, would be removed. This information can now be found in § 3830.11, ''Which minerals are locatable under the mining law?''

Part 3820—Areas Subject to Special Mining Laws

Cross references in §§ 3821.2 and 3821.3 are amended to reflect the reorganization of part 3830.

Part 3830—Locating, Recording, and Maintaining Mining Claims or Sites; General Provisions

Proposed §§ 3830.1 through 3830.94 contain provisions that generally apply to all the regulations in parts 3830 through 3839. You should refer back to these sections on general policies and procedures when you follow regulations in this part.

Sections 3830.1, 3830.2, and 3830.3 outline the purpose, scope, and authority for this part. Section 3830.5 contains definitions that are important to understand in this series of parts. Section 3830.8 discusses information collection requirements. Section 3830.9 describes the penalties for filing a document with BLM that you know contains false, erroneous, or fictitious information or statements.

Section 3830.11 and 3830.12 describe which minerals are locatable under the mining law and subject to the regulations under this part.

Sections 3830.20 through 3830.24 explain payment procedures for various fees and service charges required in part 3830. Section 3830.21 contains a table describing the fees and service charges and when they are due. Section 3830.22 describes when BLM will refund fees you have paid. Section 3830.23 explains the forms of payment BLM will accept. Section 3830.24 tells you how you can get your payments to BLM. Section 3830.25 explains when you should pay for a new location.

Sections 3830.91 through 3830.96 describe what happens if you fail to comply with this part, the types of defects that may affect claims and sites, and the procedures you must follow if you want to cure defects. Section 3830.97 describes appeal procedures and cross-references other regulations, including appeals regulations found in parts 4 and 1840 of this title, that outline procedures for appealing to the Interior Board of Land Appeals.

In addition to this general section on defects, most parts also contain sections xxxx.90 through xxxx.9x, which identify the types of defects that you

may encounter specifically to that part, and tell you whether they can be cured and how to cure them.

Part 3831—Mineral Lands Available for the Location of Mining Claims or Sites [Reserved]

This part is reserved so that BLM may consolidate all information on the lands that are available for the mining claim and site location. This information is currently found in 43 CFR parts 3730, 3740, 3810, and 3820 and will likely be moved to this part in future rulemakings.

Part 3832—Locating Mining Claims or Sites [Added]

This part consolidates location requirements, currently found in 43 CFR subpart 3831 and part 3840, for lode and placer mining claims and mill and tunnel sites.

Section 3832.1 defines what location is. Sections 3832.10 through 3832.12 describe general procedures for locating mining claims or sites. Sections 3832.20 through 3832.22 provide specific requirements for lode and placer mining claims. Section 3821.21 discusses, among other things, claims located as building stone placer, oil placer, or saline placer claims on lands chiefly valuable for those minerals. The issue of what ''chiefly valuable'' means is currently before the Secretary in a case entitled *U.S.* v. *United Mining Corp*. If the Secretary decides that case before this rule is issued in final form, the final rule may reflect the outcome of that decision. This rule proposes to prevent claimants from circumventing the limitation on the number of millsite acres a claimant may locate under § 3832.32 by limiting the millsite acreage you may locate to 5 acres per associated 20 acre parcel of lode or placer claim lands. Sections 3832.30 through 3832.34 contain specific requirements for dependent and independent or custom mill sites. In accordance with the Mining Law, this rule proposes to make it clear that you may not locate more than an aggregate of 5 acres of mill site land for each associated placer or lode mining claim. The provision allowing a maximum of 5 acres of mill site land for each lode or placer mining claim held is contained in 30 U.S.C. 42, and derives from the Lode Law of 1866 (14 Stat. 251). This requirement was recently reviewed and Solicitor's Opinion M–36988 reaffirmed it on November 7, 1997. Sections 3832.40 through 3832.45 contain specific requirements for tunnel sites. Sections 3832.90 and 3832.91 specify when and how you can correct defects in your location of claims or sites.

Part 3833—Recording Mining Claims or Sites [Added]

This part walks you through the Federal process for recording a mining claim or site.

Section 3833.1 describes what it means to record mining claims and sites and why you must record your mining claims and sites. The recording process provides BLM with a record of claims and sites.

Sections 3833.10 and 3833.11 outline the procedures for recording mining claims and sites. Specifically, § 3833.11 describes how you record mining claims and sites. Some of this information may be the same information that you used to locate your claim in part 3832.

Sections 3833.20 through 3833.23 describe when and how you may amend the record of a previously located mining claim or site. Sections 3833.30 through 3833.35 cover transfers of mining claims or sites.

Finally, §§ 3833.90 through 3833.93 describe how to cure certain defects in your recording of mining claims or sites.

Part 3834—Required Fees for Mining Claims or Sites

This part guides you through annual maintenance of your claims or sites. It describes what you must do each year to maintain your mining claims or sites properly to avoid forfeiting them. Section 3834.11 describes the annual $100 maintenance fee, the fee waiver, and the consequences for failing to pay. Sections 3834.12 through 3834.14 go through the procedures for and effects of paying the maintenance fee. These sections contain two of the five changes in our regulations resulting from the passage of the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act), which Congress passed on October 21, 1998. First, BLM is revising these regulations to reflect the new statutory basis for BLM to collect location and maintenance fees from October 1, 1998, through September 30, 2001. BLM's previous statutory authority expired on September 30, 1998. Second, Congress moved the annual payment deadline from August 31 to September 1. Since assessment years begin every September 1, it makes sense to require payment on the first day of the assessment year instead of one day earlier.

Section 3834.11 also describes the $550 fee that you must pay for most oil shale placer claims, instead of the $100 maintenance fee. Most oil shale placer claims have different requirements because of the Energy Policy Act of 1992 (30 U.S.C. 242). Claimants who hold oil shale claims, except those who filed a patent application and received a first half final certificate for an oil shale claim by the date of enactment of the Energy Policy Act, must pay an annual fee of $550 for each oil shale claim and file a notice of intent to hold, which is due every year by December 30.

Sections 3834.20 through 3834.23 outline when and how the Secretary may adjust the amount of the maintenance and location fees.

Part 3835—Waivers From Annual Fees

Section 3835.1 provides general information about fee waivers and their applicability. Sections 3835.10 through 3835.12 address general filing requirements for waivers, while § 3835.13 lists specific types of waivers, their duration, and how you should renew them. Five types of waivers are available to claimants who are—

- Small miners,
- Military personnel under the Soldiers and Sailors' Relief Act,
- Performing reclamation,
- Denied access, or
- Applicants for a mineral patent (but only under certain circumstances).

The third of the five changes to our regulations resulting from the FY99 Act is found in these sections. The change is that the deadline for filing a waiver request is now September 1 instead of August 31.

Sections 3835.14 through 3835.16 establish the conditions for obtaining a small miner waiver in the assessment year following the assessment year of location, for filing a waiver in one year and paying the maintenance fee the next, and for paying the maintenance fee in one year and switching to a waiver the next assessment year.

Section 3825.20 addresses whether waivers continue when a claim is transferred. It explains that a waiver is still good if the transferee also qualifies for the waiver.

Sections 3835.30 through 3835.34 describe annual FLPMA filings and when they are required. An annual FLPMA filing is either the submission of an affidavit of assessment work when it is required as a condition of a waiver, or the submission of a notice of intent to hold when an affidavit of assessment work cannot be filed.

As in the earlier parts, §§ 3835.90 through 3835.93 describe the procedures to cure certain defects if you have any in your waiver application. Here in § 3835.93 you will find the fourth and fifth of the five changes to our regulations resulting from the FY99 Act. The FY99 Act gives you 60 days instead of 30 days to cure defective small miner waiver applications if BLM receives them by the payment deadline.

The FY99 Act also gives you the opportunity to pay the maintenance fee if the defective small miner waiver applications cannot be cured within 60 days after the payment deadline.

Part 3836—Annual Assessment Work Requirements for Mining Claims

This part consolidates the provisions of current part 3851 on performing and recording assessment work, which is sometimes a condition for a maintenance fee waiver. Sections 3836.10 through 3836.15 identify the types of work that qualify as assessment work, and tell you how to record the work. Section 3836.16 discusses what happens if you fail to perform assessment work. If you are a qualified small miner, and you have been denied access to your claims, you may petition BLM to defer assessment work as outlined in §§ 3836.20 through 3836.25.

Part 3837—Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

This part consolidates the procedures in current subpart 3851 and 30 U.S.C. 28 for acquiring the interests of a delinquent co-claimant in a mining claim or site when the co-claimant has failed to contribute a proportionate share of the assessment work, expenditures, or maintenance fees. Section 3837.10 states the conditions for acquisition and §§ 3837.20 through 3837.24 lay out the steps for acquisition. Section 3837.30 provides guidance in the event of a dispute between co-claimants.

Part 3838—Special Procedures for Locating and Recording Mining Claims and Tunnel Sites on Stockraising Homestead Act Lands

This part contains special procedures for exploring for minerals and locating, recording, and maintaining mining claims or tunnel sites located on or under Stockraising Homestead Act (SRHA) lands. If you want to locate mining claims on SRHA lands, you must take these special steps before locating, recording, and maintaining mining claims or tunnel sites under this part. These procedures are required by the Act of April 16, 1993; Public Law 103–23; 43 U.S.C. 299(b). The Act took effect on October 13, 1993.

Sections 3838.1 and 3838.2 describe what SRHA lands are, and why claims or sites on them require special procedures. Sections 3838.10 through 3838.14 and § 3838.16 discuss the procedures for exploring for minerals and locating mining claims on SRHA lands. Specifically, you must record a notice of intent to locate mining claims (NOITL) with BLM, and serve a copy of the NOITL on the surface owners. You must wait 30 days before entering the lands to explore for minerals or locate any mining claims. Section 3838.15 describes the benefits you receive when you file a NOITL, while §§ 3838.90 and 3838.91 state the consequences of failing to file a NOITL.

Part 3839—Special Laws, in Addition to FLPMA, that Require Recording or Notice

This part is reserved for future consolidation of regulations about recording and notice requirements and contest procedures under certain special laws. The current regulations are found in 43 CFR parts 3710, 3730, 3740, 3810, and 3820. These parts cover surface rights determinations under the Surface Resources Act of 1955; permission to use or occupy placer mining claims located in power site withdrawals under the Mining Claim Rights Restoration Act of 1955; conflict resolution between mining claims and mineral leases under the Multiple Mineral Development Act of 1954; and timber use on O&C lands in Oregon by mining claimants.

Part 3840—Nature and Classes of Mining Claims

BLM proposes to move the provisions of part 3840, which describe the types of claims or sites and how to locate and record them, to parts 3832 and 3833. See the conversion chart earlier in this preamble.

Part 3850—Assessment Work

BLM proposes to move the provisions of part 3850, which describes assessment work requirements, to part 3836.

V. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, BLM has determined that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under Executive Order 12866.

- The rule will not 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. These changes do not significantly change the substance of current mining claim administration within BLM. The annual revenue received from the collection of the congressionally mandated oil shale, maintenance, and location fees has averaged $32 million since August of 1993. This rule would not change the fee amounts and thus will not have a significant impact on fees collected.
- This rule will not create inconsistencies with other agencies' actions. It does not change the relationships of BLM to other agencies and their actions.
- This rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. The rule does not address any of these programs.
- This rule will not raise novel legal or policy issues because it makes no major substantive changes in the regulations. The Constitutionality of the rental and maintenance fees has been challenged in the Federal Courts.

The Courts have consistently upheld the 1992 and 1993 Acts and their implementing regulations.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The rule will not have an impact because the fees paid by small entities will not change. A final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

For the purposes of this section a ''small entity'' is an individual, limited partnership, or small company, at ''arm's length'' from the control of any parent companies, with fewer than 500 employees or less than $5 million in revenue. This definition accords with Small Business Administration regulations at 13 CFR 121.201.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- Does not have an annual effect on the economy of $100 million or more. As explained above, the revised regulations will not materially alter current BLM policy or the fees paid by mining claimants.
- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The changes implemented by this rule are likely to leave all other economic aspects of BLM unaffected.
- Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or

the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

- This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is unnecessary.
- This rule will not produce a Federal mandate of $100 million or greater in any year. It is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The changes implemented in this rule do not require anything of any non-Federal governmental entity.

Executive Order 12630, Takings

In accordance with Executive Order 12630, the rule does not have takings implications. A takings implication assessment is not required. This rule does not substantially change BLM policy. Nothing in this rule constitutes a taking. The Federal Courts have heard a number of suits challenging the imposition of the rental and maintenance fees as a taking of a right, or, alternatively, as an unconstitutional tax. The Courts have upheld the 1992 and 1993 Acts and the BLM rules as a proper exercise of Congressional and Executive authorities.

Executive Order 12612, Federalism

In accordance with Executive Order 12612, BLM finds that the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule does not change the role or responsibilities between Federal, State, and local governmental entities, nor does it relate to the structure and role of States or have direct, substantive, or significant effects on States.

Executive Order 12988, Civil Justice Reform

In accordance with Executive Order 12988, BLM finds that the rule does not unduly burden the judicial system and therefore meets the requirements of sections 3(a) and 3(b)(2) of the Order. BLM consulted with the Department of the Interior's Office of the Solicitor throughout the drafting process.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the proposed rule under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, and has assigned clearance number 1004–0114.

This rule does not require a new information collection under the Paperwork Reduction Act. However, the existing OMB approval of the information collection under ICB 1004–0114 expires in September 1999. Therefore, BLM is applying for renewal of the approval at this time, using this proposed rule as an opportunity to notify the public. This is necessary because this rule proposes to change the numbering of the regulations in certain respects, and simply renewing the existing approval without change would lead to confusion and misapprehension. BLM has prepared an OMB form 83–I, which has been approved by the Office of Policy Analysis, Department of the Interior. This rule makes no changes to the approved information collection required to implement the Act other than conforming section numbers where necessary.

The existing approval pertains to the current edition of these regulations at 43 CFR parts 3730, 3820, 3830, and 3850. This proposed rule consolidates these parts into 43 CFR part 3830. The information to be collected remains the same. There are no changes in the form or types of information to be collected, or in the amounts of fees required to be paid by the mining claimants. The BLM will continue to use form 3830–2 ''Maintenance Fee Payment Waiver Certification'' and form 3814–4 ''Notice of Intent to Locate a Lode or Placer Mining Claim and/or a Tunnel Site(s) on Lands Patented Under the Stockraising Homestead Act of 1916, as amended by the Act of April 16, 1993.'' Form number 3814–4 will be renumbered as form 3830–3 with no other changes. The revision and consolidation effort affects the numbering system of the regulations and therefore the form as well.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 318 DM 2.2(g) and 6.3(D). Since no substantial changes are proposed, this rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Because this rule does not substantially change BLM's overall management objectives or environmental compliance requirements, it would have no impact or only marginally affect, the following critical elements of the human environment as defined in Appendix 5 of the BLM National Environmental Policy Act Handbook (H–1790–1): Air quality, areas of critical environmental concern, cultural resources, Native American religious concerns, threatened or endangered species, hazardous or solid waste, water quality, prime and unique farmlands, wetlands, riparian zones, wild and scenic rivers, environmental justice, and wilderness.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have considered the impact of this rule on the interests of Tribal governments. Because this rule does not specifically involve Indian reservation lands, we believe that the government-to-government relationships will remain unaffected.

The principal author of this proposed rule is Roger Haskins in the Solid Minerals Group, assisted by Ted Hudson in the Regulatory Affairs Group, Washington Office, BLM.

List of Subjects

43 CFR Part 3730

Administrative practice and procedure; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements; Surety bonds.

43 CFR Part 3810

Mines, Public lands—mineral resources; Reporting and recordkeeping requirements

43 CFR Part 3820

Mines; Monuments and memorials; National forests; National parks; Public lands—mineral resources; Reporting and recordkeeping requirements; Surety bonds; Wilderness areas.

43 CFR Part 3830

Maintenance fees; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3831

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3832

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3833

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3834

Maintenance fees; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3835

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3836

Assessment work; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3837

Assessment work; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3838

Homesteads; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3839

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3840

Mines; Public lands—mineral resources.

43 CFR Part 3850

Mines; Public lands—mineral resources.

For the reasons stated in the preamble, and under the authority of section (e) of the Act of October 21, 1998 (Pub. L. 105–277; 112 Stat. 2681–232, 2681–235); sections 441 and 2478 of the Revised Statutes, as amended (43 U.S.C. 1201 and 1457); section 2319 of the Revised Statutes, as amended (30 U.S.C. 22); sections 310 and 314 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1740 and 1744); and the Act of April 16, 1993 (43 U.S.C. 299(b)); parts 3730, 3810, 3820, 3830, 3840, and 3850, Groups 3700 and 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are proposed to be amended as follows:

PART 3710—PUBLIC LAW 167; ACT OF JULY 23, 1955

1. Add an authority citation for part 3710 to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 30 U.S.C. 611–615; 43 U.S.C. 1201; 43 U.S.C. 1740.

PART 3730—PUBLIC LAW 359; MINING IN POWERSITE WITHDRAWALS: GENERAL

2. Revise the authority citation for part 3730 to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 30 U.S.C. 28f–k; 30 U.S.C. 621–625; 43 U.S.C. 1201; 43 U.S.C. 1740; 43 U.S.C. 1744.

Subpart 3734—Location and Assessment Work

§ 3734.1 [Amended]

3. Amend § 3734.1 as follows:

a. By removing in line nine of paragraph (a) the citation ''§§ 3833.1, 3833.3, 3833.4, and 3833.5'' and substituting the citation ''part 3833'';

b. By removing in line 12 of paragraph (a) the citation ''subpart 3833'' and substituting the citation ''part 3830'';

c. By removing in line 18 of paragraph (a) the citation ''§ 3833.5(c)'' and adding ''part 3833'';

d. By removing in line 4 of paragraph (c) the word ''shall'' and adding the words ''may choose to either'';

e. By removing in line 6 of paragraph (c) the citation ''§ 3833.0–5(u)'' and adding the citation ''part 3835'';

f. By adding in line 7 of paragraph (c) a semi-colon ';'' after the word ''title''; and

g. By removing the number ''3833'' in the last line of paragraph (c) and adding the number ''3834''.

PART 3810—LANDS AND MINERALS SUBJECT TO LOCATION

4. The authority citation for part 3810 continues to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 1201; 43 U.S.C. 1740.

Subpart 3812—Minerals Under the Mining Laws [Removed]

5. Remove subpart 3812 in its entirety.

PART 3820—AREAS SUBJECT TO SPECIAL MINING LAWS

6. Revise the authority citation for part 3820 to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 1201; 43 U.S.C. 1740; 62 Stat. 162.

Subpart 3821—O and C Lands

§ 3821.2 [Amended]

7. Amend § 3821.2 as follows:

a. By removing in lines eight and nine the citations ''§§ 3833.1, 3833.3, 3833.4, and 3833.5'' and adding the citation ''part 3833'';

b. By removing in line 12 the citation ''subpart 3833'' and adding the citation ''part 3830 through part 3839''; and

c. By removing the phrase ''3833.5 of this title'' in line 18 and adding the phrase ''part 3833 of this chapter.''

§ 3821.3 [Amended]

8. Amend § 3821.3 as follows:

a. By removing in line 3 the word ''shall'' and inserting the word ''may either'' in its place;

b. By removing in line 5 the comma '','' after the word ''work'' and adding the phrase ''if qualified as a small miner under part 3835 of this title,'; and

c. By removing in the last line the phrase ''subpart 3833 of this title'' and adding the phrase ''part 3834 of this chapter.''

9.–10. Revise part 3830 to read as follows:

PART 3830—LOCATING, RECORDING, AND MAINTAINING MINING CLAIMS OR SITES; GENERAL PROVISIONS

Sec.

Subpart A—Introduction

3830.1 What is the purpose of this part?
3830.2 What is the scope of these regulations?
3830.3 Who may locate mining claims?
3830.5 Definitions.

Subpart B—Providing Information to BLM

3830.8 How will BLM use the information it collects and what does it estimate the burden on the public to be?
3830.9 What will happen if I file a document with BLM that I know contains false, erroneous, or fictitious information or statements?

Subpart C—Mining Law Minerals

3830.10 Locatable minerals.
3830.11 Which minerals are locatable under the mining law?
3830.12 What are characteristics of a locatable mineral?

Subpart D—BLM Service Charge and Fee Requirements

3830.20 Payments of service charges, location fees, initial maintenance fees, annual maintenance fees, and oil shale fees.
3830.21 What are the different types of charges and fees?
3830.22 Will BLM refund service charges and fees?
3830.23 What type of payment will BLM accept?
3830.24 How do I make payments?
3830.25 When do I pay for recording a new notice or certificate of location for a mining claim or site?

Subpart E—Failure To Comply With This Part

3830.90 Failure to comply with the regulations in this part.
3830.91 What happens if I fail to comply with the requirements in this part?
3830.92 What special provisions apply to oil placer mining claims?
3830.93 When are defects curable?
3830.94 How do I cure a defect in my compliance with the requirements in this part?
3830.95 What if I pay only part of the service charges, location fees, oil shale fees, or maintenance fees?
3830.96 What if I pay only part of the service charges and fees for previously-recorded mining claims or sites?

Subpart F—Appeals

3830.100 How do I appeal a final decision by BLM?

Authority: 43 U.S.C. 2, 1201, 1740, 1744; 30 U.S.C. 22 *et seq.*; 30 U.S.C. 611; 31 U.S.C. 9701; 43 U.S.C. 1457; 18 U.S.C. 1001, 3571; sec. (e) of Pub. L. 105–277, 112 Stat. 2681–232, 2681–235; 44 U.S.C. 3501 *et seq.*; 30 U.S.C. 242.

Subpart A—Introduction

§ 3830.1 What is the purpose of this part?

(a) This part introduces you to the regulations that describe the steps you as a mining claimant must take to locate, hold, maintain, and transfer a lode or placer mining claim, mill site, or tunnel site located on the Federal lands under Federal law. These regulations are in this part and parts 3831 through 3839 of this chapter (hereinafter ''these regulations'').

(b) These regulations do not provide guidance on State law. In addition to these regulations, there are State law requirements that will apply to you.

§ 3830.2 What is the scope of these regulations?

These regulations govern all mining claims, mill sites, and tunnel sites on Federal land and units of the National Park System.

(a) You must follow the recording and maintenance requirements in these regulations even if BLM has actual knowledge of the existence of your mining claims or sites through other means.

(b) Part 3838 of this chapter describes supplemental procedures for locating mining claims or sites on land subject to the Stockraising Homestead Act, 43 U.S.C. 291–299.

§ 3830.3 Who may locate mining claims?

Persons qualified to locate mining claims or sites under these regulations include:

(a) United States citizens who have reached the age of discretion, under the law of the State of residence;

(b) Legal immigrants who have declared their intention to become a citizen;

(c) Corporations organized under the laws of any State; or

(d) Duly constituted and appointed agents acting on behalf of qualified locators.

§ 3830.5 Definitions.

Aliquot part means a legal subdivision of a section of a township and range, except fractional lots, by division into halves or quarters. The smallest non-lotted aliquot part that BLM will recognize is a two-and-a-half-acre parcel.

Amended location means a location that amends an earlier valid location as described further in § 3833.21 of this chapter.

Annual FLPMA filing means either a notice of intent to hold, or an affidavit of assessment work, as prescribed in section 314(a) of FLPMA (43 U.S.C. 1744(a)). The term *proof of labor* means the same as ''affidavit of assessment work'' as used in this part.

Assessment year means a period of 12 consecutive months beginning at 12:00 noon on September 1 each year.

Bench placer claim means a placer mining claim located on gravel and sediment benches on the valley wall above the current riverbed created when the river previously was at a higher topographic level than now.

BLM State Office means the Bureau of Land Management State Office listed in § 1821.2–1(d) of this chapter having jurisdiction over the land in which the mining claims or sites are situated. The Northern District Office in Fairbanks may also receive and record documents, filings, and fees for mining claims or sites in Alaska.

Claimant means the person, under State or Federal law, who holds all or any part of an unpatented mining claim or site.

Closed to mineral entry means the land is not available for the location of mining claims or sites under the General Mining Law.

Control means actual control, legal control, or the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means. BLM may consider a stockholder who is not an officer or director, or who is not a majority shareholder, of a publicly traded company or corporation to exercise control as defined in this regulation upon an adequate factual demonstration.

Copy of the official record means a legible duplicate, except microfilm, of the document filed under State law in the local jurisdiction where the mining claims or sites are located.

Federal lands means any lands or interest in lands owned by the United States, subject to location under the General Mining Law including, but not limited to, those lands within forest reservations in the National Forest System and wildlife refuges in the National Wildlife Refuge System, but excluding those lands within the units of the National Park System.

File or filed means that a document is received and date stamped by the BLM State Office during official business hours.

Filing period means the time period established in law or regulation during which you must provide documents and fees to the BLM State Office. If the last day of the filing period falls on a day when the office is officially closed, a document received the next day the office is open to the public is filed within the filing period. A document is filed on time if it is postmarked or clearly identified as being transmitted on or before the due date by a bona fide mail delivery service and received by the BLM State Office within 15 calendar days after the due date.

FLPMA means the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*).

Forfeit or forfeiture means the voidance or invalidation of an unpatented mining claim or site. The terms ''abandoned and void'', ''null and void'' and ''forfeited'' mean the same thing.

General Mining Law means the Act of May 10, 1872, as amended, (codified as 30 U.S.C. 22–54).

Gulch placer claim means a placer claim located on the bed of a river contained within steep, non-mineral canyon walls. The form of the river valley and non-mineral character of the valley walls preclude the location of the claim by aliquot parts and a metes and bounds description is necessary.

Local recording office means the county or State government office established under State law where all legal documents, deeds, wills, etc., are required to be recorded before they are given legal effect.

Location fee means the one-time fee required by 30 U.S.C. 28g for all new mining claims and sites at the time BLM records them.

Metes and bounds means a method of describing a parcel of land by using compass bearings and distances from a known point to a specified point on the parcel and then by using a continuous and sequential set of compass bearings and distances beginning at the point of beginning, continuing along and between the corners or boundary markers of the parcel's outer perimeter, until returning to the point of beginning.

Maintenance fee means the initial or annual fee required by 30 U.S.C. 28f to hold and maintain mining claims or sites.

Mineral-in-character means the land is known, or can be reasonably inferred from the available geologic evidence, to contain valuable minerals subject to location under the General Mining Law.

Mineral land means the same as mineral-in-character.

Mineral Leasing Acts means the Mineral Leasing Act of February 25,

1920, as amended (30 U.S.C. 181 *et seq.*); the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001 *et seq.*); the Acquired Land Leasing Act of 1947 (30 U.S.C. 351 *et seq.*); and as further defined in 30 U.S.C. 505. The definition pertains to all minerals that BLM administers under Groups 3100, 3200, 3400, and 3500 of this chapter.

Mineral materials means those materials that may be sold under the Mineral Materials Act of July 31, 1947 (30 U.S.C. 601–604), as amended by the Surface Resources Act of 1955 (30 U.S.C. 601, 603, and 611–615) and administered under parts 3600, 3610, and 3620 of this chapter.

Multiple Mineral Development Act means the Act of August 13, 1954 (30 U.S.C. 521–531).

Open to mineral entry means that the land is open to the location of mining claims or sites under the General Mining Law.

Patent means a document conveying title to Federal land.

Related party means:

(1) The spouse and dependent children of the claimant as defined in section 152 of the Internal Revenue Code of 1986; or

(2) A person who controls, is controlled by, or is under common control with the claimant.

Segregate or segregation means the Department of the Interior has removed the affected lands from mining claim location and entry, land transactions, or other uses as specified in the statute or regulation authorizing the segregation of the land in question. The land remains segregated until the statutory period has expired or the Department of the Interior removes the notation of segregation from its records, whichever occurs first.

Service charge means an administrative fee that BLM assesses to cover the cost of processing documents that this part requires to be filed and processed.

Site means either an unpatented mill site authorized under 30 U.S.C. 42 or a tunnel site authorized under 30 U.S.C. 27.

Small miner means a claimant who, along with all related parties, holds no more than 10 mining claims or sites on Federal lands on the date annual maintenance fees are due, and meets the additional requirements of part 3835 of this chapter.

Split estate lands means that the United States has conveyed the surface estate to another person and retained the mineral estate.

Surface Resources Act means the Act of July 23, 1955 (30 U.S.C. 601, 603, and 611–615).

Unpatented mining claim means a lode mining claim or a placer mining claim located and held under the General Mining Law for which a mineral patent has not been issued under 30 U.S.C. 29.

Subpart B—Providing Information to BLM

§ 3830.8 How will BLM use the information it collects and what does it estimate is the burden on the public?

(a) The Office of Management and Budget has approved the collections of information contained in this part 3830 under 44 U.S.C. 3501 *et seq.* and has assigned clearance number 1004–0114.

(b) BLM will use the information collected to:

(1) Keep records of mining claims or sites;

(2) Maintain ownership records to those mining claims or sites;

(3) Determine the geographic location of the mining claims or sites recorded for proper land management purposes; and

(4) Determine which mining claims or sites the claim holders wish to continue to hold under applicable Federal statutes.

(c) BLM estimates that the public reporting burden for this information averages 8 minutes per response. This burden includes time for reviewing instructions, searching existing records, gathering and maintaining the data collected, and completing and reviewing the information collected.

(d) Send any comments on information collection, including your views on the burden estimate and how to reduce the burden, to: the Information Collection Clearance Officer (DW 101), Bureau of Land Management, Denver Federal Center, Building 40, P.O. Box 25047, Lakewood, CO, 80225–0047; and the Office of Management and Budget, Paperwork Reduction Project, 1004–0114, Washington, DC 20503.

§ 3830.9 What will happen if I file a document with BLM that I know contains false, erroneous, or fictitious information or statements?

You may be subject to criminal penalties under 18 U.S.C. 1001 and 43 U.S.C. 1212. The maximum penalty is 5 years in prison and/or a fine of $250,000.

Subpart C—Mining Law Minerals

§ 3830.10 Locatable minerals.

§ 3830.11 Which minerals are locatable under the mining law?

Minerals are locatable if they are:

(a) Subject to the General Mining Law;

(b) Not leasable under the Mineral Leasing Acts; and

(c) Not salable under the Mineral Materials Act of 1947 and Surface Resources Act of 1955, 30 U.S.C. 601–615 (see part 3600 *et seq.* of this chapter).

§ 3830.12 What are characteristics of a locatable mineral?

(a) Minerals are locatable if they are:

(1) Recognized as a mineral by the scientific community;

(2) Found on Federal lands open to mineral entry; and

(3) Found in a quantity and quality to constitute a valuable mineral deposit. A claimant has discovered a valuable deposit of locatable minerals if there is a reasonable prospect of success in—

(i) Developing a valuable mine; and

(ii) Making a profit on the sale of the minerals contained in the deposit being mined.

(b) Under the Surface Resources Act, certain varieties of mineral materials are locatable if they are uncommon because they have a distinct and special value.

(1) A distinct and special value is determined by:

(i) Comparing the mineral deposit in question with other deposits of that mineral, and

(ii) Finding a unique physical property in the mineral deposit.

(2) If the use for the mineral is ordinary, the deposit must have some distinct and special value for that use.

(3) The distinct and special value must be reflected by the mineral's higher price in the marketplace, or the reduced cost of its mining so that the claimant's profit is substantially greater.

(c) Block pumice having one dimension of 2 or more inches is an uncommon variety of mineral material under the Surface Resources Act.

Subpart D—BLM Service Charge and Fee Requirements

§ 3830.20 Payment of service charges, location fees, initial maintenance fees, annual maintenance fees and oil shale fees.

§ 3830.21 What are the different types of charges and fees?

The following table lists BLM's service charges, maintenance fees, location fees, and oil shale fees (all cross-references refer to this chapter):

Transaction	Amount due per mining claim or site	Waiver available
(a) Recording a mining claim or site location (part 3833)	(1) A total of $135, including: (i) A $10 service charge (i) A one-time $25 location fee (iii) An initial $100 maintenance fee	No.
(b) Amending a mining claim or site location (§ 3833.20)	A $5 service charge	No.
(c) Transferring a mining claim or site (§ 3833.30)	A $5 service charge	No.
(d) Maintaining a mining claim or site for one assessment year (part 3834).	$100 annual maintenance fees	Yes, see Part 3835.
(e) Recording an annual filing (§ 3835.30)	A $5 service charge	No.
(f) Submitting petition for deferment of assessment work (§ 3836.30).	A $25 service charge	No.
(g) Maintaining an oil shale placer mining claim (§ 3834.12)	Annual $550 fees	No.
(h) Recording a notice of intent to locate mining claims on Stockraising Homestead Act Lands (part 3838).	A $25 service charge	No.

§ 3830.22 Will BLM refund service charges and fees?

(a) BLM will not refund service charges.

(b) BLM will refund maintenance and location fees if:

(1) At the time you or your predecessor in interest located the mining claim or site, the location was on land not open to mineral entry or otherwise not available for mining claim or site location, or

(2) At the time you paid the fees, the mining claim or site was void.

§ 3830.23 What type of payment will BLM accept?

(a) BLM will accept the following types of payments:

(1) U.S. currency;

(2) Postal money order payable to the Department of the Interior—Bureau of Land Management;

(3) Check or other negotiable instrument payable in U.S. dollars to the Department of the Interior—Bureau of Land Management;

(4) Valid credit card that is acceptable to the BLM; or

(5) An authorized debit from a declining deposit account with BLM.

(i) You may maintain a declining deposit account with the BLM State Office where your mining claims or sites are recorded.

(ii) BLM will deduct service charges and fees or add overpayments to the account only with your authorization.

(b) If you use a credit card—

(i) You must send or fax a written authorization, bearing your signature, to use your credit card; or

(ii) You may authorize BLM to use your credit card by telephone if you can satisfactorily establish your identity.

(c) If the issuing institution of your check, negotiable instrument, or credit card refuses to pay and it is not because it made a mistake, BLM will treat the service charges and fees as unpaid.

§ 3830.24 How do I make payments?

(a) You may bring payments to the BLM State Office by close of business on or before the due date; or

(b) You may send payments using a bona fide mail delivery service.

(1) The payment must be postmarked or clearly identified by the mail delivery service as being sent on or before the due date; and

(2) The BLM State Office must receive the payment no later than 15 calendar days after the due date.

§ 3830.25 When do I pay for recording a new notice or certificate of location for a mining claim or site?

You must pay the service charge, location fee, and initial maintenance fee, in full, as provided in § 3830.21 at the time you record new notices or certificates of location.

Subpart E—Failure To Comply With This Part

§ 3830.90 Failure to comply with the regulations in this part.

§ 3830.91 What happens if I fail to comply with the requirements in this part?

(a) You will forfeit your mining claims or sites if you fail to comply with any of the requirements in this part, unless the defect is curable and you comply with the procedures in §§ 3830.93 through 3830.960.

(b) Even if you forfeit your mining claims or sites, you remain responsible for—

(1) All reclamation and performance requirements imposed by parts 3802, 3809, or 3814 of this chapter; and

(2) All other legal responsibilities imposed by other agencies or parties who have management authority over surface or subsurface operations.

§ 3830.92 What special provisions apply to oil placer mining claims?

(a) Under 30 U.S.C. 188(f), you, as an oil placer mining claimant, may seek to convert an oil placer mining claim to a noncompetitive oil and gas lease under section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)), if:

(1) BLM declared your oil placer mining claim abandoned and void under section 314 of FLPMA;

(2) Your failure to comply with section 314 of FLPMA was inadvertent, justifiable, or not due to lack of reasonable diligence;

(3) You or your predecessors in interest validly located the unpatented oil placer mining claim before February 24, 1920;

(4) The claim has been or is currently producing or is capable of producing oil or gas; and

(5) You have filed a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim.

(b) If BLM chooses to issue a noncompetitive oil and gas lease, the lease will be effective on the date that BLM declared your unpatented oil placer mining claim abandoned and void.

§ 3830.93 When are defects curable?

(a) If there is a defect in your compliance with a requirement imposed by statute, the defect is incurable if the statute does not give the Secretary authority to permit exceptions. If your payment or filing has incurable defects, the affected mining claims or sites are statutorily forfeited.

(b) If there is a defect in your compliance with requirements imposed by regulation, but not by statute, the defect is curable. You may correct curable defects when BLM gives you notice. If you fail to cure the defect within the time BLM allows, you will forfeit your mining claims or sites.

(c) Your mining claims or sites are null and void from the beginning under the General Mining Law if you locate on lands withdrawn from mineral entry at the time of location. You cannot cure this defect.

§ 3830.94 How do I cure a defect in my compliance with the requirements in this part?

(a) (1) BLM will send a notice to you by certified mail'-return receipt requested at the address given—

(i) On your notice or certificate of location,

(ii) On an address correction you have filed with BLM, or (iii) on a valid transfer document filed with BLM.

(2) The notice provided for in paragraph (a)(1) of this section constitutes legal service even if you do not actually receive the notice or decision.

(b) If you have filed a defective document or an incomplete payment, other than a defective fee waiver request, you must cure the defects within 30 days of receiving BLM notification of the defects.

(c) If you have filed a defective fee waiver request, you must cure the defects or pay the annual maintenance fees within 60 days of receiving BLM notification of the defects.

(d) If BLM does not receive the requested information in the time allowed, or if the matter is statutorily not curable, you will receive a final decision from BLM that you forfeited the affected mining claims or sites.

§ 3830.95 What if I pay only part of the service charges, location fees, oil shale fees, or maintenance fees?

(a) If you pay only part of the service charges, maintenance fees, or location fees when recording new claims or sites, BLM will—

(1) Assign serial numbers to each mining claim or site or petition for deferment of assessment work in the order it is received; and

(2) Apply the partial payment to the mining claims or sites or petitions in serial number order until the money runs out. For example, BLM will apply the money to cover as many complete costs as possible per mining claim or site, including the service charge, the location fee and the initial maintenance fee per claim or site.

(b) If you have submitted insufficient funds for recording new claims or sites and want to resubmit the new location notices or certificates with the proper payment of the required fees, you must do so within 90 days of the original date of location of the claim or site as defined under State law or the affected mining claims or sites will be forfeited.

(c) BLM will not record your mining claims or sites until you pay the full amount of all charges and fees for those claims or sites.

(d) For notices of intent to locate mining claims (NOITL) under the Stockraising Homestead Act (see part 3838 of this chapter for information regarding the Stockraising Homestead Act and NOITLs), BLM will not accept a NOITL that is filed without the required service charges. BLM will return the NOITL to you without taking any further action. See § 3830.21 of this part for the amount of the service charge for a NOITL.

§ 3830.96 What if I pay only part of the service charges and fees for previously-recorded mining claims or sites?

(a) If you pay only part of the service charges due for document filings or only part of the annual maintenance or oil shale fees for previously recorded mining claims or sites, BLM will apply the partial payment in serial number order until the money runs out.

(b) For any claims or sites for which there are no funds in your partial payment to pay the service charges, maintenance fees, oil shale fees, or location fees, you will forfeit the mining claims or sites not covered by your partial payment unless you submit the additional funds necessary to complete the full payment by the due date.

Subpart F—Appeals

§ 3830.100 How do I appeal a final decision by BLM?

If you are adversely affected by a BLM decision, you may appeal the decision in accordance with parts 4 and 1840 of this title.

PART 3831—MINERAL LANDS AVAILABLE FOR THE LOCATION OF MINING CLAIMS OR SITES [RESERVED]

11. Add and reserve part 3831.

12. Add part 3832 to read as follows:

PART 3832—LOCATING MINING CLAIMS OR SITES

Sec.
3832.1 What does it mean to locate mining claims or sites?

Subpart A—Locating Mining Claims or Sites

3832.10 Procedures for locating mining claims or sites.
3832.11 How do I locate mining claims or sites?
3832.12 When I record a mining claim or site, how do I describe the lands I have claimed?

Subpart B—Types of Mining Claims

3832.20 Lode and placer mining claims.
3832.21 How do I locate a lode or placer claim?
3832.22 How much land may I include in my mining claim?

Subpart C—Mill Sites

3832.30 Mill sites.
3832.31 What is a mill site?
3832.32 How much land may I include in my mill site?
3832.33 How do I locate a mill site?
3832.34 What must I use my mill site for?

Subpart D—Tunnel Sites

3832.40 Tunnel sites.
3832.41 What is a tunnel site?
3832.42 How do I locate a tunnel site?
3832.43 How may I use a tunnel site?
3832.44 Do I have rights to any minerals within a tunnel site I have located?
3832.45 How do I obtain any minerals discovered within a tunnel site I have located?

Subpart E—Defective Locations

3832.90 Defects in the location of mining claims and sites.
3832.91 May I amend a mining claim or site location if it exceeds the size limitations in this part?

Authority: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 2, 1201, 1457, 1744.

§ 3832.1 What does it mean to locate mining claims or sites?

(a) Locating a mining claim or site means:

(1) Discovering a valuable mineral deposit;

(2) Establishing the exterior lines of a mining claim or site on lands open to mineral entry to identify the exact land claimed; and

(3) Recording a notice or certificate of location as required by State and Federal law and by this part.

(b) You will find—

(1) Location requirements in this part;

(2) Recording requirements in part 3833 of this chapter;

(3) Requirements for transferring an interest in a mining claim or site in § 3833.30 of this chapter; and

(4) Annual fee requirements for mining claims and sites in parts 3834, 3835, and 3836 of this chapter.

Subpart A—Locating Mining Claims and Sites

§ 3832.10 Procedures for locating mining claims or sites.

§ 3832.11 How do I locate mining claims or sites?

(a) You must follow both State and Federal law.

(b) You must—

(1) Discover a valuable mineral deposit before locating a lode or placer claim;

(2) Stake and monument the corners of a mining claim or site which meets the size limitations described in § 3832.22 of this part;

(3) Post public notice of location on the claim or site which must include:

(i) The name or names of the locators;

(ii) The date of the location; and

(iii) A description of the claim or site located;

(4) Record the public notice or certificate of location in the local recording office and the BLM State Office with jurisdiction according to the procedures in part 3833;

(5) Follow all other relevant State law requirements; and

(6) Comply with the specific requirements for lode claims, placer claims, mill sites, or tunnel sites in this part.

§ 3832.12 When I record a mining claim or site, how do I describe the lands I have claimed?

(a) *General requirements.* (1) You must describe the land by State, meridian, township, range, and section by aliquot part within the quarter section. Use an official survey plat or other U.S. Government map which is based on a surveyed or protracted U.S. Public Land Survey System in order to obtain this land description. If you cannot describe the land by aliquot part, you must provide a metes and bounds description that fixes the position of the claim corners with respect to a specified claim corner, discovery monument, or official survey monument. In all cases, your description of the land must be as compact and regular in form as reasonably possible and should conform to the U.S. Public Land Survey System and its rectangular subdivisions as much as possible.

(2) You must file a topographical map published by the U.S. Geological Survey with a depiction of the claim or site. As an alternative, you may file a narrative or sketch describing the claim or site and referencing a tie to a natural object, permanent monument or topographic, hydrographic, or man-made feature. You must show or describe the boundaries and position of the individual claim or site by aliquot part within the quarter section accurately enough for BLM to identify the mining claims or sites on the ground.

(i) You may show more than one claim or site on a single map or describe more than one claim or site in a single sketch—

(A) If they are located in the same general area; and

(B) If the individual mining claims or sites are clearly identified.

(ii) You are not required to employ a professional surveyor or engineer.

(b) *Lode claims.* You must describe lode claims by metes and bounds beginning at the discovery point on the claim and including a reference to natural objects or permanent monuments including:

(1) Township and section survey monuments;

(2) Official U.S. mineral survey monuments;

(3) Monuments of the National Geodetic Reference System;

(4) The confluence of streams or point of intersection of well-known gulches, ravines, or roads, prominent buttes, and hills; or

(5) Adjoining claims or sites.

(c) *Placer claims.* (1) You must describe placer claims by aliquot part and complete lots using the U.S. Public Land Survey System and its rectangular subdivisions except when placer claims—

(i) Are on unsurveyed Federal lands;

(ii) Are gulch or bench placer claims; or

(iii) Are bounded by other mining claims or non-mineral lands.

(2) For placer mining claims that are on unsurveyed Federal lands or are gulch or bench placer claims:

(i) You must describe the lands by protracted survey if the BLM has a protracted survey of record; or

(ii) You may describe the lands by metes and bounds, if a protracted survey is not available or if the land is not amenable to protraction.

(3) If you are describing an association placer claim by metes and bounds, you must meet the following requirements, as described in Snow Flake Fraction Placer, 37 L.D. 250 (1908):

(i) A location by one or two persons must fit within the exterior boundaries of a square 40-acre tract;

(ii) A location by three or four persons must fit within the exterior boundaries of two square 40-acre contiguous tracts;

(iii) A location by five or six persons must fit within the exterior boundaries of three square contiguous 40-acre tracts; and

(iv) A location by seven or eight persons must fit within the exterior boundaries of four square contiguous 40-acre tracts.

Subpart B—Types of Mining Claims

§ 3832.20 Lode and placer mining claims.

§ 3832.21 How do I locate a lode or placer claim?

(a) *Lode claims.* (1) You may locate a lode claim if you have discovered a valuable mineral deposit that:

(i) Occurs as veins, lodes, or other rock in place;

(ii) Contains gold, silver, cinnabar, lead, tin, copper, zinc, fluorite, barite, or other similar valuable mineral; and

(iii) Does not occur in bedded form or as placer, alluvial (deposited by water), eluvial (deposited by wind), colluvial (deposited by gravity), or aqueous deposits.

(2) If the minerals are contained within a vein, lode, or ledge and extend through the sidelines of your lode claim, you have extra-lateral rights to pursue the down-dip extension of the vein, lode, or ledge as projected parallel to the end lines and outside the sideline boundaries of your lode claim if—

(i) The long axis of the lode claim is substantially parallel to the course of the vein, lode, or ledge; and

(ii) The top or apex of the vein, lode, or ledge lies within vertical planes defined by the sidelines of the lode claim.

(3) You should determine, if possible, the general course of the vein in either direction from the point of discovery in order to mark the correct boundaries of the claim. You must expose the vein, lode, or ledge by—

(i) Tracing the vein or lode on the surface; or

(ii) Drilling a hole, sinking a shaft, or running a tunnel or drift to a sufficient depth.

(b) *Placer claims.* (1) You may locate a placer claim if:

(i) you have discovered a valuable mineral deposit that is not a lode deposit,

(ii) each ten-acre aliquot part is mineral in character, and

(iii) the deposit is—

(A) River sands or gravels bearing gold or valuable detrital minerals;

(B) Hosted in soils, alluvium (deposited by water), eluvium (deposited by wind), colluvium (deposited by gravity), talus, or other rock not in its original place;

(C) Bedded gypsum, limestone, cinders, pumice, and similar mineral deposits; or

(D) A mineral-bearing brine not subject to the leasing acts where a mineral otherwise subject to the General Mining Law is extracted.

(2) Some minerals must by law be located as placer mining claims, including building stone deposits (30 U.S.C. 161) and petroleum claims (oil placer claims) located before February 25, 1920.

(3) If you have located a building stone placer claim, oil placer claim or saline placer claim, the lands on which you located the claim must be chiefly valuable for the development of the discovered mineral deposit.

§ 3832.22 How much land may I include in my mining claim?

(a) *Lode claims.* Lode claims must not exceed 1,500 by 600 feet. Each lode claim is limited to a maximum of 1500 feet along the course of the vein, lode, or ledge and a maximum of 300 feet in width on each side of the middle of the vein, lode, or ledge.

(b) *Placer claims.* (1) An individual placer claim must not exceed 20 acres in size.

(2) An association placer claim must not exceed 20 acres per locator with up to eight co-locators allowed in an association. For example, three co-locators may jointly locate a 60-acre association placer claim. You may not use the names of other persons as dummies to locate an association placer claim for your own benefit.

Subpart C—Mill Sites

§ 3832.30 Mill sites.

§ 3832.31 What is a mill site?

A mill site is nonmineral land not contiguous to a vein or lode that you can locate and use for activities reasonably incident to mineral development on, or production from, the unpatented or patented lode or placer claim with which it is associated.

(a) A dependent mill site is used for activities that support a particular patented or unpatented lode or placer mining claim or group of mining claims.

(b) An independent or custom mill site—

(1) Is not dependent on a particular mining claim but provides milling or reduction processing for nearby lode mines or a lode mining district;

(2) Is used to mill, process, and reduce either—

(i) Ores for other miners on a contractual basis, or

(ii) Ores that are purchased by the independent or custom mill site holder.

§ 3832.32 How much land may I include in my mill site?

A mill site must not exceed 5 acres in size. You may locate more than one mill site, so long as you do not locate more than an aggregate of 5 acres of mill site land for each 20-acre parcel of patented or unpatented placer or lode mining claims associated with that mill site land, regardless of the number of lode or placer claims located in the 20-acre parcel.

§ 3832.33 How do I locate a mill site?

(a) You may locate a mill site in the same manner as a lode or placer mining claim, except that—

(1) It must be on land that is not mineral in character, and

(2) You must use or occupy each two and a half acre portion of a mill site in order for that portion of the mill site to be valid.

(b) If the United States does not own the surface estate of a particular tract of land, you may not locate a mill site on that land.

§ 3832.34 What may I use my mill site for?

Dependent and independent mill sites may be used or occupied for:

(a) Placement of grinding, crushing, or milling and reduction facilities (for example, smelting, electro-winning, roasters, autoclaves, leachate recovery, and similar facilities);

(b) Mine administrative and support buildings, warehouses and maintenance buildings, electrical plants and substations;

(c) Tailings ponds and leach pads;

(d) Rock and soil dumps;

(e) Water and process treatment plants; and

(f) Any other use that is reasonably incident to mine development and operation, except for uses supporting reclamation or closure of a mine.

Subpart D—Tunnel Sites

§ 3832.40 Tunnel sites.

§ 3832.41 What is a tunnel site?

A tunnel site is a subsurface right-of-way under Federal land open to mineral entry. It is used for access to lode mining claims or to explore for blind or undiscovered veins, lodes, or ledges not currently claimed or known to exist on the surface.

§ 3832.42 How do I locate a tunnel site?

You may locate a tunnel site by:

(a) Erecting a substantial post, board, or monument at the face of the tunnel, which is the point where the tunnel enters cover;

(b) Placing stakes or monuments on the surface along the boundary lines of the tunnel at proper intervals from the face of the tunnel for 3,000 feet or to the end of the tunnel, whichever is shorter; and

(c) Placing a location notice or certificate on the post, board, or monument that includes:

(1) The names of the claimants;

(2) The actual or proposed course or direction of the tunnel;

(3) The height and width of the tunnel; and

(4) The course and distance from the face or starting point to some permanent well-known natural objects or permanent monuments, in the same manner as required to describe a lode claim (see § 3832.28(c) of this part).

§ 3832.43 How may I use a tunnel site?

You may use the tunnel site for subsurface access to a lode claim or to explore for and acquire previously unknown lodes, veins, or ledges within the confines of the tunnel site.

§ 3832.44 Do I have rights to any minerals within a tunnel site I have located?

(a) If you located your tunnel site in good faith, you have the possessory right to any blind veins, ledges, or lodes cut, discovered, or intersected by your tunnel if—

(1) They are located within a radius of 1,500 feet from the tunnel axis; and

(2) They were not previously known to exist on the surface and within the limits of your tunnel.

(b) Your site is protected from other parties making locations of lodes within the sidelines of the tunnel and within the 3,000-foot length of the tunnel, unless such lodes appear upon the surface or were previously known to exist.

(c) You must diligently work on the tunnel site. If you fail to work on it for more than six (6) consecutive months, you will lose your right to all unclaimed, undiscovered veins, lodes, or ledges on your tunnel site.

§ 3832.45 How do I obtain any minerals discovered within a tunnel site I have located?

(a) Even if you have located the tunnel site, you must separately locate a lode claim to acquire the possessory right to a blind vein, lode, or ledge you have discovered within the boundaries of the tunnel site sidelines.

(b) The date of location of your lode claim is retroactive to the date of location of your tunnel site.

Subpart E—Defective Locations

§ 3832.90 Defects in the location of mining claims and sites.

§ 3832.91 How may I amend a mining claim or site location if it exceeds the size limitations in this part?

(a) You may correct defects in your location of a mining claim or mill site by filing an amended notice of location (see § 3833.20 of this chapter on conditions allowing amendments and how to record them.) You may amend a mining claim or mill site only if it is oversized by 10 percent or less. However, a claim or site that exceeds statutory maximum dimensions by more than 10 percent is void as of the date you located it.

(b) For placer claims or mill sites located using an irregular survey or lotting of irregular sections, you may use the ''Rule of Approximation'' to determine allowable acreage. The Rule of Approximation is the rule developed for determining maximum allowable acreage for placer claims where the excess acreage is less than the deficiency would be if the smallest legal subdivision is excluded from the location or entry. The rule applies only to surveyed public lands. In no case may the use of the rule result in obtaining acreage in excess of what is allowable under the applicable law. (See Henry C. Tingley, 8 Land Dec. 205 (1889)).

13. Add part 3833 to read as follows:

PART 3833—RECORDING MINING CLAIMS AND SITES

Sec.

3833.1 Why must I record mining claims and sites?

Subpart A—Recording Process

3833.10 Procedures for recording mining claims and sites.
3833.11 How do I record mining claims and sites?

Subpart B—Amending Recorded Mining Claims and Sites

3833.20 Amending previously recorded mining claims and sites.
3833.21 When may I amend a recorded notice or certificate of location?
3833.22 How do I record an amendment?

Subpart C—Recording Transfers

3833.30 Recording transfers of mining claims and sites.
3833.31 What is a transfer?
3833.32 How do I transfer a mining claim or site?
3833.33 What does BLM require me to do if I am the transferee of a mining claim or site?
3833.34 How may I transfer, sell, or otherwise convey an association placer mining claim?

Subpart D—Defective Records

3833.90 Defects in recordation and transfer of mining claims and sites.
3833.91 What defects cannot be cured under this part?
3833.92 What happens if I do not record a transfer of interest on time?
3833.93 What if BLM does not promptly notify me of a defect in my recording or other status of my mining claim or site?

Authority: 43 U.S.C. 2, 1201, 1457, 1740, 1744; 30 U.S.C. 22 *et seq.*; 30 U.S.C. 621–625; 62 Stat. 162, 112 Stat. 2681–235.

PART 3833—RECORDING MINING CLAIMS AND SITES

§ 3833.1 Why must I record mining claims and sites?

FLPMA requires you to record all mining claims and sites with BLM and the local recording office in order to maintain a mining claim or site under the General Mining Law.

(a) If you fail to record a mining claim or site by the 90th day after the date of location, it is abandoned and void by operation of law.

(b) Recording a mining claim or site, filing any other documents with BLM, or paying fees or service charges, as required by this chapter, does not make a claim or site valid if it is not otherwise valid under applicable law. They also do not establish any property rights for the claimant unless the claimant has complied with all applicable law.

Subpart A—Recording Process

§ 3833.10 Procedures for recording mining claims and sites.

§ 3833.11 How do I record mining claims and sites?

(a) You must file in the BLM State Office and the local recording office a copy of the official record, notice, or certificate of location, whichever is required by State law, by the 90th day after the date of location. If there is no such requirement under State law (as in Arkansas), you must record a document with BLM and the local recording office that contains the information required by this part.

(b) Your notice or certificate of location must include:

(1) The name or number, or both, of the claim or site;

(2) The names and current mailing addresses of the locators of the claim;

(3) The type of claim or site;

(4) The date of location;

(5) A complete description of the lands you have claimed as required in part 3832 of this chapter.

(c) When you record a notice or certificate of location, you must pay a non-refundable service charge, location fee, and initial maintenance fee as provided in § 3830.21 of this chapter.

(d) When you record a mining claim or site as required by this part, you still must comply with any other separate recording requirements which may exist under other Federal law. However, notices or certificates of location that you mark as being recorded under the Act of April 8, 1948, or the Act of August 11, 1955, satisfy the additional recording requirements of those Acts under subpart 3821 of this chapter for O and C Lands and part 3730 of this chapter for Powersite Withdrawals.

Subpart B—Amending Recorded Mining Claims and Sites

§ 3833.20 Amending previously recorded mining claims and sites.

§ 3833.21 When may I amend a recorded notice or certificate of location?

(a) You may amend a recorded notice or certificate of location if—

(1) The original location is valid; and

(2) There are defects or omissions in the original notice or certificate of location that you need to correct or clarify; or

(3) You need to correct the legal land description of the claim or site, the mining claim name, or accurately describe the position of discovery or boundary monuments or similar items; or

(4) You need to reposition the sidelines of your lode claim so that they are parallel to the discovered lode, ledge, or vein, if there are no intervening rights to the land.

(b) You may not amend a location to—

(1) Transfer any interest or add owners;

(2) Relocate or re-establish mining claims or sites you previously forfeited or BLM declared void for any reason;

(3) Change the type of claim or site; or

(4) Enlarge the size of the mining claim or site.

(c) You may not amend legal descriptions or boundaries after the land is closed to mineral entry, unless you are reducing the size of the mining claim or site.

§ 3833.23 How do I record an amendment?

(a) You must record an amended location certificate with BLM within 90 days after amending the location. Failure to record an amended location within this time conclusively constitutes abandonment of the claim or site.

(b) You must pay a non-refundable service charge for each claim or site amended. See the table of fees and service charges in § 3830.21 of this chapter.

(c) An amended location notice is effective back to the original location date. The amendment takes effect when you record it with the local recording office under State law. However, we will not recognize an amended location until it also is recorded with BLM.

Subpart C—Recording Transfers

§ 3833.30 Recording transfers of mining claims or sites.

§ 3833.31 What is a transfer?

Transfers include selling, assigning, passing through inheritance, or otherwise conveying ownership or legal interest in a mining claim or site. Unpatented mining claims or sites are not subject to State community property laws.

§ 3833.32 How do I transfer a mining claim or site?

You must follow State law and procedures for transferring a mining claim or site. The transfer is effective on the date it is properly executed under State law and recorded in the local recording office. Recording with BLM does not determine the date of transfer.

§ 3833.33 What does BLM require me to do if I am the transferee of a mining claim or site?

(a) You must file in the BLM State Office a notice of the transfer that includes:

(1) The serial number BLM assigned to the claim or site when the notice or certificate of location was originally recorded (the person who transferred you ownership or legal interest should have this number);

(2) Your name and current mailing address; and

(3) A copy of the legal instrument or document that was used to transfer the interest in the claim or site under State law.

(b) BLM will notify only the claim holder of record with BLM of any action it takes regarding a mining claim or site. If BLM is required by law to give a claimant notice of any new legal requirements, BLM has properly given notice by sending the notice to the claim holder of record with BLM.

(c) You must pay a non-refundable service charge per mining claim or site transferred. See the table of fees and service charges in § 3830.21 of this chapter.

§ 3833.34 How may I transfer, sell, or otherwise convey an association placer mining claim?

You may transfer, sell, or otherwise convey an association placer mining claim at any time to an equal or greater number of mining claim holders. If you want to transfer an association placer claim to an individual or an association that is smaller in number than the association that located the claim, you must have either—

(a) Discovered a valuable mineral deposit before the transfer; or

(b) Reduced the acreage of the claim, if necessary, so that the 20-acre per locator limit is met.

Subpart D—Defective Records

§ 3833.90 Defects in recordation and transfer of mining claims and sites.

§ 3833.91 What defects cannot be cured under this part?

Defects that cannot be cured and therefore result in forfeiture of mining claims or sites are:

(a) Failing to record a mining claim or site within 90 days after location;

(b) Failing to pay the location fee or initial maintenance fee within 90 days of location;

(c) Locating a mining claim or site on lands closed to mineral entry at the time of location;

(d) Filing an amendment to a void or forfeited mining claim or site; and

(e) Recording a mining claim or site that exceeds the statutory maximum dimensions or acreage by more than ten (10) percent.

§ 3833.92 What happens if I do not record a transfer of interest?

Even if your transfer has been recorded with the local recording office, BLM will not recognize the interest you acquire, or send you notice of any BLM action, decision, or contest, regarding the mining claim or site until you record the transfer with BLM (see § 1810.2 of this chapter). The Department will treat the last owner of record as the responsible party for maintaining the mining claim or site until you file a transfer notice.

§ 3833.94 What if BLM does not promptly notify me of a defect in my recording or other status of my mining claim or site?

Even if BLM does not immediately notify you when you have filed a defective recording with BLM that is incurable, the mining claim or site is still forfeited by law.

14. Add part 3834 to read as follows:

PART 3834—REQUIRED FEES FOR MINING CLAIMS OR SITES

Subpart A—Fee Payment

Sec.
3834.10 Paying annual maintenance and oil shale fees.
3834.11 Which fees must I pay to maintain a mining claim or site and when do I pay them?
3834.12 How will BLM know which mining claims or sites I am paying the fees for?
3834.13 Will BLM prorate annual maintenance or oil shale fees?
3834.14 May I obtain a waiver from these fees?

Subpart B—Fee Adjustment

3834.20 Adjusting location and maintenance fees.
3834.21 How will BLM adjust the location and maintenance fees?
3834.22 How will I know that BLM has adjusted the location and maintenance fees?
3834.23 When do I start paying the adjusted fees?

Authority: 43 U.S.C. 1201, 1740; 30 U.S.C. 28f; 112 Stat. 2681–235 *et seq.*; 30 U.S.C. 242.

Subpart A—Fee Payment

§ 3834.10 Paying annual maintenance and oil shale fees.

§ 3834.11 Which fees must I pay to maintain a mining claim or site and when do I pay them?

(a) *All mining claims or sites (except oil shale placer claims).*—(1) *Initial maintenance fee.* When you first record a mining claim or site with BLM, you must pay an initial maintenance fee for the assessment year in which you located the mining claim or site.

(2) *Annual maintenance fee.* You must pay an annual maintenance fee on or before September 1st of each year in order to maintain a mining claim or site for that assessment year. The assessment year begins at 12:00 noon on September 1 of each year.

(b) *Oil shale placer claims.* (1) Under the Energy Policy Act of 1992, 30 U.S.C. 242, if you hold an oil shale claim, you must pay an annual $550 fee, and file a notice of intent to hold, each year on or before December 30 (See part 3835 of this chapter for notice of intent to hold requirements and the table of fees and service charges in § 3830.21 of this chapter):

(i) If you elected to maintain an oil shale placer claim;

(ii) If you elected to apply for limited patent; or

(iii) If you filed a patent application for an oil shale placer claim but did not receive a first half final certificate on or before October 24, 1992.

(2) You need not pay the annual $550 fee, or file a notice of intent to hold, if

you filed a patent application and received a first half of the mineral entry final certificate on or before October 24, 1992.

§ 3834.12 How will BLM know which mining claims or sites I am paying the fees for?

When you pay any fees to BLM, you must include a list of the mining claims or sites that you are paying for by claim name and BLM serial number. You must also state which assessment year you are paying for.

§ 3834.13 Will BLM prorate annual maintenance or oil shale fees?

BLM will not prorate annual maintenance or rental fees if you hold a mining claim or site for only part of a year. You must pay an annual fee even if you hold the claim or site for just one day in an assessment year.

§ 3834.14 May I obtain a waiver from these fees?

(a) No waivers are available for the initial maintenance fee or the $550 oil shale fee.

(b) You may request a waiver from annual maintenance fees under certain circumstances. See part 3835 of this chapter.

Subpart B—Fee Adjustment

§ 3834.20 Adjusting location and maintenance fees.

§ 3834.21 How will BLM adjust the location and maintenance fees?

BLM will adjust the location and maintenance fees at least every 5 years, based upon the Consumer Price Index (CPI).

§ 3834.22 How will I know that BLM has adjusted location and maintenance fees?

BLM will publish a notice in the **Federal Register** about the adjustment on or before July 1st of a given year in order to impose the adjusted fees beginning on September 1st of the same year.

§ 3834.23 When do I start paying the adjusted fees?

(a) You must pay the adjusted initial maintenance and location fees when you record a new mining claim or site located on or after the September 1st immediately following the date BLM published its notice about the adjustment.

(b) For previously recorded mining claims and sites, you must pay the adjusted maintenance fee on or before the September 1st immediately following the date BLM published its notice about the adjustment.

15. Add part 3835 to read as follows:

PART 3835—WAIVERS FROM ANNUAL FEES

Sec.

3835.1 What is a waiver?

Subpart A—Filing Requirements

3835.10 Filing requirements for a waiver.
3835.11 How do I file for a waiver?
3835.12 Types of waivers and additional filing requirements.
3835.13 How long do the waivers last and how do I renew them?
3835.14 May I file for a small miner waiver for the assessment year immediately following the assessment year in which I located the mining claim or site?
3835.15 If qualify as a small miner, how do I apply for a waiver if I paid the maintenance fee in the last assessment year?
3835.16 If I am a qualified small miner, and I obtained a waiver in one assessment year, what must I do if I want to pay the maintenance fee for the following assessment year?
3835.15 What must a qualified small miner do if he pays the maintenance fee in one assessment year and applies for a waiver for the following assessment year?
3835.16 What must a qualified small miner do if he obtains a waiver in one assessment year and pays the maintenance fee for the following assessment year?

Subpart B—Conveying Mining Claims of Sites Under Waiver

3835.20 Transferring, selling, passing through inheritance, or otherwise conveying mining claims or sites for which a waiver has been granted.

Subpart C—Annual FLPMA Filings

3835.30 Annual FLPMA filings.
3835.31 When do I submit an annual FLPMA filing?
3835.32 What type of annual FLPMA filing is required?
3835.33 What should I include when I submit an affidavit of assessment work?
3835.34 What should I include when I submit a notice of intent to hold?

Subpart D—Defective Waivers and FLPMA Filings

3835.90 Failure to comply with this part.
3835.91 What if I fail to submit annual FLPMA filings?
3835.92 What if I fail to submit a qualified waiver request?
3835.93 What happens if BLM finds a defect in my waiver request?

Authority: 112 Stat. 2861–235; 30 U.S.C. 22, 28, 28f–28k; 43 U.S.C. 2, 1201, 1457, 1740, 1744; 50 U.S.C. App. 501, 565.

§ 3835.1 What is a waiver?

(a) Under certain conditions, you may obtain a waiver from the annual maintenance fee requirements. You cannot get a waiver from service charges, the location fee, the initial maintenance fee, or the $550 oil shale fee.

(b) If you get a small miner waiver, you must perform annual assessment work and file annual FLPMA filings. You will find more information about annual FLPMA filings in § 3835.30 of this part, and about assessment work in part 3836 of this chapter.

Subpart A—Filing Requirements

§ 3835.10 Filing requirements for a waiver.

§ 3835.11 How do I file for a waiver?

(a) You must file a waiver certification form on or before September 1 of each year for which you are seeking a waiver. You may have an agent file a waiver certification form on your behalf if you file or have filed a power of attorney or other legal documentation which shows that the agent is acting on your behalf.

(b) You must include in all waiver certification forms:

(1) The names and addresses of all claimants who maintain an interest in the mining claims or sites listed on the waiver certification form;

(2) The original signatures of all claimants of the mining claims or sites for which you request a waiver;

(3) The names of the mining claims or sites for which you request a waiver;

(4) The serial numbers BLM assigned to the mining claims or sites; and

(5) The fee deadline for which you want a waiver.

(c) You must also file additional information for certain waivers as specified in § 3835.12 of this part.

§ 3835.12 Types of waivers and their additional filing requirements.

The following table lists the types of waivers available, how you qualify for them, and the procedures for requesting them:

Type	Qualification	Waiver certificatiaon requirements
(a) Small Miner	(1)(i) All related parties must hold no more than a total of 10 mining claims or sites nationwide, not including oil shale claims. (ii) All co-claimants must also qualify for the small miner waiver.	(2) Include a declaration that: (i) You and all related parties hold no more than a total of 10 mining claims and sites nationwide; and (ii) You have completed or will complete assessment work by September 1 of the assessment year just ending.
(b) Soldiers' and Sailors' Civil Relief Act.	(1) You and all co-claimants must be military personnel on active duty status.	(2) File a notice of active military service or entry into active military service.
(c) Reclamation	(1) Your mining claims or sites are undergoing final reclamation under subparts 3802, 3809, or 3814; and you do not intend to continue mining, milling, or processing operations on those sites.	(2) File a certified statement that: (i) States you are reclaiming the mining claims or sites; (ii) States your intent to end mining operations on the claims or sites permanently; and (iii) References a reclamation plan that you submitted to BLM or that BLM approved; or references a reclamation plan approved by a surface managing agency other than BLM.
(d) Denial of Access	(1) You have received a declaration of taking or a notice of intent to take from the National Park Service (NPS) or other Federal agency; or the United States has otherwise denied you access to your mining claim or site..	(2)(i) File a certified statement that you have received a declaration of taking or a notice of intent to take from NPS or other Federal agency or have been denied access to your mining claim or site; and (ii) Submit copies of all official documents you have received that demonstrate the declaration or taking, notice of intent to take or denial of access.
(e) Mineral Patent Application.	(1) You have filed an application for a mineral patent under part 3860 and the Secretary has granted you mineral entry.	(2) No additional information required.

§ 3835.13 How long do the waivers last and how do I renew them?

The following table states how long waivers last and explains how to renew them:

Type of waiver	Duration	Renewal requirements
(a) Small Miner	One assessment year	Apply for a small miner waiver by each September 1.
(b) Soldiers' and Sailors' Civil Relief Act.	Until six months after you are released from active duty status or from a military hospital, whichever is later.	Your waiver is automatically renewed if you continue to meet the qualifications.
(c) Reclamation	One assessment year	Apply for waiver certification by each September 1.
(d) Denial of Access	One assessment year.	Apply for a reclamation waiver by each September 1.
(e) Mineral Patent Application with Mineral Entry.	Until patent issues or mineral entry is canceled. BLM will not refund previously deposited annual maintenance fees to a mineral patent applicant.	None. If mineral entry is canceled, you must pay the required fees beginning on the September 1 immediately following the cancellation or file for a different waiver if you qualify.

§ 3835.14 How do I file for a small miner waiver for the assessment year immediately following the assessment year in which I located the mining claim or site?

(a) In order to obtain a small miner waiver for the assessment year immediately following the assessment year of location, you must—

(1) (i) File the waiver request on or before September 1, or

(ii) If the mining claim or site was located before September 1 and recorded after September 1 in a timely manner, you must submit the waiver request at the time of recording the mining claim or site with BLM, and

(2) Make an annual FLPMA filing in order to comply with FLPMA. For a waiver filing, you must file on or before December 30, a notice of intent to hold the mining claim or site because the Mining Law does not require you to perform assessment work in the assessment year in which you locate a mining claim. The notice of intent to hold must—

(i) Conform to §§ 3835.32 and 3835.34 of this part;

(ii) State that you are filing the waiver for the assessment year after the assessment year in which you located the mining claim or site; and

(iii) State that you did not have to perform assessment work for the assessment year in which you located the claim or site.

§ 3835.15 If I qualify as a small miner, how do I apply for a waiver if I paid the maintenance fee in the last assessment year?

(a) You must file a notice of intent to hold under §§ 3835.32 and 3835.34 of this part on or before the December 30 immediately following the September 1st that you applied for a waiver;

(b) You must also perform the required assessment work in the assessment year for which the maintenance fee was waived; and

(c) You must file an affidavit of assessment work on or before the December 30 immediately following the close of the assessment year in which you performed the assessment work.

§ 3835.16 If I am a qualified small miner, and I obtained a waiver in one assessment year, what must I do if I want to pay the maintenance fee for the following assessment year?

(a) You must perform the required assessment work in the assessment year for which the fee was waived and record an affidavit of assessment work on or before December 30 immediately following the close of the assessment year for which the fee was waived; and

(b) You must pay the maintenance fee by the proper deadline for the following assessment year.

Subpart B—Conveying Mining Claims or Sites Under Waiver

§ 3835.20 Transfer, sale, inheritance, or other conveyance of mining claims or sites already subject to a waiver.

If you purchase, inherit, or otherwise obtain mining claims or sites that are subject to a waiver, then if—

(a) You also qualify for the waiver, BLM will transfer the waiver to you; or

(b) You do not also qualify for the waiver, you must pay an annual maintenance fee at the time you file a notice of transfer with BLM for the assessment year the transfer was effective under State law. You must pay the annual maintenance fee by the September 1 following the effective date of the transfer or forfeit the mining claims or sites.

Subpart C—Annual FLPMA Filings

§ 3835.30 Annual FLPMA filings.

§ 3835.31 When do I submit an annual FLPMA filing?

(a) You must submit your annual FLPMA filings on or before the December 30 of the calendar year in which the assessment year ends.

(b) If part 3836 of this chapter requires you to perform assessment work, you must file an affidavit of assessment work as an annual FLPMA filing. You do not need to complete assessment work in the assessment year when you located your claim.

(c) If part 3836 of this chapter does not require you to perform assessment work, either because you located the claim during the current assessment year or because BLM has deferred assessment work, you must submit a notice of intent to hold under §§ 3835.32 and 3835.34 of this part as an annual FLPMA filing. You must state in the notice of intent to hold either that BLM has deferred the assessment work requirement or that you located the claim during the current assessment year.

§ 3835.32 What type of annual FLPMA filing is required?

The following table describes FLPMA filing requirements according to the situation:

Your situation	Affidavit of assessment work required	Notice of intent to hold required
(a) You have paid annual maintenance fees	No	No.
(b) You have an oil shale placer claims	No	Yes, by December 30 of each year if you must pay the $550 oil shale fee.
(c) You have a small miner waiver which covers mining claims.	Yes, each year beginning the calendar year in which the first assessment year ends which follows the assessment year in which the claim was located.	Yes, only one time, by the December 30 after the assessment year in which the claim was located.
(d) You have a small miner waiver which covers mining claims and mill or tunnel sites.	Only for the mining claims, not the mill or tunnel sites.	Only for the mill or tunnel sites, not the mining claims.
(e) You have a Soldiers and Sailor's Civil Relief Act Waiver.	No	No.
(f) You have a reclamation waiver	No	Yes.
(g) You have a waiver because you have been denied access.	No	Yes.
(h) You have applied for a mineral patent	Yes, for mining claims, until date of mineral entry.	Yes, for mill sites, until date of mineral entry.

§ 3835.33 What should I include when I submit an affidavit of assessment work?

You must include the following:

(a) The BLM serial number of the mining claim for which you did assessment work;

(b) Any known changes in the mailing addresses of the claimants;

(c) A non-refundable service charge for each mining claim or site affected (see the table of charges in § 3830.21 of this chapter); and

(d) An exact legible reproduction or duplicate, other than microfilm, of either:

(1) The evidence of assessment work performed under State law for record; or

(2) The geological, geochemical, and geophysical surveys provided for in part 3836 of this chapter.

§ 3835.34 What should I include when I submit a notice of intent to hold?

You must include the following:

(a) A letter or other notice with original signatures of all of the claimants, as specified in § 3835.31 of this part, which states your intention to hold the mining claims or sites for the calendar year in which the assessment year ends;

(b) If applicable:

(1) A copy of the BLM decision granting a deferment of the annual assessment work;

(2) A copy of a pending petition for deferment of the annual assessment work including the date you filed the petition; or

(3) Any documents supporting why you are filing a notice of intent to hold instead of an assessment work filing.

(c) The BLM serial number of the mining claim or site;

(d) Any known changes in the mailing addresses of the claimants; and

(e) A non-refundable service charge for each mining claim or site affected. (See the table of service charges in § 3830.21 of this chapter.)

Subpart D—Defective Waivers and FLPMA Filings

§ 3835.90 Failure to comply with this part.

§ 3835.91 What if I fail to submit annual FLPMA filings?

If you fail to make a required annual FLPMA filing on time, you forfeit the affected mining claims or sites.

§ 3835.92 What if I fail to submit a qualified waiver request?

(a) If you fail to submit a qualified waiver request and fail to pay an annual maintenance fee on time, you forfeit the affected mining claims or sites.

(b) If you fail to list the 10 or fewer mining claims or sites on your small miner waiver request and fail to pay an annual maintenance fee on time, you forfeit those mining claims or sites.

(c) If you fail to cure any defects in your waiver request or pay the maintenance fee within the allowed time, you forfeit the affected mining claims or sites.

(d) If a mining claim or site is held by more than one person and one of the co-claimants does not qualify for a small miner waiver, all of the co-claimants forfeit the affected mining claim or site.

§ 3835.93 What happens if BLM finds a defect in my waiver request?

(a) BLM will send a notice to you by certified mail-return receipt requested at the address given—

(1) on your notice or certificate of location,

(2) on an address correction you have filed with BLM,

(3) on a valid transfer document filed with BLM, or

(4) on the waiver form.

(b) If the certified mail is delivered to your most recent address of record, this constitutes legal service even if you do not actually receive the notice or decision.

(c) You must cure the defective waiver or pay the annual maintenance fees within 60 days of receiving BLM notification of the defects.

16. Add part 3836 to read as follows:

PART 3836—ANNUAL ASSESSMENT WORK REQUIREMENTS FOR MINING CLAIMS

Sec.

Subpart A—Performing Assessment Work

3836.10 Performing assessment work.
3836.11 What are the general requirements for performing assessment work?
3836.12 What work qualifies as assessment work?
3836.13 What are geological, geochemical, or geophysical surveys?
3836.14 What other requirements must geological, geochemical, or geophysical surveys meet to qualify as assessment work?
3836.15 What happens if I fail to perform required assessment work?

Subpart B—Deferring Assessment Work

3836.20 Deferring assessment work.
3836.21 How do I qualify for a deferment of assessment work on my mining claims?
3836.22 How do I petition for deferment?
3836.23 After BLM sends me a decision regarding my petition, what else must I do to obtain a deferment?
3836.24 How long is a deferment granted?
3836.25 When must I complete my deferred assessment work?

Authority: 30 U.S.C. 22, 28, 28b-28e; 50 U.S.C. App. 501, 565; 43 U.S.C. 2, 1201, 1457, 1740.

Subpart A—Performing Assessment Work

§ 3836.10 Performing assessment work.

§ 3836.11 What are the general requirements for performing assessment work?

(a) You must spend $100 in labor or improvements for each claim every assessment year if you obtain a small miner waiver from the annual maintenance fee requirement.

(b) You may perform assessment work on one or several claims of a group of contiguous lode or placer claims that you hold in common and which cover the same mineral deposit. Your total expenditure must equal at least $100 per claim.

§ 3836.12 What work qualifies as assessment work?

Assessment work includes, but is not limited to—

(a) Drilling, excavations, driving shafts and tunnels, sampling (geochemical or bulk), road construction on or for the benefit of the mining claim; and

(b) Geological, geochemical, and geophysical surveys.

§ 3836.13 What are geological, geochemical, or geophysical surveys?

(a) Geological surveys are surveys of the geology of mineral deposits which are done by, among other things, taking mineral samples, mapping rock units, mapping structures, and mapping mineralized zones.

(b) Geochemical surveys are surveys of the chemistry of mineral deposits which are done by, among other things, sampling soils, waters, and bedrock to identify areas of anomalous mineral values and quantities.

(c) Geophysical surveys are surveys of the physical characteristics of mineral deposits which measure physical differences between rock types or physical discontinuities in geological formations. These surveys include, among other things, magnetic and electromagnetic surveys, gravity surveys, seismic surveys, and spectral surveys.

§ 3836.14 What other requirements must geological, geochemical, or geophysical surveys meet to qualify as assessment work?

(a) The surveys must be conducted by qualified experts and verified in a detailed report filed in the county or recording district office where the claim is recorded. A qualified expert is an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys.

(b) You must record the report on the surveys with BLM and the local recording office, as provided in part 3835 of this chapter. This report must set forth fully the following:

(1) The location of the work performed in relation to the point of discovery and boundaries of the claim;

(2) The nature, extent, and cost of the work performed;

(3) The basic findings of the surveys; and

(4) The name, address, and professional background of persons conducting the work and analyzing the data.

(c) You may not count these surveys as assessment work for more than 2 consecutive years or for more than a total of 5 years on any one mining claim.

(d) No survey may repeat any previous survey of the same claim.

§ 3836.15 What happens if I fail to perform required assessment work?

If you fail to comply substantially with the requirements of this part, BLM may void your claim.

Subpart B—Deferring Assessment Work

§ 3836.20 Deferring assessment work.

(a) Under some circumstances, you may obtain a temporary deferment that relieves you from performing annual assessment work on your mining claims.

(b) If BLM grants you a deferment, you have merely deferred doing the assessment work. You still must complete the assessment work for that assessment year after the deferment period ends.

§ 3836.21 How do I qualify for a deferment of assessment work on my mining claims?

You must have a mining claim that—

(a) You cannot enter or gain access to because it is surrounded by lands over which BLM has denied a right-of-way;

(b) Is in the process of being acquired under State law; or

(c) You cannot enter or gain access to because of some other legal impediment.

§ 3836.22 How do I petition for deferment?

In order to apply for deferment—

(a) You must file a petition in duplicate with the BLM State Office that includes:

(1) The names of the claims;

(2) The BLM serial numbers assigned to the claims;

(3) The starting date of the one-year period of the requested deferment; and

(4) A copy of the small miner waiver certification form you filed for the previous maintenance fee deadline.

(b) If you are filing the petition because BLM or another party has denied you a right-of-way, you must also describe—

(1) The nature and ownership of the land over which you were seeking a right-of-way to reach your claims;

(2) The land over which you are seeking a right-of-way by legal subdivisions if the land is surveyed;

(3) Why present use of the right-of-way is denied or prevented;

(4) The steps you have taken to acquire the right to cross the lands; and

(5) Whether any other right-of-way is available and if so, why it is not feasible to use that right-of-way.

(c) If you are filing the petition because of other legal impediments to your access to the claim, you must describe the legal impediments and file copies of any documents you have which evidence the legal impediments.

(d) You must record in the local recording office a notice that you are petitioning BLM for a deferment of assessment work.

(e) You must attach a copy of the notice required by paragraph (d) of this section to the petition you file with BLM.

(f) The petition you file with BLM and the original notice you file with the local recording office must be signed by at least one of the claimants of each of the mining claims for which you request a deferment.

(g) You must pay a non-refundable service charge with each petition. (See the table of fees and charges in § 3830.21 of this chapter.)

§ 3836.23 After BLM sends me a decision regarding my petition, what else must I do to obtain a deferment?

You must record a copy of BLM's decision regarding your petition in the local recording office.

§ 3836.24 How long may a deferment last?

(a) BLM may grant a deferment for up to one assessment year. However, the deferment ends automatically if the reason for the deferment ends.

(b) The deferment period will begin on the date you requested in the petition unless BLM's approval sets a different date.

(c) You may petition to renew the deferment for one additional assessment year if a valid reason for a deferment continues.

§ 3836.25 When must I complete my deferred assessment work?

(a) You may begin the deferred assessment work any time after the deferment ends. However, you must complete it before the end of the following assessment year. For example, if your deferment ends on July 15, 2008, you must complete the deferred assessment work by September 1, 2009, in addition to completing the regular assessment work due on that date.

(b) You may also choose to pay the annual maintenance fees for the years deferred instead of performing the deferred assessment work.

17. Add part 3837 to read as follows:

PART 3837—ACQUIRING A DELINQUENT CO-CLAIMANT'S INTERESTS IN A MINING CLAIM OR SITE

Sec.

Subpart A—Conditions for Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

3837.10 Conditions for acquiring a delinquent co-claimant's interests.

3837.11 How may I acquire a delinquent co-claimant's interest in a mining claim or site?

Subpart B—Aquisition procedures

3837.20 Acquisition.

3837.21 How do I notify the delinquent co-claimant that I want to acquire his or her interests?

3837.22 How long does a delinquent co-claimant have after notification to contribute a proportionate share of the assessment work, expenditures, or maintenance fees?

3837.23 How do I notify BLM that I have acquired a delinquent co-claimant's interests in a mining claim or site?

3837.24 What kind of evidence must I submit to BLM to show I have properly notified the delinquent co-claimant?

Subpart C—Resolving Disputes About Acquiring a Delinquent Co-Claimant's Interests

3837.30 Disputes about acquiring a delinquent co-claimant's interests.

Authority: 43 U.S.C. 2, 1201, 1457; 50 U.S.C. App. 501, 565; 30 U.S.C. 28.

Subpart A—Conditions for Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

§ 3837.10 Conditions for acquiring a delinquent co-claimant's interests.

§ 3837.11 How may I acquire a delinquent co-claimant's interests in a mining claim or site?

(a) You may acquire a co-claimant's interest in a mining claim or site under the following circumstances:

(1) You are a co-claimant who has performed the assessment work, made improvements, or paid the maintenance fees required under parts 3834 and 3836 of this chapter;

(2) Your co-claimant fails to contribute a proportionate share of the assessment work, expenditures, or maintenance fees by the end of the assessment year concerned;

(3) You notify the delinquent co-claimant of the failed obligation as provided in § 3837.21 of this part; and

(4) After 90 days following the date of the notice or the end of the publication, if the delinquent co-claimant fails or refuses to contribute a proportionate share of the assessment work, expenditures, or maintenance fees, the remaining co-claimants acquire the delinquent co-claimant's share in the mining claim or site.

(b) You may not acquire a co-claimant's interest in a mining claim or site if the co-claimant is on active military duty.

Subpart B—Acquisition Procedures

§ 3837.20 Acquisition.

§ 3837.21 How do I notify the delinquent co-claimant that I want to acquire his or her interests?

(a) You must give the delinquent co-claimant written notice by mail using certified mail, return receipt requested, or by personal service, or

(b) If, after diligent search, you cannot locate the delinquent co-claimant, you must publish notification in a newspaper nearest the location of the claims or sites at least once a week for 90 days.

§ 3837.22 How long does a delinquent co-claimant have after notification to contribute a proportionate share of the assessment work, expenditures, or maintenance fees?

The delinquent co-claimant has—

(a) 90 days from the date on which the co-claimant receives written notice by mail or personal service to contribute a proportionate share of the assessment work, expenditures, or maintenance fees; or

(b) 90 days after the date on which the 90-day newspaper publication period ends to contribute a proportionate share of the assessment work, expenditures, or maintenance fees.

§ 3837.23 How do I notify BLM that I have acquired a delinquent co-claimant's interests in a mining claim or site?

You must submit—

(a) Evidence that you properly notified the delinquent co-claimant;

(b) An originally signed and dated statement by all the compliant co-claimants that the delinquent co-claimant failed to contribute the proper proportion of assessment work, expenditures, or maintenance fees within the period fixed by the statute; and

(c) A non-refundable service charge for a transfer of interest, as found in the table of fees in § 3830.21 of this chapter.

§ 3837.24 What kind of evidence must I submit to BLM to show I have properly notified the delinquent co-claimant?

(a) If you gave written notice to the delinquent co-claimant by personal service, you must sign and submit a notarized affidavit explaining how and when you delivered the written notice to the delinquent co-claimant.

(b) If you gave written notice to the delinquent co-claimant by mail, you must submit—

(1) A copy of the notice you mailed to the delinquent co-claimant; and

(2) A copy of the signed U.S. Postal Service return receipt from the registered or certified envelope in which you sent the notice to the delinquent co-claimant.

(c) If you published the notice in a newspaper, you must submit:

(1) A statement from the newspaper publisher describing the publication, including the beginning and ending dates of publication;

(2) A printed copy of the published notice; and

(3) A notarized affidavit attesting that you conducted a diligent search for the delinquent co-claimant, you could not locate the delinquent co-claimant, and therefore notification by publication was necessary.

Subpart C—Resolving Disputes About Acquiring a Delinquent Co-Claimant's Interests

§ 3837.30 Disputes about acquiring a delinquent co-claimant's interests.

If co-claimants are engaged in a dispute regarding the acquisition of a delinquent co-claimant's interests—

(a) The co-claimants must resolve the dispute, without BLM involvement, in a court of competent jurisdiction or other proceeding as permitted within the State where the disputed claims are located.

(b) The co-claimants must file with BLM a certified copy of the judgment, decree, or settlement agreement resolving the dispute before BLM will update its records.

18. Add part 3838 to read as follows:

PART 3838—SPECIAL PROCEDURES FOR LOCATING AND RECORDING MINING CLAIMS AND TUNNEL SITES ON STOCKRAISING HOMESTEAD ACT (SRHA) LANDS

Sec.

Subpart A—General Provisions

3838.1 What are SRHA lands?
3838.2 How are SRHA lands different from other Federal lands?

Subpart B—Locating and Recording Mining Claims and Tunnel Sites

3838.10 Procedures for locating and recording a mining claim or tunnel site on SRHA lands.
3838.11 How do I locate and record mining claims or tunnel sites on SRHA lands?
3838.12 What do I include in a NOITL on SRHA lands?
3838.13 What restrictions are there on recording a NOITL on SRHA lands?
3838.14 What does BLM do when I record a NOITL on SRHA lands?
3838.15 How do I benefit from properly filing a NOITL on SRHA lands?
3838.16 What happens if the surface owner of the SRHA lands changes?

Subpart C—Compliance Problems

3838.90 Failure to comply with this part?
3838.91 What if I fail to comply with this part?

Authority: 43 U.S.C. 299(b), 1201, 1457, 1740, 1744; 30 U.S.C. 22 *et seq.*

Subpart A—General Provisions

§ 3838.1 What are SRHA lands?

SRHA lands are lands that were—

(a) Patented under the Stockraising Homestead Act of 1916, as amended (30 U.S.C. 54 and 43 U.S.C. 299); or

(b) Originally entered under the Homestead Act, as amended, and patented under the SRHA after December 29, 1916.

§ 3838.2 How are SRHA lands different from other Federal lands?

(a) The United States owns the mineral estate of SRHA lands, but not the surface estate. Patents issued under the SRHA, and Homestead Act entries patented under the SRHA, reserved the mineral estate to the United States.

(b) The procedures in this part describe how to notify the surface owner before exploring for minerals or locating a mining claim on the mineral estate of SRHA lands. If you own the surface estate of SRHA lands and want to explore for minerals or locate a mining claim on the Federally-reserved mineral estate, you do not need to follow the requirements in this part, but you must follow the requirements in parts 3832, 3833, 3834 and 3835 of this chapter.

Subpart B—Locating and Recording Mining Claims and Tunnel Sites

§ 3838.10 Procedures for locating and recording a mining claim or tunnel site on SRHA lands.

§ 3838.11 How do I locate and record mining claims or tunnel sites on SRHA lands?

(a) You must—

(1) Record a notice of intent to locate mining claims (NOITL) with the proper BLM State Office that is responsible for the affected mineral estate and submit a non-refundable service charge for processing (see the table of fees in § 3830.21 of this chapter);

(2) Serve a copy of the NOITL on the surface owner(s) of record, by registered or certified mail, return receipt requested; and

(3) Record proof that you served a copy of the NOITL on the surface owner with BLM to complete the recordation of a NOITL.

(b) You can record the NOITL and serve a copy of the NOITL on the surface owner at the same time.

(c) If you want to explore parcels of land that are owned by different people, you must file a separate NOITL for each parcel of land.

(d) You must—

(1) Wait 30 days after you serve the surface owner with the NOITL before entering the lands to explore for minerals or locate a mining claim or tunnel site; and

(2) Follow procedures for locating mining claims and tunnel sites in part 3832 of this chapter, recording mining claim and tunnel sites in part 3833 of this chapter, and annual maintenance of mining claims in parts 3834 and 3835 of this chapter.

§ 3838.12 What must I include in a NOITL on SRHA lands?

A NOITL must include:

(a) The names, mailing address, and telephone numbers of everyone who is filing the NOITL.

(b) Information about the surface owners, including:

(1) The names, mailing addresses, and telephone numbers of all surface owners of the tract of land you want to enter;

(2) Evidence from the current edition of the county or borough tax rolls that the names of the surface owners you file are the current owners of the surface estate;

(3) A description of the lands covered by the NOITL, including:

(i) The total number of acres to the nearest whole acre; and

(ii) A map and legal land description to the nearest 5-acre subdivision or lot based on a U.S. Public Land Survey of the lands you want to explore, including access routes; and

(4) A brief description of the proposed mineral activities, including:

(i) The name, mailing address, and telephone number of the person who will be managing the activities and

(ii) A list of the dates on which the activities will take place.

§ 3838.13 What restrictions are there on recording a NOITL on SRHA lands?

(a) You or your affiliates may not file NOITLs for more than 1,280 acres of land owned by a single surface owner.

(b) You or your affiliates may not file NOITLs for more than 6,400 acres of land in any one State.

(c) Your NOITL will expire 90 days after you record it with BLM, unless you file a plan of operations with BLM before the end of the 90-day period.

(d) After your NOITL expires, you are not allowed to record another NOITL for the same lands until 30 days after the expiration of the previously-filed NOITL.

(e) Only those persons whose names are listed on the properly recorded NOITL will be allowed to explore for minerals or locate mining claims or tunnel sites on the lands covered by the NOITL.

§ 3838.14 What will BLM do when I record a NOITL on SRHA lands?

When BLM accepts a properly completed and executed NOITL, we will note the official land status records. The date that BLM accepts the NOITL will be the effective date of the notation.

§ 3838.15 How do I benefit from properly filing a NOITL on SRHA lands?

(a) For 90 days after BLM accepts your NOITL:

(1) You may enter the lands covered by the NOITL to explore for minerals and locate mining claims;

(2) You may cause only minimal disturbance of the surface resources on the lands covered by the NOITL;

(3) You must not use mechanized earthmoving equipment, explosives, or toxic or hazardous materials; and

(4) You must not construct roads or drill pads.

(b) For 90 days after BLM accepts your NOITL, no other person, including the surface owner, may:

(1) file a NOITL for any lands included in your NOITL;

(2) explore for minerals or locate a mining claim on the lands included in your NOITL; or

(3) file an application to acquire any interest under section 209 of FLPMA in the lands included in your NOITL.

(c) If you file a plan of operations with BLM, as provided in section 1 of the Act of April 16, 1993, 43 U.S.C. 299(b), before the end of the 90-day period, BLM will extend the effects of the 90-day period until BLM approves or denies a plan of operations.

§ 3838.16 What happens if the surface owner of the SRHA lands changes?

If the surface owner transfers all or part of the surface to a new owner after you have recorded a NOITL and served it on the surface owner, you do not have to serve a copy of the NOITL on the new surface owners.

Subpart C—Compliance Problems

§ 3838.90 Failure to comply with this part.

§ 3838.91 What if I fail to comply with this part?

If you fail to comply with the requirements in this part, the NOITL is void. Mining claims or tunnel sites located under a void NOITL are null and void from the beginning and we will cancel them.

PART 3839—SPECIAL LAWS, IN ADDITION TO FLPMA, THAT REQUIRE RECORDING OR NOTICE [RESERVED]

19. Add and reserve part 3839.

PART 3840—NATURE AND CLASSES OF MINING CLAIMS [REMOVED]

20. Remove part 3840 in its entirety.

PART 3850—ASSESSMENT WORK [REMOVED]

21. Remove part 3850 in its entirety.

Dated: July 26, 1999.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

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Friday
August 27, 1999

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Late-Season Migratory Bird Hunting Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AF24

Migratory Bird Hunting; Proposed Frameworks for Late-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Supplemental.

SUMMARY: The Fish and Wildlife Service (hereinafter Service or we) is proposing to establish the 1999–2000 late-season hunting regulations for certain migratory game birds. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in late seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

DATES: To comment on the proposed late-season frameworks, you must do so by September 7, 1999.

ADDRESSES: Send your comments on these proposals to the Chief, Office of Migratory Bird Management (MBMO), U.S. Fish and Wildlife Service, room 634-Arlington Square, Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Jonathan Andrew, Chief, or Ron W. Kokel, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1999

On May 3, 1999, we published in the **Federal Register** (64 FR 23742) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under § 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 17, we published in the **Federal Register** (64 FR 32758) a second document providing supplemental proposals for early-and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 1999–2000 duck hunting season. The June 17 supplement also provided detailed information on the 1999–2000 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

On June 22–23, we held meetings that reviewed information on the current status of migratory shore and upland game birds and developed 1999–2000 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 1999–2000 regular waterfowl seasons. On July 22, we published in the **Federal Register** (64 FR 39460) a third document specifically dealing with the proposed frameworks for early-season regulations for the 1999–2000 duck hunting season. The July 22 supplement also established the final regulatory alternatives for the 1999–2000 duck hunting season. We will publish a rulemaking establishing final frameworks for early-season migratory bird hunting regulations for the 1999–2000 season in late August.

On August 3–4, 1999, we held meetings, as announced in the May 3 and June 17 **Federal Register**s, to review the status of waterfowl. This document deals specifically with proposed frameworks for the late-season migratory bird hunting regulations. It will lead to final frameworks from which States may select season dates, shooting hours, areas, and limits. We have considered all pertinent comments received through August 6, 1999, in developing this document. In addition, new proposals for certain late-season regulations are provided for public comment. Comment periods are specified above under **DATES**. We will publish final regulatory frameworks for late-season migratory game bird hunting in the **Federal Register** on or about September 25, 1999.

Population Status and Harvest

The 1999 estimate for total ducks in the traditional survey area was 43.4 million birds, the largest population size estimated since operational surveys began in 1955. This is an increase ($P<0.01$) of 11% over that of 1998, and 32% higher ($P<0.01$) than the 1955–98 average. Mallard (*Anas platyrhynchos*) abundance was 10.8 million, the second largest population size estimated. This is an increase of 12% ($P=0.01$) over last year and 47% ($P<0.01$) greater than the long-term average. Blue-winged teal (*Anas discors*) abundance was 7.1 million, an all time high, and 65% greater than the long-term average ($P<0.01$). Northern pintail (*Anas acuta*), scaup (*Aythya marila* and *Aythya affinis*), green-winged teal (*Anas crecca*), and northern shoveler (*Anas clypeata*) numbers increased from 1998 estimates, while gadwall (*Anas strepera*) decreased ($P<0.04$). Gadwall, green-winged teal, northern shoveler, redheads (*Aythya americana*), and canvasbacks (*Aythya valisineria*) were above their respective long-term averages ($P<0.05$), while pintails and scaup remained below their long-term averages ($P<0.01$). American wigeon (*Anas americana*) numbers were unchanged from last year or from long-term average. May habitat conditions in the traditional survey area were generally good to excellent, except for a few dry areas primarily in southern and central Alberta, Montana, and central Saskatchewan. The number of May ponds in the traditional survey area was 6.7 million, an increase of 46% over 1998 and 37% above the long-term average ($P<0.01$).

In the eastern areas of Canada and the U.S. (strata 51–56 and 62), the total number of ducks (1.2 million) remained unchanged from last year and the 1995–98 average ($P<0.10$). Numbers of individual species in the east were similar to those of last year ($P<0.10$), except for goldeneye (*Bucephala clangula* and *B. islandica*), which were 196% greater than 1998 levels, and scaup, which were 93% below 1998 levels. Goldeneye were above their 1995–98 average, while blue-winged teal and scaup were below ($P<0.03$). Habitats in the east were somewhat drier than last year, and conditions were overall not as favorable for waterfowl production.

The preliminary estimate of the total-duck fall-flight index is 105 million birds, compared to 84 million last year. The fall flight is predicted to include 13.6 million mallards, 16% greater ($P<0.01$) than the estimate of 11.8 million in 1998.

Most goose and swan populations in North America remain numerically sound and the size of most fall flights will be similar to or increased from last year. Twelve of the 29 populations of geese and swans we report on appear to have increased since last year, 4 appear to have decreased, 9 appear to have changed little, and no comparisons were possible for the remaining 4. Some of the annual variation reflects differences in the timing of surveys; spring estimates of several Canada goose

populations that nest near Hudson Bay were probably biased low last year. Of the 25 populations for which data spanning the last 10 years were available, 14 have exhibited a significant increasing trend (5 of 7 of *Anser* populations, 1 of 2 swan populations, and 8 of 15 *Branta* populations), 1 showed evidence of significant decline (1 of 7 *Anser* populations), while 10 appeared stable (7 of 15 *Branta* populations, 1 of 7 *Anser* populations, 1 swan population). As in previous years, forecasts for production of young in 1999 varied regionally based largely on spring weather and habitat conditions. Generally, spring phenology was earlier than normal in northern Quebec, the Hudson Bay Lowlands, and the mid-central Arctic, and this should lead to greater-than-average production for geese nesting there. In the north-central and western Arctic, the high Arctic, and along the west coast of Alaska, seasons were moderately to severely delayed, and average to below-average production is expected for geese and swans nesting in those areas. For temperate-zone breeding geese, spring weather in British Columbia and the Pacific Northwest was cold and wet, with delayed snow melt, which will negatively impact production from those areas. Conditions in the eastern tier of the Pacific flyway are reported as average to below average, with generally average to good conditions for most of the Central Flyway. Habitat conditions for nesting geese were good to very good in south-central and eastern Canada and much of the contiguous U.S east of the Mississippi River.

During the 1998–99 hunting season, duck stamp sales were 2% below sales in 1997 and hunter numbers remain well below the highs observed during the early 1970s. United States waterfowl hunters hunted about 4% fewer days and bagged about 4% more ducks, 9% more geese and 14% fewer coots than in 1997.

The number of ducks harvested during the 1998–99 hunting season was similar to the numbers that were harvested during the early 1970s. The increased harvest during the last few years is a reflection the more liberal hunting seasons offered and the increased duck abundance resulting from the improved water availability and habitat conditions that occurred in the prairie-pothole area. Of the five species of ducks that are most important in the bag, in order of importance; the number of mallards harvested increased 2%; the number of green-winged teal increased 23%; the number of gadwall increased 16%; the number of wood ducks increased 11%; and the number of blue-winged teal was similar to the 1997–98 harvest.

The overall harvest of geese last year increased 9% from that of 1997–98. Steady increases in goose harvests over the last decade largely reflect the increased numbers of resident or giant Canada geese, although increases in other populations of Canada geese and other goose species, including snow geese, have occurred. In the U.S., harvest of Canada geese increased 5%, snow geese increased 33%, blue geese increased 20%, Ross' geese increased 62%, white-fronted geese decreased 13% and brant decreased 17% from 1996–97.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the May 3 **Federal Register**, opened the public-comment period for late-season migratory game bird hunting regulations. Late-season comments are summarized below and numbered in the order used in the May 3 **Federal Register**. Only the numbered items pertaining to late season issues for which written comments were received are included.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items in the May 3, 1999, **Federal Register**.

1. Ducks

The categories used to discuss issues related to duck harvest management are as follows: (A) General Harvest Strategy, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. Only those categories containing substantial recommendations are included below.

A. General Harvest Strategy

Council Recommendations: The Atlantic Flyway Council, the Upper-Region Regulations Committee of the Mississippi Flyway Council, the Central Flyway Council, and the Pacific Flyway Council recommended adopting the ''liberal'' alternative for the 1999–2000 duck hunting season.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended adoption of the ''liberal'' alternative, except that they recommend framework dates of the Saturday nearest October 1 to the Sunday nearest January 20 for all States. The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended adoption of the ''liberal'' alternative, except that they recommend a 60-day season for all States regardless of the framework closing date. Specific details are discussed in B. Framework Dates.

Service Response: Since 1995, Adaptive Harvest Management (AHM) strategies have been based on the status of midcontinent mallards, which are defined as those breeding in the traditional survey area, and in Minnesota, Wisconsin, and Michigan. An optimal regulatory choice is based on breeding population size and prairie water conditions, and on the weights assigned to four alternative models of population dynamics. The same regulatory alternative is applied in all four Flyways, although season lengths and bag limits are Flyway-specific. The 1999 harvest strategy for midcontinent mallards is based on: (1) An objective to maximize long-term harvest and achieve a population goal of 8.7 million; (2) regulatory alternatives that are unchanged from last year; and (3) model weights that are similar to last year. Based on a breeding population size of 11.8 million mallards in the mid-continent region (traditional survey areas and Lake States) and 3.9 million ponds in Prairie Canada, the optimal regulatory choice for midcontinent mallards in 1999 is the ''liberal'' alternative.

Modifying the AHM protocol to account for mallards breeding eastward and westward of the midcontinent region is perhaps the most challenging technical issue facing duck harvest managers. Never before have we tried to consider the status of multiple mallard stocks in such a formal way, nor have we attempted to give all Flyways the ability to choose regulations that are tied to their particular derivation of mallards. Although progress has been significant, there are a number of outstanding technical issues. The

Service and AHM working group have assigned a high priority to addressing these issues, and hope to fully integrate eastern mallards and western mallards into the AHM process in 2000 and 2001, respectively.

In the interim, we are exploring optimal harvest strategies targeted for eastern mallards. A harvest strategy has been derived based on: (1) An objective to maximize long-term harvest; (2) regulatory alternatives that are unchanged from last year; and (3) a ''working model'' of population dynamics. Based on a breeding population size of 1.1 million mallards and spring precipitation of 8.3 inches, the optimal regulatory choice for eastern mallards in 1999 is the ''liberal'' alternative. By next year, we hope to be able to prescribe Flyway-specific regulations for those cases where the optimal regulatory choice is different for midcontinent and eastern mallards.

Therefore, we agree with the Flyway Councils and are proposing the ''liberal'' alternative for the 1999 duck hunting season.

B. Framework Dates

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended adoption of the ''liberal'' alternative, except that they recommend framework dates of the Saturday nearest October 1 to the Sunday nearest January 20 for all States. The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended a 60-day season for all States regardless of their selected framework closing date.

Service Response: Frameworks for the 1999–2000 duck hunting season were established in the July 22 **Federal Register**, with the finalization of the 1999–2000 regulatory alternatives. As we indicated in our July 22 response, we continued the use of the 1998–99 regulatory alternatives published in the August 5, 1998, **Federal Register**, for the 1999–2000 hunting season with one exception. For the States of Alabama, Mississippi, and Tennessee, we offered the use of a 51-day season in the ''liberal'' alternative and a 38-day season in the ''moderate'' alternative with a January 31 framework closing date in both alternatives. Framework opening and closing dates for all other States are unchanged from those published in the August 5, 1998, **Federal Register**. For a complete discussion of this issue, you should refer to the July 22 **Federal Register**.

F. Zones and Split Seasons

Council Recommendations: The Atlantic Flyway Council recommended the Service allow ''3 zones with 2-way splits in each zones'' as an additional option beginning in 2001. Further, the Council recommended that zone-split guidelines be finalized by July 2000 so that States have adequate opportunity to select their desired approach.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service add ''3 zones with 2-way splits permitted in one or more zones'' as an additional option beginning in 2001. Further, because of the public input process many States undertake, the Committee recommended that States have up to one year to choose this option prior to the 2001 regular duck season regulations process. The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service consider offering all States the option of choosing 3 zones with a split season in each zone in the year 2001.

The Pacific Flyway Council recommended the Service engage the Flyway Councils in an evaluation of the guidelines for zoning and split seasons, prior to the 2001 ''open season'' on regulation changes.

Service Response: We acknowledge the recommendations from the Councils pertaining to the guidelines for selecting zone and split options for duck hunting. Accordingly, we will work with all the Flyway Councils in the next year to review the existing guidelines, and plan to finalize these guidelines during next year's (2000–01) late-season regulations process. The final guidance will then be available for use by all States in the ensuing year as they solicit public input for zone and split configurations for use during 2001–05.

G. Special Seasons/Species Management

i. Black Ducks

Council Recommendations: The Atlantic Flyway Council recommended that the individual Atlantic Flyway States continue to achieve a 42 percent reduction in their black duck harvest during the 1999-2000 season compared with the 1977–81 base-line harvest.

Service Response: We agree with the Atlantic Flyway Council's recommendation and acknowledge the Council's concern for the population status of black ducks. Black duck populations remain below the North American Wildlife Management Plan goal and while the decline seems to have halted, little increase is evident. Harvest estimates increased 16% in the U.S. (8% in the Atlantic and 36% in the Mississippi Flyways) during the 1998–99 hunting season and we reiterate our concern about the effects of longer duck seasons on black duck harvests and recommend that States maintain harvest restrictions achieved since the 1983 Environmental Assessment. Higher harvests and lower midwinter population estimates in the Mississippi Flyway in recent years are of particular concern. Although efforts are underway to develop an international harvest strategy, and possibly an AHM approach, interim harvest restriction alternatives should be considered where appropriate. Thus, we believe the harvest restrictions identified in the 1983 Environmental Assessment should be maintained until a revised harvest strategy is developed.

ii. Canvasbacks

Council recommendations: The Lower-Region Regulations Committee of the Mississippi Flyway Council requested to know the population level at which an increase in the canvasback bag limit would be warranted.

Service Response: The Service continues to support the canvasback harvest strategy adopted in 1994. This strategy allows a daily bag limit of 1 bird during any open season. Seasons with a daily bag limit greater than 1 would require revision of the strategy, and we believe that more experience with the present strategy is needed before revisions are considered. Current population and habitat status suggest that a daily bag limit of 1 canvasback during the 1999–2000 season will result in a harvest within levels allowed by the strategy. However, monitoring data collected during the last 5 years suggest that harvest models have consistently predicted levels of harvest lower than those observed. For the 1999–2000 season, the strategy still prescribes an open season, even when accounting for this additional harvest. However, we believe that, beginning in the 2000–01 season, the harvest models (some of which were based on data from ~30 years ago) should be replaced with these more contemporary data. We will present the proposed harvest levels at next winter's Flyway Technical Section meetings for review.

iii. Pintails

Council Recommendations: All four Flyway Councils recommended a daily bag limit of 1 pintail in the 1999–2000 hunting season as prescribed by the Interim Pintail Harvest Strategy.

Service Response: We concur with the recommendations. Considering the current status of the population (3.1

million breeding birds) and the expected recruitment rate (1.00), the strategy prescribes a bag limit of 1 pintail for all Flyways under the ''liberal'' alternative.

iv. Scaup

In the past year, we have continued to indicate our growing concern for the status and trends of North American scaup. We distributed a status report on scaup and provided some initial guidelines concerning a scaup harvest strategy to the Flyway Councils and others for consideration in the development of recommendations for the 1999–2000 hunting season. In response to this information, all four Flyways discussed the issue at their winter meetings. Following Council comments on the initial harvest guidelines (presented in the July 22 **Federal Register**), we revised the harvest guidelines and developed a draft harvest strategy that was distributed to the Councils for consideration at their summer meetings.

Council recommendations: The Atlantic Flyway Council recommended a daily bag limit of 3 scaup until a harvest strategy for lesser and greater scaup is adopted.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended a daily bag limit of 3 scaup. The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended no scaup restriction in the overall daily bag limit.

The Central Flyway Council recommended adoption of the draft harvest strategy with the exception of the prescription. The Council recommended a prescription for scaup bag limits based on the status of lesser scaup as follows: < 2.5 million, bag limit of 1; 2.5–3.5 million, bag limit of 2; 3.5–4.0 million, bag limit of 3; and > 4.0, the bag limit for scaup should equal the regular daily duck limit as determined by the AHM process.

The Pacific Flyway Council recommended no internal bag restrictions on scaup in the Pacific Flyway for the 1999–2000 hunting season.

Service Response: We remain concerned about the status of lesser scaup. Lesser scaup populations have declined 1% per year since 1995 and 3% per year during the last 10 years. Lesser scaup harvest has varied over the years in the U.S. with lows around 100,000 in 1990 but since has increased in recent years to over 500,000. These recent increases have occurred concurrent with liberalizations in season length and bag limits with the implementation of AHM.

For the 1999–2000 season, we propose a bag limit of 3 scaup in the Atlantic, Mississippi, and Central Flyways, and 4 scaup in the Pacific Flyway. This action is only for one year. These bag limit reductions maintain the current differentials in the full duck bag limit that presently exist among Flyways. While we note a general feeling among the Flyway Councils that some reduction is appropriate, we acknowledge that this is not unanimous among Flyways. However, we believe that if a reduction in harvest is needed, all should participate. We will continue to work with the Flyway Councils to develop a harvest strategy to be formally adopted prior to next year's hunting season.

4. Canada Geese

Council Recommendations: The Atlantic Flyway Council recommended that a limited hunting season for AP (Atlantic Population) Canada geese be permitted in 1999–2000 throughout AP harvest areas (those areas closed in 1998) in the Atlantic Flyway. For the Mid-Atlantic and New England AP Areas, the Council recommended a 15-day season with framework dates of November 1–January 20. The daily bag limit would be 1 Canada goose. For the Chesapeake Region AP Areas, the Council recommended a 6-day season with framework dates of November 15 to January 20. The daily bag limit would be 1 Canada goose. Additionally, in Delaware and Maryland the harvest would be limited to 2,100 and 12,200 birds, respectively, and all Canada geese must be tagged and the season limit will be the number of tags issued to each permittee. In Southern Region AP Areas, the Council recommended the season remain closed. In all open areas, the season could be split into two segments, but must run concurrent with duck seasons.

The Atlantic Flyway Council also recommended modification of the frameworks for the regular season in Erie, Butler, and Mercer Counties, and designated portions of Crawford County, in Pennsylvania. The Council recommended changing the existing 70-day season with October 1 to January 31 frameworks to a 40-day season between November 15 and January 15, with a daily bag limit of 2 geese per day. The Council also recommended modification of the framework opening date in southwestern New York to November 1 and allowing Maryland to divide their regular resident Canada goose season into 3 segments on an experimental basis for the 1999–2000 season.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended a number of changes in season lengths, bag limits, zones, and quotas for Canada geese in Wisconsin, Michigan, Indiana, and Illinois, primarily to allow increased harvest of MVP Canada geese, and in Minnesota, Iowa, and Missouri, primarily to allow increased harvest of EPP Canada geese. The Lower-Region Regulations Committee of the Mississippi Flyway Council also recommended several changes in season lengths, quotas, etc., primarily to allow increased harvest of MVP Canada geese. All of these changes are based on improved population status and current management plans.

The Central Flyway Council made several recommendations on goose frameworks. In the East Tier, the Council recommended an increase in the Canada goose (or any other goose species except light geese and white-fronted geese) season from 93 days to 95 days with a daily bag limit of 3. Outside framework dates would be the Saturday nearest October 1 (Oct. 2, 1999) and the Sunday nearest February 15 (Feb. 13, 2000). In the Eastern Goose Zone of Texas, the Council recommended an additional season alternative of a 107-day season with a 1 Canada goose daily bag limit. The framework closing date for the Eastern Goose Zone of Texas would be February 21. In the West Tier, the Council recommended dark goose outside framework dates of the Saturday nearest October 1 (October 2, 1999) and the Sunday nearest February 15 (February 13, 1999), with daily bag and possession limits of 5 and 10, respectively. In the Western Goose Zone of Texas, the Council recommended a daily bag limit of 5 dark geese, to include no more than 2 white-fronted geese, with a framework closing date of February 21.

The Pacific Flyway Council made several recommendations for dark geese (see also item 5. White-fronted Geese). The Council recommended the bag limit for dark geese be increased from 2 to 3 in the Rocky Mountain Population zones in Arizona, California, Colorado, Nevada (except Lincoln and Clark Counties), New Mexico, and Utah. The Pacific Flyway Council also recommended that Washington and Oregon be allowed to split the dark goose season in the Dusky quota zones into 3 segments. Additionally, they recommended that the Harney, Lake, Klamath, and Malheur goose zone in Oregon be re-defined to include only Lake County. The Council also

recommended that white-fronted and cackling Canada geese be allowed during the first 44 days in the Northeastern Zone of California. Finally, the Council recommended several boundary adjustments to the closure zones for dark geese in the Balance-of-the State Zone in California.

Service Response: We support the Atlantic Flyway's request to reinstate the regular season on the Atlantic Population of Canada geese in the areas described. Numbers of breeding pairs in northern Quebec increased substantially this spring from last year's estimate, which suggests this population is showing signs of recovery. An increase in nesting densities was also encouraging, although predation will likely limit nest success to ''good'' in the Ungava Bay area and only fair along the Hudson Bay Coast. A slight increase in the fall flight is predicted. While we remain cautious about resuming a sport harvest, we recognize that the Action Plan criteria have been triggered. For the near future, we remain optimistic about the recovery of this population, particularly with average or better production since 1997, which should continue the expansion in the number of breeding pairs.

Regarding the Central Flyway Council's recommendations, we support their request to increase the Canada goose (or any other goose species except light geese and white-fronted geese) season from 93 to 95 days with a daily bag limit of 3 for the entire East Tier. We also support the Council's recommendation for an additional season alternative of a 107-day season with a 1 Canada goose daily bag limit in the Eastern Goose Zone of Texas. Further, we support the Council's recommendation for outside framework dates and believe that all dark goose seasons in the East Tier should have consistent outside dates of the Saturday nearest October 1 (Oct. 2, 1999) and the Sunday nearest February 15 (Feb. 13, 2000). In the West Tier, we support the Council's recommendation for an increase in the aggregate dark goose bag and possession limits from 4 and 8 to 5 and 10, respectively. However, in the Western Goose Zone of Texas, we do not support an increase in the white-fronted goose daily bag restriction from 1 to 2. While we are aware that the whitefront harvest (5,000) in this zone is small, we are concerned about the status of white-fronted geese breeding in the Interior of Alaska, which migrate through this area. These birds clearly have lower survival rates than Mid-Continent white-fronted geese from other breeding areas, but indices of abundance and long-term trends are less certain. We also realize that harvest of these birds also occurs in Alberta, Saskatchewan, and the Mexico Highlands; however, we believe that the Management Plan serves as the appropriate mechanism to address cooperative harvest management strategies for these birds. In the Western Tier, we also do not support the recommended framework closing date of February 21, and believe that dark goose outside dates should be consistent with the East Tier. Thus, we propose framework dates of the Saturday nearest October 1 (Oct. 2, 1999) to the Sunday nearest February 15 (Feb. 13, 2000) for the entire Western Tier.

Regarding the other recommendations from the Flyway Councils: we concur with the framework modifications in Pennsylvania, New York, Maryland; changes in season lengths, bag limits, zones, and quotas for Wisconsin, Michigan, Indiana, Illinois, Minnesota, Iowa, and Missouri; bag limit, zone and boundary changes, and framework modifications in Arizona, California, Colorado, Nevada, New Mexico, Utah, Washington and Oregon.

C. Special Late Seasons

Council Recommendations: The Atlantic Flyway Council recommended an experimental late season between January 15 and February 15 for Erie, Butler, and Mercer Counties, and designated portions of Crawford County, in Pennsylvania.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended the establishment of experimental late Canada goose seasons for Minnesota and Ohio. The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service work closely with the Council's Technical Section in evaluating the cumulative effects that special seasons may have on non-target populations.

Service Response: We concur with the recommended changes in the Atlantic and Mississippi Flyways and will continue to work with the Mississippi Flyway Council's Technical Section to assess the cumulative effects of special seasons.

5. White-fronted Geese

Council Recommendations: The Upper-and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that seasons for white-fronted geese increase from 70 days and 2 geese to 86 days and 2 geese or 107 days and 1 goose, with a framework closing date of February 15, consistent with the Mid-continent white-fronted goose plan.

The Central Flyway Council recommendations regarding dark geese in the West Tier involve white-fronted geese (see item 4. Canada Geese). For the East Tier, the Council recommended a 95-day season with framework dates of the Saturday nearest October 1 (October 2, 1999) to January 31, with a daily bag limit of 2 whitefronts. In the Eastern Goose Zone of Texas, the Council recommended a 86-day season with a daily bag limit of 2 whitefronts or an alternative 107-day season with a daily bag limit of 2 whitefronts for 44 consecutive days and 1 for the remaining 63 days. The framework closing date would be February 21.

The Pacific Flyway Council recommendations regarding dark geese also involve white-fronted geese (see item 4. Canada Geese). The Council recommended the bag limit for dark geese be increased from 2 to 3 in the Rocky Mountain Population zones in Arizona, California, Colorado, Nevada (except Lincoln and Clark Counties), New Mexico, and Utah. The Pacific Flyway Council also recommended that Washington and Oregon be allowed to split the dark goose season in the Dusky quota zones into 3 segments. Additionally, they recommended that the Harney, Lake, Klamath, and Malheur goose zone in Oregon be re-defined to include only Lake County. The Council also recommended that white-fronted and cackling Canada geese be allowed during the first 44 days in the Northeastern Zone of California. Finally, the Council recommended several boundary adjustments to the closure zones for dark geese in the Balance-of-the State Zone in California. Further, the Council supported the liberal whitefront frameworks proposed by the Mississippi and Central Flyway Councils.

Service Response: As we noted above, the Central Flyway Council's recommendations for dark geese include whitefronts in the West Tier and are further addressed in item 4. Canada geese. For the East Tier, we do not support an increase in the season length and bag limit from 72 days and 2 birds, or 86 days and 1 bird, to 95 days and 2 birds with a framework closing date of January 31. For the Eastern Goose Zone of Texas, we also do not support a 107-day season alternative with a daily bag limit of 2 whitefronts for 44 consecutive days and 1 bird for the remaining 63 days with a framework closing date of February 21. We believe that the whitefront season length and daily bag limit should be 86 days and 2 birds or 107 days and 1 bird for both the Mississippi Flyway and the East Tier of the Central Flyway. We believe that equitable hunting opportunity between

the Mississippi Flyway and the East Tier of the Central Flyway is appropriate because Mid-Continent white-fronted geese are managed as one population. This equitable approach is consistent with the ''base regulations'' identified in the cooperative management plan. Finally, in the absence of any guidance for liberalizations, we believe that this level of liberalization should be viewed as the ''liberal alternative'' beyond the ''base regulations'' identified in the management plan for these harvest areas.

Regarding framework closing dates, we do not support recommendations for a whitefront framework closing date of January 31 in the East Tier and a framework closing date of February 21 for the Eastern Goose Zone of Texas. We propose a dark goose framework closing date of the Sunday nearest February 15th for the entire East Tier. This date is consistent with the framework closing date for dark geese in the West Tier. We believe that the change in harvest related to this alignment of framework closing dates would be negligible, and consistent framework closing dates would facilitate the simplification of dark goose hunting regulations in the Central Flyway.

We also acknowledge the completion of the Cooperative Management Plan for Mid-Continent White-fronted geese (1998). The Plan supports the combining of Eastern and Western Segments of Mid-Continent whitefronts into one population. However, we believe that a major shortcoming of the Plan surfaced this year relating to the guidance provided for the setting of hunting regulations. Although ''base regulations'' are clearly defined in the Plan, no guidance is provided for liberalizations or restrictions from base regulations. This year, the Mississippi Flyway Council recommended liberalizations different than those recommended by the Central Flyway Council, although the plan calls for the same ''base regulations.'' Further, the population objective (600,000) and associated thresholds identified in the Plan appear to have little relationship with recent population estimates derived from the fall population survey conducted since 1992. Additionally, we believe that cooperative management plans are an appropriate mechanism to address International issues related to special harvest considerations and information data needs, e.g. interior Alaska whitefronts. We are aware of the 5-year revision schedule for this plan and encourage the Central and Mississippi Flyways to work with the Pacific Flyway, Canada and Mexico to address these issues in the next plan update.

We concur with the other Flyway Council recommendations.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommended an increase in the daily bag limit for brant from 2 to 4 birds.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended seasons for brant be modified to include an option of 107 days and 1 brant in addition to the current option of 70 days and 2 brant. The Committees do not expect this additional option to increase brant harvest in the Flyway, but would allow states to set dark goose season dates to coincide.

Written Comments: The Atlantic Flyway Council subsequently recommended the brant daily bag limit remain at 2 birds. Their revised recommendation was based on new information from the Arctic breeding grounds indicating a strong possibility of very limited brant production this year.

Service Response: We concur with the change back to a 2-bird daily bag limit based on reports from the Baffin Island and surrounding areas that there was no appreciable production this year. Although an increase to a 4-bird daily bag would be consistent with the Atlantic Brant Hunt Plan based on the population status (171,628 in the mid-winter survey), we believe it prudent to conserve the breeding stock and not liberalize the bag limit during a year of poor production.

7. Snow and Ross' Geese

Council Recommendations: The Atlantic Flyway Council recommended allowing the use of an unlimited number of splits in the season.

The Central Flyway Council supported the late-winter light goose hunting season in the Rainwater Basin area of Nebraska per the plan agreed to by the Service and the Nebraska Game and Parks Commission.

Written Comments: The Delaware Division of Fish and Wildlife and the Maryland Department of Natural Resources requested that the Service allow States in the Chesapeake Bay Region (including Delaware) the ability to split their snow goose season up to 47 times. They believed this would be the most effective method for discouraging snow geese from depredating wetlands and agricultural fields. Under this scenario, the season would not have to be closed for more than one day at a time. Alternately, they requested the use of zones and the ability to split their snow goose season up to 15 times. Under this scenario, the season would be closed for 3-day periods each week. Both alternatives would be considered experimental and would be evaluated by use of farm surveys, monthly aerial surveys, biweekly snow goose surveys, and harvest surveys.

Service Response: We are sympathetic towards the depredation issues brought forward by the Atlantic Flyway Council in Delaware and Maryland where too many greater snow geese are causing extensive agricultural damage and wetland degradation during closed segments of their hunting seasons. It remains to be seen whether an increase in the number of split seasons will resolve this problem, but to provide temporary relief, we agree to explore this option further pending an evaluation. We propose that Delaware and Maryland be guided by the existing restrictions on splits for geese (3-way split season) until the end of the regular duck season. After such time, they will be permitted to hunt on Mondays, Wednesdays, Fridays, and Saturdays, involving two splits per week until the framework closing date of March 10, 2000. This season would be experimental, limited to this year only, and requires an evaluation. We will reevaluate the effectiveness on this approach prior to next year. Both States should actively seek landowner support to reduce their crop damage problems by allowing hunter access on their fields to hunt snow geese.

At this time, we do not support the recommendation for use of unlimited splits during snow goose seasons. In 1997, we allowed an increase from 2 to 3 season segments for geese in all four Flyways. This increase resulted in a more consistent use of split-season options among all Flyways. In addition, within any established season, a State may also designate certain days as non-hunt days, if that hunt strategy is desired. The use of zoning for light geese remains a management tool that is currently not contained by specific guidelines for use by a State. We believe that the current ability to divide a 107-day season into 3 segments with the unlimited use of zones provides adequate flexibility for States to set seasons for light geese.

Regarding the hunt strategy for the Rainwater Basin, we appreciate the Central Flyway Council's support of the late-winter light goose hunting strategy for the Rainwater Basin Area of Nebraska and propose to implement the strategy this year.

Public Comment Invited

We intend that adopted final rules be as responsive as possible to all concerned interests, and therefore desire to obtain the comments and suggestions of the public, other governmental agencies, non-governmental organizations, and other private interests on these proposals. However, special circumstances are involved in the establishment of these regulations which limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow comment periods past the dates specified is contrary to the public interest.

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. We invite interested persons to participate in this rulemaking by submitting written comments to the address indicated under the caption ADDRESSES.

You may inspect comments received on the proposed annual hunting regulations during normal business hours at the Service's office in room 634, 4401 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date in the final rule.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under the caption ADDRESSES.

Endangered Species Act Consideration

Prior to issuance of the 1999–2000 migratory game bird hunting regulations, we will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and that the proposed action is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental proposed rulemakings.

Executive Order (E.O.) 12866

While this individual supplemental rule was not reviewed by the Office of Management and Budget (OMB), the migratory bird hunting regulations are economically significant and are annually reviewed by OMB under E.O. 12866.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between $429 and $1,084 million at small businesses in 1998. Copies of the Analysis are available upon request.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform-Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards found in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges; and, therefore,

reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1999–2000 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742a–j.

Dated: August 23, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 1999–2000 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department has approved frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots between the dates of September 1, 1999, and March 10, 2000.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

High Plains Mallard Management Unit—roughly defined as that portion of the Central Flyway which lies west of the 100th meridian.

Definitions: For the purpose of hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese—Canada geese, white-fronted geese, brant, and all other goose species except light geese.

Light geese—snow (including blue) geese and Ross' geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to late-season regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between October 1 and January 20.

Hunting Seasons and Duck Limits: 60 days and daily bag limit of 6 ducks, including no more than 4 mallards (2 hens), 3 scaup, 1 black duck, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 2 wood ducks, 2 redheads, 1 canvasback, and 4 scoters.

Closures: The season on harlequin ducks is closed.

Sea Ducks: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, and Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and West Virginia may select hunting seasons by zones and may split their seasons into two segments in each zone.

Canada Geese

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. Unless specified otherwise, seasons may be split into two segments. In areas within States where the framework closing date

for Atlantic Population (AP) goose seasons overlaps with special late season frameworks for resident geese, the framework closing date for AP goose season is January 14.

Connecticut

North Atlantic Population (NAP) Zone: A 40-day season may be held between October 1 and December 15 with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

South Zone: A special experimental season may be held in the between January 15 and February 15, with a 5-bird daily bag limit.

Delaware: A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit (tagging required to harvest). The harvest of Canada geese is limited to 2,100.

Florida: A 70-day season may be held between November 15 to February 15, with a 5-bird daily bag limit.

Georgia: In specific areas, a 70-day season may be held between November 15 and February 15, with a 5-bird daily bag limit.

Maine: A 40-day season may be held Statewide between October 1 and December 15 with a 2-bird daily bag limit.

Maryland

Southern James Bay Population (SJBP) Zone: A 40-day season may be held between November 15 to January 14, with a 2-bird daily bag limit. The season may be split 3-ways. Additionally, an experimental season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit (tagging required to harvest). The harvest of Canada geese is limited to 12,200.

Massachusetts

NAP Zone: A 40-day season may be held between October 1 to December 15 with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

New Hampshire: A 40-day season may be held statewide between October 1 and December 15 with a 2-bird daily bag limit.

New Jersey

Statewide: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

Special Late Goose Season Area: An experimental season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York

SJBP Zone: A 70-day season may be held between November 1 and January 30, with a 2-bird daily bag limit.

NAP Zone: A 40-day season may be held between October 1 and December 31 with a 2-bird daily bag limit.

Special Late Goose Season Area: An experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit in designated areas of Chemung, Tioga, Broome, Sullivan, Westchester, Nassau, Suffolk, Orange, Dutchess, Putnam, and Rockland Counties.

AP Zone: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

North Carolina: A 46-day season may be held between October 1 and November 15, with a 2-bird daily bag limit Statewide, except for the Northeast Hunt Unit and Northampton County.

Pennsylvania

SJBP Zone: A 40-day season may be held between November 15 to January 14, with a 2-bird daily bag limit.

AP Zone: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

Special Late Goose Season Area: An experimental season may be held from January 15 to February 15 with a 5-bird daily bag limit.

Pymatuning Zone: A 35-day season may be held between October 1 and January 20, with a 1-bird daily bag limit.

Rhode Island: A 40-day season may be held between October 1 and December 15 with a 2-bird daily bag limit. An experimental season may be held in a designated area from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina: In designated areas, a 70-day season may be held during November 15 to February 15, with a 5-bird daily bag limit.

Vermont: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

Virginia

SJBP Zone: A 40-day season may be held between November 15 to January 14, with a 2-bird daily bag limit. Additionally, an experimental season may be held between January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit.

Back Bay Area: Season is closed.

West Virginia: A 70-day season may be held between October 1 and January 31, with a 3-bird daily bag limit.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 15-bird daily bag limit and no possession limit. States may split their seasons into three segments, except in Delaware and Maryland, where following the completion of their duck season, and until March 10, they may split the remaining portion of the season to hunt on Mondays, Wednesdays, Fridays, and Saturdays only.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 50-day season between October 1 and January 20, with a 2-bird daily bag limit. States may split their seasons into two segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest October 1 (October 2) and the Sunday nearest January 20 (January 23). Seasons in Alabama, Mississippi, and Tennessee may extend to January 31.

Hunting Seasons and Duck Limits: 60 days with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 3 scaup, 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback, and 2 redheads. In the States of Alabama, Mississippi, and Tennessee, if a season extending beyond the Sunday nearest January 20 (January 23) is selected in any portion of the State, the season length will be 51 days throughout the State.

Merganser Limits: The daily bag limit is 5, only 1 of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and

Wisconsin may select hunting seasons by zones.

In Alabama, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Minnesota and Arkansas, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Mississippi Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation, by each participating State.

Season Lengths, Outside Dates, and Limits: States may select seasons for light geese not to exceed 107 days with 20 geese daily between the Saturday nearest October 1 (October 2) and March 10; for white-fronted geese not to exceed 86 days with 2 geese daily or 107 days with 1 goose daily between the Saturday nearest October 1 (October 2) and the Sunday nearest February 15 (February 13); and for brant not to exceed 70 days with 2 brant daily or 107 days with 1 brant daily between the Saturday nearest October 1 (October 2) and January 31. There is no possession limit for light geese. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State. Except as noted below, the outside dates for Canada geese are the Saturday nearest October 1 (October 2) and January 31.

Alabama: In the Southern James Bay Population (SJBP) Goose Zone, the season for Canada geese may not exceed 35 days. Elsewhere, the season for Canada geese may extend for 70 days in the respective duck-hunting zones. The daily bag limit is 2 Canada geese.

Arkansas: The season for Canada geese may extend for 23 days in the East Zone and 16 days in the West Zone. In both zones, the season may extend to February 15. The daily bag limit is 2 Canada geese. In the remainder of the State, the season for Canada geese is closed.

Illinois: The total harvest of Canada geese in the State will be limited to 119,600 birds. The possession limit is 10 Canada geese.

(a) North Zone—The season for Canada geese will close after 92 days or when 16,700 birds have been harvested in the Northern Illinois Quota Zone, whichever occurs first. The daily bag limit is 2 Canada geese during the first 74 days and 3 Canada geese thereafter.

(b) Central Zone—The season for Canada geese will close after 92 days or when 22,100 birds have been harvested in the Central Illinois Quota Zone, whichever occurs first. The daily bag limit is 2 Canada geese during the first 78 days and 3 Canada geese thereafter.

(c) South Zone—The harvest of Canada geese in the Southern Illinois and Rend Lake Quota Zones will be limited to 36,100 and 6,600 birds, respectively. The season for Canada geese in each zone will close after 67 days or when the harvest limit has been reached, whichever occurs first. The daily bag limit is 2 Canada geese. In the Southern Illinois Quota Zone, if any of the following conditions exist after December 20, the State, after consultation with the Service, will close the season by emergency order with 48 hours notice:

(1) Average body weights of adult female geese less than 3,200 grams as measured from a weekly sample of a minimum of 50 geese.

(2) Starvation or a major disease outbreak resulting in observed mortality exceeding 5,000 birds in 10 days, or a total mortality exceeding 10,000 birds.

In the remainder of the South Zone, the season may extend for 67 days or until both the Southern Illinois and Rend Lake Quota Zones have been closed, whichever occurs first. The daily bag limit is 2 Canada geese.

Indiana: The total harvest of Canada geese in the State will be limited to 25,675 birds. The daily bag limit is 2 Canada geese.

(a) Posey County—The season for Canada geese will close after 66 days or when the Canada goose harvest at the Hovey Lake Fish and Wildlife Area exceeds 950 birds, whichever occurs first.

(b) Remainder of the State—The season for Canada geese may extend for 56 days, except in the SJBP Zone, where the season may not exceed 35 days.

Iowa: The season may extend for 70 days. The daily bag limit is 2 Canada geese.

Kentucky

(a) Western Zone—The season for Canada geese may extend for 59 days (74 days in Fulton County), and the harvest will be limited to 22,900 birds. Of the 22,900-bird quota, 14,885 birds will be allocated to the Ballard Reporting Area and 4,350 birds will be allocated to the Henderson/Union Reporting Area. If the quota in either reporting area is reached prior to completion of the 59-day season, the season in that reporting area will be closed. If the quotas in both the Ballard and Henderson/Union reporting areas are reached prior to completion of the 59-day season, the season in the counties and portions of counties that comprise the Western Goose Zone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 59 days (74 days in Fulton County). The season in Fulton County may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Pennyroyal/Coalfield Zone—The season may extend for 35 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State—The season may extend for 50 days. The daily bag limit is 2 Canada geese.

Louisiana: The season for Canada geese may extend for 9 days. During the season, the daily bag limit is 1 Canada goose and 2 white-fronted geese with an 86-day white-fronted goose season or 1 white-fronted goose with a 107-day season. Hunters participating in the Canada goose season must possess a special permit issued by the State.

Michigan: The total harvest of Canada geese in the State will be limited to 56,800 birds. The framework opening date for all geese is September 19.

(a) North and Middle zones—The season for Canada geese may extend for 15 days. The daily bag limit is 2 Canada geese.

(b) South Zone:

(1) Allegan County GMU—The season for Canada geese will close after 21 days or when 880 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(2) Muskegon Wastewater GMU—The season for Canada geese will close after 22 days or when 280 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese.

(3) Saginaw County GMU—The season for Canada geese will close after 50 days or when 2,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(4) Tuscola/Huron GMU—The season for Canada geese will close after 50 days or when 750 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(5) Remainder of South Zone—The season for Canada geese will open September 19 and may extend for 15 days. The daily bag limit is 2 Canada geese.

(d) Southern Michigan GMU—A special Canada goose season may be held between January 8 and February 6. The daily bag limit is 5 Canada geese.

(e) Central Michigan GMU—An experimental special Canada goose season may be held between January 8 and February 6. The daily bag limit is 5 Canada geese.

Minnesota

(a) West Zone:

(1) West Central Zone—The season for Canada geese may extend for 30 days. In

the Lac Qui Parle Zone, the season will close after 30 days or when 16,000 birds have been harvested, whichever occurs first. Throughout the West Central Zone, the daily bag limit is 1 Canada goose.

(2) Remainder of West Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose.

(b) Northwest Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

(d) Special Late Canada Goose Season—An experimental Special Canada goose season of up to 10 days may be held in December, except in the West Central and Lac qui Parle Goose zones. During the special season, the daily bag limit is 5 Canada geese, except in the Southeast Goose Zone, where the daily bag limit is 2.

Mississippi: The season for Canada geese may extend for 70 days. The daily bag limit is 3 Canada geese.

Missouri

(a) Swan Lake Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments. The daily bag limit is 2 Canada geese.

(b) Southeast Zone—The season for Canada geese may extend for 70 days. The season may be split into 3 segments, provided that at least 1 segment occurs prior to December 1. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(c) Remainder of the state—

(1) North Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments, provided that 1 segment of at least 9 days occurs prior to October 15. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(2) Middle Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments, provided that 1 segment of at least 9 days occurs prior to October 15. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(3) South Zone—The season for Canada geese may extend for 70 days. The season may be split into 3 segments, provided that at least 1 segment occurs prior to December 1. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

Ohio: The season for Canada geese may extend for 70 days in the respective duck-hunting zones, with a daily bag limit of 2 Canada geese, except in the Lake Erie SJBP Zone, where the season may not exceed 30 days and the daily bag limit is 1 Canada goose. A special experimental Canada goose season of up to 22 days, beginning the first Saturday after January 10, may be held in selected areas of the State. During the special season, the daily bag limit is 2 Canada geese.

Tennessee

(a) Northwest Zone—The season for Canada geese will close after 74 days or when 8,500 birds have been harvested, whichever occurs first. The season may extend to February 15. A 6,000-bird harvest quota will be monitored in the Reelfoot Quota Zone. The remaining 2,500 quota will be assigned to the area outside the Reelfoot Zone. If the quota in the Reelfoot Quota Zone is reached prior to completion of the 74-day season, the season in the entire Northwest Zone will close. The daily bag limit is 2 Canada geese.

(b) Southwest Zone—The season for Canada geese may extend for 59 days, and the harvest will be limited to 1,000 birds. The daily bag limit is 2 Canada geese.

(c) Kentucky/Barkley Lakes Zone—The season for Canada geese will close after 50 days or when 1,800 birds have been harvested, whichever occurs first. All geese harvested must be tagged. The daily bag limit is 2 Canada geese. In lieu of the quota and tagging requirement above, the State may select either a 50-day season with a 1-bird daily bag limit or a 35-day season with a 2-bird daily bag limit for this Zone.

(d) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

Wisconsin: The total harvest of Canada geese in the State will be limited to 79,800 birds.

(a) Horicon Zone—The framework opening date for all geese is September 18. The harvest of Canada geese is limited to 39,500 birds. The season may not exceed 95 days. All Canada geese harvested must be tagged. The daily bag limit is 2 Canada geese and the season limit will be the number of tags issued to each permittee.

(b) Collins Zone—The framework opening date for all geese is September 18. The harvest of Canada geese is limited to 1,300 birds. The season may not exceed 68 days. All Canada geese harvested must be tagged. The daily bag limit is 2 Canada geese and the season limit will be the number of tags issued to each permittee.

(c) Exterior Zone—The framework opening date for all geese is September 25. The harvest of Canada geese is limited to 34,500 birds, with 500 birds allocated to the Mississippi River Subzone. The season may not exceed 94 days, except in the Mississippi River Subzone, where the season may not exceed 80 days. The daily bag limit is 1 Canada goose. In that portion of the Exterior Zone outside the Mississippi River Subzone, the progress of the harvest must be monitored, and the season closed, if necessary, to ensure that the harvest does not exceed 34,000 birds.

Additional Limits: In addition to the harvest limits stated for the respective zones above, an additional 4,500 Canada geese may be taken in the Horicon Zone under special agricultural permits.

Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, Southern Illinois, and Rend Lake Quota Zones in Illinois, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky, the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan, the Lac Qui Parle Zone in Minnesota, the Northwest and Kentucky/Barkley Lakes (if applicable) Zones in Tennessee, and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective zone (and associated area, if applicable) will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between October 2 and January 23.

Hunting Seasons and Duck Limits

(1) High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway which lies west of the 100th meridian): 97 days and a daily bag limit of 6 ducks, including no more than 5 mallards (no more than 2 of which may be hens) 1 mottled duck, 1 canvasback, 1 pintail, 2 redheads, 3 scaup, and 2 wood ducks. The last 23 days may start no earlier than the Saturday nearest December 10 (December 11).

(2) Remainder of the Central Flyway: 74 days and a daily bag limit of 6 ducks, including no more than 5 mallards (no more than 2 of which may be hens), 1 mottled duck, 1 canvasback, 1 pintail, 2 redheads, 3 scaup, and 2 wood ducks.

Merganser Limits: The daily bag limit is 5 mergansers, only 1 of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Kansas (Low Plains portion), Montana, Nebraska (Low Plains portion), New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

In Colorado, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest October 1 (October 2) and the Sunday nearest February 15 (February 13). For light geese, outside dates for seasons may be selected between the Saturday nearest October 1 (October 2) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions consistent with the experimental late-winter snow goose hunting strategy endorsed by the Central Flyway Council in July 1999, are required.

Season Lengths and Limits

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 20 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 95 days with a daily bag limit of 3. Additionally, in the Eastern Goose Zone of Texas, an alternative season of 107 days with a daily bag limit of 1 Canada goose may be selected. For white-fronted geese, these States may select either a season of 86 days with a bag limit of 2 or a 107-day season with a bag limit of 1.

In South Dakota, for Canada geese in the Power Plant Area of Dark Goose Unit 1, the daily bag limit is 3 until November 30 and 2 thereafter.

In Colorado, Montana, New Mexico and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 107 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 1.

Pacific Flyway

Ducks, Mergansers, Coots, and Common Moorhens

Hunting Seasons and Duck Limits: Concurrent 107 days and daily bag limit of 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads and 1 canvasback.

The season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 107 days.

Coot and Common Moorhen Limits: The daily bag and possession limits of coots and common moorhens are 25, singly or in the aggregate.

Outside Dates: Between the Saturday nearest October 1 (October 2) and the Sunday nearest January 20 (January 23).

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may select hunting seasons by zones.

Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may split their seasons into two segments.

Colorado, Montana, New Mexico, and Wyoming may split their seasons into three segments.

Colorado River Zone, California: Seasons and limits shall be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Season Lengths, Outside Dates, and Limits: Except as subsequently noted, 100-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 2), and the Sunday nearest January 20 (January 23), and the basic daily bag limits are 3 light geese and 4 dark geese, except in California, Oregon, and Washington, where the dark goose bag limit does not include brant.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

Brant Season—A 16-consecutive-day season may be selected in Oregon and Washington, and a 30-consecutive-day season may be selected in California. In these States, the daily bag limit is 2 brant and is in addition to dark goose limits.

Closures: There will be no open season on Aleutian Canada geese in the Pacific Flyway. The States of California, Oregon, and Washington must include a statement on the closure for that subspecies in their respective regulations leaflet. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

Arizona: The daily bag limit for dark geese is 3.

California

Northeastern Zone—White-fronted geese and cackling Canada geese may be taken only during the first 44 days of the goose season. The daily bag limit is 3 geese and may include no more than 2 dark geese; including not more than 1 cackling Canada goose.

Colorado River Zone—The seasons and limits must be the same as those selected in the adjacent portion of Arizona (South Zone).

Southern Zone—The daily bag limit for dark geese is 3 geese, including not more than 1 cackling Canada goose.

Balance-of-the-State Zone—A 79-day season may be selected. Limits may not include more than 3 geese per day and 6 in possession, of which not more than 2 daily and 4 in possession may be white-fronted geese and not more than 1 daily or 2 in possession may be cackling Canada geese. Three areas in the Balance-of-the-State Zone are restricted in the hunting of certain geese:

(1) In the Counties of Del Norte and Humboldt, there will be no open season for Canada geese, except for the Special September Canada goose hunt in Humboldt County.

(2) In the Sacramento Valley Special Management Area (West), the season on white-fronted geese must end on or before December 14, and, except in the Sacramento Valley Special Management Area (East), there will be no open season for Canada geese.

(3) In the San Joaquin Valley Special Management Area, there will be no open season for Canada geese.

Colorado: The daily bag limit for dark geese is 3 geese.

Idaho

Northern Unit—The daily bag limit is 4 geese, including 4 dark geese, but not more than 3 light geese.

Southwest Unit and Southeastern Unit—The daily bag limit on dark geese is 4.

Montana: West of Divide Zone and East of Divide Zone—The daily bag limit of dark geese is 4.

Nevada: Lincoln and Clark County Zone—The daily bag limit of dark geese is 2.

New Mexico: The daily bag limit of dark geese is 3.

Oregon: Except as subsequently noted, the dark goose daily bag limit is 4, including not more than 1 cackling Canada goose.

Lake County Zone—The season length may be 100 days. The dark goose limit is 4, including not more than 2 white-fronted geese and 1 cackling Canada goose.

Western Zone—In the Special Canada Goose Management Area, except for designated areas, there shall be no open season on Canada geese. In the designated areas, individual quotas shall be established which collectively shall not exceed 165 dusky Canada geese. See section on quota zones. In those designated areas, the daily bag limit of dark geese is 4 and may include 4 cackling Canada geese.

Utah: The daily bag limit for dark geese is 3 geese.

Washington: The daily bag limit is 4 geese, including 4 dark geese but not more than 3 light geese.

West Zone—In the Lower Columbia River Special Goose Management Area, except for designated areas, there shall be no open season on Canada geese. In the designated areas, individual quotas shall be established which collectively shall not exceed 85 dusky Canada geese. See section on quota zones. In this area, the daily bag limit of dark geese is 4 and may include 4 cackling Canada geese.

Wyoming: The daily bag limit is 4 dark geese.

Quota Zones: Seasons on dark geese must end upon attainment of individual quotas of dusky Canada geese allotted to the designated areas of Oregon and Washington. The September Canada goose season, the regular goose season, any special late dark goose season, and any extended falconry season, combined, must not exceed 107 days and the established quota of dusky Canada geese must not be exceeded. Hunting of dark geese in those designated areas shall only be by hunters possessing a State-issued permit authorizing them to do so. In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky Canada geese and eliminating the take of Aleutian Canada geese. In the designated areas of the Washington Quota Zone, a special late dark goose season may be held between January 22 and March 10. The daily bag limit may not include Aleutian Canada geese. In the Special Canada Goose Management Area of Oregon, the framework closing date is extended to the Sunday closest to March 1 (Feb. 28). In the Special Canada Goose Management Area of Oregon, the framework closing date is extended to the Sunday closest to March 1 (Feb. 28). Regular dark goose seasons may be split into 3 segments within the Oregon and Washington quota zones. The 3-way split seasons are considered experimental for the next 3 years. An evaluation of the 3-way split seasons is required and must be submitted by July, 2002.

Swans

In designated areas of Utah, Nevada, and the Pacific Flyway portion of Montana, an open season for taking a limited number of swans may be selected. Permits will be issued by States and will authorize each permittee to take no more than 1 swan per season. The season may open no earlier than the Saturday nearest October 1 (October 2). The States must implement a harvest-monitoring program to measure the species composition of the swan harvest. In Utah and Nevada, the harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. All States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination or, in the case of Montana, reporting bill-measurement and color information. All States must provide to the Service by June 30, 1998, a report covering harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas. These seasons will be subject to the following conditions:

In Utah, no more than 2,750 permits may be issued. The season must end no later than the first Sunday in December (December 6) or upon attainment of 15 trumpeter swans in the harvest, whichever occurs earliest.

In Nevada, no more than 650 permits may be issued. The season must end no later than the Sunday following January 1 (January 3) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In Montana, no more than 500 permits may be issued. The season must end no later than December 1.

Tundra Swans

In Central Flyway portion of Montana, and in North Carolina, North Dakota, South Dakota (east of the Missouri River), and Virginia, an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States and will authorize each permittee to take no more than 1 tundra swan per season. The States must obtain harvest and hunter participation data. These seasons will be subject to the following conditions:

In the Atlantic Flyway

—The season will be experimental
—The season may be 90 days, from October 1 to January 31
—In North Carolina, no more than 5,000 permits may be issued
—In Virginia, no more than 600 permits may be issued

In the Central Flyway

—The season may be 107 days and must occur during the light goose season
—In the Central Flyway portion of Montana, no more than 500 permits may be issued
—In North Dakota, no more than 2,000 permits may be issued
—In South Dakota, no more than 1,500 permits may be issued

Area, Unit and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire and Maine border to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of Interstate Highway 95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

South Zone: Remainder of the State.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont border on I–91 to MA

9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Coastal Zone: That portion of the State east of a line extending west from Maine border in Rollinsford on NH 4 to the city of Dover, south to NH 108, south along NH 108 through Madbury, Durham, and Newmarket to NH 85 in Newfields, south to NH 101 in Exeter, east to NH 51 (Exeter-Hampton Expressway), east to I–95 (New Hampshire Turnpike) in Hampton, and south along I–95 to the Massachusetts border.

Inland Zone: That portion of the State north and west of the above boundary.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York border in Raritan Bay and extending west along the New York border to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware border in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania border in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: The remaining portion of Vermont.

West Virginia

Zone 1: That portion outside the boundaries in Zone 2.

Zone 2 (Allegheny Mountain Upland): That area bounded by a line extending south along U.S. 220 through Keyser to U.S. 50; U.S. 50 to WV 93; WV 93 south to WV 42; WV 42 south to Petersburg; WV 28 south to Minnehaha Springs; WV 39 west to U.S. 219; U.S. 219 south to I–64; I–64 west to U.S. 60; U.S. 60 west to U.S. 19; U.S. 19 north to I–79, I–79 north to U.S. 48; U.S. 48 east to the Maryland border; and along the border to the point of beginning.

Mississippi Flyway

Alabama

South Zone: Mobile and Baldwin Counties.

North Zone: The remainder of Alabama.

Illinois

North Zone: That portion of the State north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

South Zone: The remainder of Illinois.

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59

to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

West Zone: That portion of the State west of a line extending south from the Arkansas border along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to Houma, then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass.

East Zone: The remainder of Louisiana.

Catahoula Lake Area: All of Catahoula Lake, including those portions known locally as Round Prairie, Catfish Prairie, and Frazier's Arm. See State regulations for additional information.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Mississippi

Zone 1: Hancock, Harrison, and Jackson Counties.

Zone 2: The remainder of Mississippi.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border along Interstate Highway 70 to U.S. Highway 54, south along U.S. 54 to U.S. 50, then west along U.S. 50 to the Kansas border.

South Zone: That portion of Missouri south of a line running west from the Illinois border along Missouri Highway 34 to Interstate Highway 55; south along I–55 to U.S. Highway 62, west along U.S. 62 to Missouri 53, north along Missouri 53 to Missouri 51, north along Missouri 51 to U.S. 60, west along U.S. 60 to Missouri 21, north along Missouri 21 to Missouri 72, west along Missouri 72 to Missouri 32, west along Missouri 32 to U.S. 65, north along U.S. 65 to U.S. 54, west along U.S. 54 to Missouri 32, south along Missouri 32 to Missouri 97, south along Missouri 97 to Dade County NN, west along Dade County NN to Missouri 37, west along Missouri 37 to Jasper County N, west along Jasper County N to Jasper County M, west along Jasper County M to the Kansas border.

Middle Zone: The remainder of Missouri.

Ohio

North Zone: The Counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking (excluding the Buckeye Lake Area), Muskingum, Guernsey, Harrison and Jefferson and all counties north thereof.

Ohio River Zone: The Counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs.

South Zone: That portion of the State between the North and Ohio River Zone boundaries, including the Buckeye Lake Area in Licking County bounded on the west by State Highway 37, on the north by U.S. Highway 40, and on the east by State 13.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

State Zone: The remainder of Tennessee.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota border along State Highway 77 to State 27, south along State 27 and 77 to U.S. Highway 63, and continuing south along State 27 to Sawyer County Road B, south and east along County B to State 70, southwest along State 70 to State 27, south along State 27 to State 64, west along State 64/27 and south along State 27 to U.S. 12, south and east on State 27/U.S. 12 to U.S. 10, east on U.S. 10 to State 310, east along State 310 to State 42, north along State 42 to State 147, north along State 147 to State 163, north along State 163 to Kewaunee County Trunk A, north along County Trunk A to State 57, north along State 57 to the Kewaunee/Door County Line, west along the Kewaunee/Door County Line to the Door/Brown County Line, west along the Door/Brown County Line to the Door/Oconto/Brown County Line, northeast along the Door/Oconto County Line to the Marinette/Door County Line, northeast along the Marinette/Door County Line to the Michigan border.

South Zone: The remainder of Wisconsin.

Central Flyway

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carbon, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, and Yellowstone.

Zone 2: The remainder of Montana.

Nebraska

High Plains Zone: That portion of the State west of highways U.S. 183 and U.S. 20 from the South Dakota border to Ainsworth, NE 7 and NE 91 to Dunning, NE 2 to Merna, NE 92 to Arnold, NE 40 and NE 47 through Gothenburg to NE 23, NE 23 to Elwood, and U.S. 283 to the Kansas border.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north and east of a line extending from the South Dakota border along NE

26E Spur to U.S. 20, west on U.S. 20 to NE 12, west on NE 12 to the Knox/Keya Paha County line, south along the county line to the Niobrara River and along the Niobrara River to U.S. 183 (the High Plains Zone line). Where the Niobrara River forms the boundary, both banks will be in Zone 1.

Low Plains Zone 2: That portion of the State east of the High Plains Zone and bounded by designated highways and political boundaries starting on U.S. 73 at the Kansas border, north to NE 67, north to U.S. 75, north to NE 2, west to NE 43, north to U.S. 34, east to NE 63, north and west to U.S. 77, north to NE 92, west to U.S. 81, south to NE 66, west to NE 14, south to U.S. 34, west to NE 2, south to I–80, west to Hamilton/Hall County line (Gunbarrel Road), south to Giltner Road; west to U.S. 34, west to U.S. 136, east on U.S. 136 to NE 10, south to the State line, west to U.S. 283, north to NE 23, west to NE 47, north to U.S. 30, east to NE 14, north to NE 52, northwesterly to NE 91, west to U.S. 281, north to NE 91 in Wheeler County, west to U.S. 183, north to northerly boundary of Loup County, east along the north boundaries of Loup, Garfield, and Wheeler County, south along the east Wheeler County line to NE 70, east on NE 70 from Wheeler County to NE 14, south to NE 39, southeast to NE 22, east to U.S. 81, southeast to U.S. 30, east along U.S. 30 to U.S. 75, north along U.S. 75 to the Washington/Burt County line; then east along the county line to the Iowa border.

Low Plains Zone 3: The area east of the High Plains Zone, excluding Low Plains Zone 1, north of Low Plains Zone 2.

Low Plains Zone 4: The area east of the High Plains Zone and south of Zone 2.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line from the South Dakota border along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams/Divide County line, then north along the County line to the Canadian border.

Low Plains: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas border along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, west along OK 33 to I–35, north along I–35 to U.S. 60, west along U.S. 60 to U.S. 64, west along U.S. 64 to OK 132, then north along OK 132 to the Kansas border.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Unit: That portion of the State west of a line beginning at the North Dakota border and extending south along U.S. 83 to U.S. 14, east along U.S. 14 to Blunt-Canning Road in Blunt, south along Blunt-Canning Road to SD 34, east to SD 47, south to I–90, east to SD 47, south to SD 49, south to Colome and then continuing south on U.S. 183 to the Nebraska border.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along US 212 to SD 15, then north along SD 15 to Big Stone Lake at the Minnesota border.

South Zone: That portion of Gregory County east of SD 47, Charles Mix County south of SD 44 to the Douglas County line, south on SD 50 to Geddes, east on the Geddes Hwy. to U.S. 281, south on U.S. 281 and U.S. 18 to SD 50, south and east on SD 50 to Bon Homme County line, the Counties of Bon Homme, Yankton, and Clay south of SD 50, and Union County south and west of SD 50 and I–29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma border along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana border at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway Portion)

Zone 1: The Counties of Converse, Goshen, Hot Springs, Natrona, Platte, Washakie, and that portion of Park County south of T58N and not within the boundary of the Shoshone National Forest.

Zone 2: The remainder of Wyoming.

Pacific Flyway

Arizona—Game Management Units (GMU) as Follows

South Zone: Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 10 and 12B–45.

North Zone: GMUs 1–5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 12A.

California

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Idaho

Zone 1: Includes all lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

Zone 2: Includes the following Counties or portions of Counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of ID 75, south and east of U.S. 93, and between ID 75 and U.S. 93 north of U.S. 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties.

Zone 3: Includes the following Counties or portions of Counties: Ada; Blaine between ID 75 and U.S. 93 south of U.S. 20 and that additional area between ID 75 and U.S. 93 north of U.S. 20 within the Silver Creek drainage; Boise; Canyon; Cassia except within the Minidoka National Wildlife Refuge; Elmore except the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of ID 37 and ID 39 except that portion within the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties.

Nevada

Lincoln and Clark County Zone: All of Clark and Lincoln Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

Oregon

Zone 1: Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, Curry, Josephine, Jackson, Linn, Benton, Polk, Marion, Yamhill, Washington, Columbia, Multnomah, Clackamas, Hood River, Wasco, Sherman, Gilliam, Morrow and Umatilla Counties.

Columbia Basin Mallard Management Unit: Gilliam, Morrow, and Umatilla Counties.

Zone 2: The remainder of the State.

Utah

Zone 1: All of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Unitah, Utah, Wasatch, and Weber Counties and that part of Toole County north of I–80.

Zone 2: The remainder of Utah.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Columbia Basin Mallard Management Unit: Same as East Zone.

West Zone: All areas to the west of the East Zone.

Geese

Atlantic Flyway

Connecticut

NAP Zone: Statewide, except for Hartford and Litchfield Counties west of the Connecticut River.

AP Zone: Remainder of the State.

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Maryland

SJBP Zone: Allegheny, Carroll, Frederick, Garrett, Washington counties and the portion of Montgomery County south of Interstate 270 and west of Interstate 495 to the Potomac River.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central Zone (same as for ducks) and that portion of the Coastal Zone that lies north of route 139 from Green Harbor.

AP Zone: Remainder of the State.

New Hampshire

Same zones as for ducks.

New Jersey

North—that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point.

South—that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to the Garden State Parkway; then south along the Garden State Parkway to Route 9; then south along Route 9 to Route 542; then west along Route 542 to the Mullica River (at Pleasant Mills); then north (upstream) along the Mullica River to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to Route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then south along Route 49 to Route 50; then east along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Special Late Season Area for Canada Geese: that area of Chemung County lying east of a continuous line extending south along State Route 13 from the Schuyler County line to State Route 17 and then south along Route 17 to the New York-Pennsylvania boundary; all of Tioga and Broome Counties; that area of Delaware, Sullivan, and Orange Counties lying southwest of a continuous line extending east along State Route 17 from the Broome County line to U.S. Route 209 at Wurtsboro and then south along Route 209 to the New York-Pennsylvania boundary at Port Jervis, excluding areas on or within 50 yards of the Delaware River between the confluence of the West Branch and East Branch below Hancock and the mouth of the Shingle Kill (3 miles upstream from Port Jervis); that area of Orange, Rockland, Dutchess, Putnam and Westchester Counties lying southeast of a continuous line extending north along Route 17 from the New York-New Jersey boundary at Suffern to Interstate Route 87, then north along Route 87 to Interstate Route 84, then east along Route 84 to the northern boundary of Putnam County, then east along that boundary to the New York-Connecticut boundary; that area of Nassau and Suffolk Counties lying north of State Route 25A and west of a continuous line extending northward from State Route 25A along Randall Road (near Shoreham) to North Country Road, then east to Sound Road and then north to Long Island Sound and then due north to the New York-Connecticut boundary.

Long Island (NAP) Zone: Same as Long Island Duck Zone.

Southwest (SJBP) Zone: all of Allegany, Cattaraugus, and Chautaugua Counties; that area of Erie, Wyoming and Niagara Counties lying south and west of a continuous line extending from the Rainbow Bridge below Niagara Falls, north along the Robert Moses Parkway to US Route 62A, then east along Route 62A to US Route 62, then southeast along US Route 62 to Interstate Route 290, then south along Route 290 to Exit 50 of the NYS Thruway, then east along I–90 to State Route 98, then south along State Route 98 to the Cattaraugus County line; and that area of Steuben and Chemung Counties lying south of State Route 17.

AP Zone: Remainder of the State.

North Carolina

Regular Season for Canada Geese: Statewide, except for Northampton County and the Northeast Hunt Unit—Counties of Bertie, Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Pennsylvania

SJBP Zone: Area from the New York State line west of U.S. Route 220 to intersection of I–180, west of I–180 to intersection of SR 147, west of SR 147 to intersection of U.S. Route 322, west of U.S. Route 322 to intersection of I–81, west of I–81 to intersection of I–83, west of I–83 to I–283, west of I–283 to SR 441, west of SR 441 to U.S. Route 30, west of U.S. Route 30 to I–83, west of I–83 to Maryland State line, except for the Pymatuning Zone.

Pymatuning Zone: Area south of SR 198 from the Ohio State line to the intersection of SR 18, to the intersection of US Route 322/SR 18, to the intersection of SR 3013, then south to the Crawford/Mercer County line.

Special Late Season Area for Canada Geese: Same as SJBP Zone and the area from New York State line east of U.S. Route 220 to intersection of I–180, east of I–180 to intersection of SR 147, east of SR 147 to intersection of U.S. Route 322, east of Route 322 to intersection of I–81, north of I–81 to intersection of I–80, north of I–80 to New Jersey State line.

AP Zone: Remainder of the State.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for Clarendon County and that portion of Lake Marion in Orangeburg County and Berkeley County.

Vermont

Same zones as for ducks.

Virginia

SJBP Zone and Special Late Season Area for Canada Geese: All areas west of I–95.

Back Bay Area: The waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Binson Inlet Lake (formerly known as Lake Tecumseh) and Red Wing Lake and the marshes adjacent thereto.

AP Zone: Remainder of the State.

West Virginia

Same zones as for ducks.

Mississippi Flyway

Alabama

Same zones as for ducks, but in addition:

SJBP Zone: That portion of Morgan County east of U.S. Highway 31, north of State Highway 36, and west of U.S. 231; that portion of Limestone County south of U.S. 72; and that portion of Madison County south of Swancott Road and west of Triana Road.

Arkansas

East Zone: Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Lonoke, Mississippi, Monroe, Phillips, Poinsett, Prairie, Pulaski, Randolph, St. Francis, White, and Woodruff Counties.

West Zone: Baxter, Benton, Boone, Carroll, Cleburne, Conway, Crawford, Faulkner, Franklin, Fulton, Izard, Johnson, Madison, Marion, Newton, Pope, Searcy, Sharp, Stone, Van Buren, and Washington Counties, and those portions of Logan, Perry, Sebastian, and Yell Counties lying north of a line extending east from the Oklahoma border along State Highway 10 to Perry, south on State 9 to State 60, then east on State 60 to the Faulkner County line.

Illinois

Same zones as for ducks, but in addition:

North Zone: Northern Illinois Quota Zone: The Counties of McHenry, Lake, Kane, DuPage, and those portions of LaSalle and Will Counties north of Interstate Highway 80.

Central Zone: Central Illinois Quota Zone: The Counties of Grundy, Woodford, Peoria, Knox, Fulton, Tazewell, Mason, Cass, Morgan, Pike, Calhoun, and Jersey, and those portions of LaSalle and Will Counties south of Interstate Highway 80.

South Zone: Southern Illinois Quota Zone: Alexander, Jackson, Union, and Williamson Counties.

Rend Lake Quota Zone: Franklin and Jefferson Counties.

Indiana

Same zones as for ducks, but in addition: SJBP Zone: Jasper, LaGrange, LaPorte, Starke, and Steuben Counties, and that portion of the Jasper-Pulaski Fish and Wildlife Area in Pulaski County.

Iowa

Same zones as for ducks.

Kentucky

Western Zone: That portion of the State west of a line beginning at the Tennessee border at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana border.

Ballard Reporting Area: That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter; then southwest along U.S. 60 to the northeast city limits of Wickliffe.

Henderson-Union Reporting Area: Henderson County and that portion of Union County within the Western Zone.

Pennyroyal/Coalfield Zone: Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

Michigan

Same zones as for ducks, but in addition:

South Zone

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by

Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly ½ mile along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Special Canada Goose Seasons:

Southern Michigan GMU: That portion of the State, including the Great Lakes and interconnecting waterways and excluding the Allegan County GMU, south of a line beginning at the Ontario border at the Bluewater Bridge in the city of Port Huron and extending westerly and southerly along Interstate Highway 94 to I–69, westerly along I–69 to Michigan Highway 21, westerly along Michigan 21 to I–96, northerly along I–96 to I–196, westerly along I–196 to Lake Michigan Drive (M–45) in Grand Rapids, westerly along Lake Michigan Drive to the Lake Michigan shore, then directly west from the end of Lake Michigan Drive to the Wisconsin border.

Central Michigan GMU: That portion of the South Zone north of the Southern Michigan GMU, excluding the Tuscola/Huron GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

Minnesota

West Zone: That portion of the state encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

West Central Zone: That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 29 and U.S. Highway 212 and extending west along U.S. 212 to U.S. 59, south along U.S. 59 to STH 67, west along STH 67 to U.S. 75, north along U.S. 75 to County State Aid Highway (CSAH) 30 in Lac qui Parle County, west along CSAH 30 to County Road 70 in Lac qui Parle County, west along County 70 to the western boundary of the State, north along the western boundary of the State to a point due south of the intersection of STH 7 and CSAH 7 in Big Stone County, and continuing due north to said intersection, then north along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 40, east along STH 40 to STH 29, then south along STH 29 to the point of beginning.

Lac qui Parle Zone: That area encompassed by a line beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27 in Lac qui Parle County and extending north along CSAH 27 to CSAH 20 in Lac qui Parle County, west along CSAH 20 to State Trunk Highway (STH) 40, north along STH 40 to STH 119, north along STH 119 to CSAH 34 in Lac qui Parle County, west along CSAH 34 to CSAH 19 in Lac qui Parle County, north and west along CSAH 19 to CSAH 38 in Lac qui Parle County, west along CSAH 38 to U.S. 75, north along U.S. 75 to STH 7, east along STH 7 to CSAH 6 in Swift County, east along CSAH 6 to County Road 65 in Swift County, south along County 65 to County 34 in Chippewa County, south along County 34 to CSAH 12 in Chippewa County, east along CSAH 12 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 7, southeast along STH 7 to Montevideo and along the municipal boundary of Montevideo to U.S. 212; then west along U.S. 212 to the point of beginning.

Northwest Zone: That portion of the state encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Northeast Zone—That portion of the state encompassed by the following boundary: Beginning on State Trunk Highway (STH) 72 at the northern boundary of the state, thence along STH 72 to the Tamarac River in Beltrami County, thence along the southerly shore of the Tamarac River to Upper Red Lake, thence along the easterly and southerly shores of Upper Red Lake to the easterly boundary of the Red Lake Indian Reservation, thence along the easterly boundary of said Reservation to STH 1, thence along STH 1 to STH 72, thence along STH 72 to U.S. Highway 71, thence along U.S. 71 to County State Aid Highway (CSAH) 39 in Beltrami County, thence along CSAH 39 to CSAH 20, thence along CSAH 20 to CSAH 53, thence along CSAH 53 to CSAH 12, thence along CSAH 12 to CSAH 51, thence along CSAH 51 to CSAH 8, thence along CSAH 8 to CSAH 25, thence along CSAH 25 to CSAH 4, thence along CSAH 4 to CSAH 46, thence along CSAH 46 to U.S. Highway 2, thence along U.S. 2 to CSAH 45, thence along CSAH 45 to CSAH 9, thence along CSAH 9 to CSAH 69, thence along CSAH 69 to CSAH 5, thence along CSAH 5 to CSAH 39, thence along CSAH 39 to County Road (CR) 94, thence along CR 94 to CSAH 31, thence along CSAH 31 to STH 200, thence along STH 200 to STH 371, thence along STH 371 to STH 84, thence along STH 84 to CSAH 2, thence along CSAH 2 to CSAH 1, thence along CSAH 1 to STH 6, thence along STH 6 to STH 18, thence along STH 18 to U.S. Highway 169, thence due east to the west shore of Mille Lacs Lake, thence along the westerly and southerly shores of said lake to a point due north of the junction of U.S. 169 and STH 27, thence due south to said junction, thence along U.S. 169 to STH 23, thence along STH 23 to STH 65, thence along STH 65 to STH 70, thence along STH 70 to the east boundary of the state, thence along the easterly and northerly boundaries of the state to the point of beginning.

Special Canada Goose Seasons:

Fergus Falls/Alexandria Zone: That portion of the state encompassed by a line beginning at the intersection of State Trunk Highway (STH) 55 and STH 28 and extending east along STH 28 to County State Aid Highway (CSAH) 33 in Pope County, north along CSAH 33 to CSAH 3 in Douglas County, north along CSAH 3 to CSAH 69 in Otter Tail

County, north along CSAH 69 to CSAH 46 in Otter Tail County, east along CSAH 46 to the eastern boundary of Otter Tail County, north along the east boundary of Otter Tail County to CSAH 40 in Otter Tail County, west along CSAH 40 to CSAH 75 in Otter Tail County, north along CSAH 75 to STH 210, west along STH 210 to STH 108, north along STH 108 to CSAH 1 in Otter Tail County, west along CSAH 1 to CSAH 14 in Otter Tail County, north along CSAH 14 to CSAH 44 in Otter Tail County, west along CSAH 44 to CSAH 35 in Otter Tail County, north along CSAH 35 to STH 108, west along STH 108 to CSAH 19 in Wilkin County, south along CSAH 19 to STH 55, then southeast along STH 55 to the point of beginning.

Southeast Zone: That portion of the state encompassed by a line extending north from the Iowa border along U.S. Highway 63 to State Trunk Highway [STH] 30, west on STH 30 to County State Aid Highway [CSAH] 13 in Dodge County, north on CSAH 13 to STH 57, north on STH 57 to U.S. Highway 52, north on U.S. Highway 52 to Cannon Falls, north on U.S. Highway 52 to the south boundary of the Twin Cities Metro Goose Zone, east on the south boundary of the Twin Cities Metro Goose Zone to the Wisconsin border.

Missouri

Same zones as for ducks but in addition:

North Zone

Swan Lake Zone: That area bounded by U.S. Highway 36 on the north, Missouri Highway 5 on the east, Missouri 240 and U.S. 65 on the south, and U.S. 65 on the west.

Middle Zone

Southeast Zone: That portion of the State encompassed by a line beginning at the intersection of Missouri Highway (MO) 34 and Interstate 55 and extending south along I–55 to U.S. Highway 62, west along U.S. 62 to MO 53, north along MO 53 to MO 51, north along MO 51 to U.S. 60, west along U.S. 60 to MO 21, north along MO 21 to MO 72, east along MO 72 to MO 34, then east along MO 34 to I–55.

Ohio

Same zones as for ducks but in addition:

North Zone

Lake Erie SJBP Zone: That portion of the state encompassed by a line beginning in Lucas county at the Michigan state line on I–75, and extending south along I–75 to I–280, south along I–280 to I–80, east along I–80 to the Pennsylvania state line in Trumbull county, north along the Pennsylvania state line to SR 6 in Ashtabula county, west along SR 6 to the Lake/Cuyahoga county line, north along the Lake/Cuyahoga county line to the shore of Lake Erie.

Tennessee

Southwest Zone: That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

Northwest Zone: Lake, Obion and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

Kentucky/Barkley Lakes Zone: That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Zones and on the east by State Highway 13 from the Alabama border to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky border.

Wisconsin

Horicon Zone: That area encompassed by a line beginning at the intersection of State Highway 21 and the Fox River in Winnebago County and extending westerly along State 21 to the west boundary of Winnebago County, southerly along the west boundary of Winnebago County to the north boundary of Green Lake County, westerly along the north boundaries of Green Lake and Marquette Counties to State 22, southerly along State 22 to State 33, westerly along State 33 to U.S. Highway 16, westerly along U.S. 16 to Weyh Road, southerly along Weyh Road to County Highway O, southerly along County O to the west boundary of Section 31, southerly along the west boundary of Section 31 to the Sauk/Columbia County boundary, southerly along the Sauk/Columbia County boundary to State 33, easterly along State 33 to Interstate Highway 90/94, southerly along I–90/94 to State 60, easterly along State 60 to State 83, northerly along State 83 to State 175, northerly along State 175 to State 33, easterly along State 33 to U.S. Highway 45, northerly along U.S. 45 to the east shore of the Fond Du Lac River, northerly along the east shore of the Fond Du Lac River to Lake Winnebago, northerly along the western shoreline of Lake Winnebago to the Fox River, then westerly along the Fox River to State 21.

Collins Zone: That area encompassed by a line beginning at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County and extending westerly along Hilltop Road to Humpty Dumpty Road, southerly along Humpty Dumpty Road to Poplar Grove Road, easterly and southerly along Poplar Grove Road to County Highway JJ, southeasterly along County JJ to Collins Road, southerly along Collins Road to the Manitowoc River, southeasterly along the Manitowoc River to Quarry Road, northerly along Quarry Road to Einberger Road, northerly along Einberger Road to Moschel Road, westerly along Moschel Road to Collins Marsh Road, northerly along Collins Marsh Road to Hilltop Road.

Exterior Zone: That portion of the State not included in the Horicon or Collins Zones.

Mississippi River Subzone: That area encompassed by a line beginning at the intersection of the Burlington Northern Railway and the Illinois border in Grant County and extending northerly along the Burlington Northern Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota border.

Rock Prairie Subzone: That area encompassed by a line beginning at the intersection of the Illinois border and Interstate Highway 90 and extending north along I–90 to County Highway A, east along County A to U.S. Highway 12, southeast along U.S. 12 to State Highway 50, west along State 50 to State 120, then south along 120 to the Illinois border.

Brown County Subzone: That area encompassed by a line beginning at the intersection of the Fox River with Green Bay in Brown County and extending southerly along the Fox River to State Highway 29, northwesterly along State 29 to the Brown County line, south, east, and north along the Brown County line to Green Bay, due west to the midpoint of the Green Bay Ship Channel, then southwesterly along the Green Bay Ship Channel to the Fox River.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All lands in Adams, Boulder, Clear Creek, Denver, Gilpin, Jefferson, Larimer, and Weld Counties west of I–25 from the Wyoming border south to I–70; west on I–70 to the Continental Divide; north along the Continental Divide to the Jackson-Larimer County Line to the Wyoming border.

South Park/San Luis Valley Area: Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Teller, and Rio Grande Counties and those portions of Hinsdale, Mineral, and Saguache Counties east of the Continental Divide.

North Park Area: Jackson County.

Arkansas Valley Area: Baca, Bent, Crowley, Kiowa, Otero, and Prowers Counties.

Pueblo County Area: Pueblo County.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: that portion of the State east of Interstate Highway 25.

Kansas

Light Geese

Unit 1: That portion of Kansas east of a line beginning at the intersection of the Nebraska border and KS 99, extending south along KS 99 to I–70 to U.S. 75, south on U.S. 75 to U.S. 54, west on U.S. 54 to KS 99, and then south on KS 99 to the Oklahoma border.

Unit 2: The remainder of Kansas, laying west of Unit 1.

Dark Geese

Marais des Cygnes Valley Unit: The area is bounded by the Missouri border to KS 68, KS 68 to U.S. 169, U.S. 169 to KS 7, KS 7 to KS 31, KS 31 to U.S. 69, U.S. 69 to KS 239, KS 239 to the Missouri border.

South Flint Hills Unit: The area is bounded by highways U.S. 50 to KS 57, KS 57 to U.S. 75, U.S. 75 to KS 39, KS 39 to KS 96, KS 96 to U.S. 77, U.S. 77 to U.S. 50.

Flint Hills Unit: That part of Kansas bounded by a line from the junction of I–35 and K–57, then south and east on K–57 to its junction US–75, then south on US–75 to its junction with K–39, then south and west on K–39 to its junction with K–96, then west on K–96 to its junction with US–77, then north on US–77 to its junction with I–70, then east on I–70 to its junction with US–75, then south on US–75 to its junction with I–35, then west on I–35 to its junction with K–57, except federal and state sanctuaries.

Montana (Central Flyway Portion)

Sheridan County: Includes all of Sheridan County.

Remainder: Includes the remainder of the Central Flyway portion of Montana.

Nebraska

Dark Geese

North Unit: Keya Paha County east of U.S. 183 and all of Boyd County, including the boundary waters of the Niobrara River, all of Knox County and that portion of Cedar County west of U.S. 81.

Southcentral Unit: That area south and west of U.S. 281 at the Kansas/Nebraska border, north to Giltner Road (near Doniphan), east to NE 14, north to NE 91, west to U.S. 183, south to NE 92, west to NE 61, north to U.S. 2, west to the intersection of Garden, Grant, and Sheridan counties, then west along the northern border of Garden, Morrill, and Scotts Bluff counties to the Wyoming border.

Northcentral Unit: That area north of the Southcentral Unit and west of U.S. 183.

East Unit: The remainder of Nebraska.

Light Geese

Rainwater Basin Light Goose Area (West): The area bounded by the junction of U.S. 283 and U.S. 30 at Lexington, east on U.S. 30 to U.S. 281, south on U.S. 281 to NE 4, west on NE 4 to U.S. 34, continue west on U.S. 34 to U.S. 283, then north on U.S. 283 to the beginning.

Rainwater Basin Light Goose Area (East): The area bounded by the junction of U.S. 281 and US 30 at Grand Island, north and east on U.S. 30 to NE 92, east on NE 92 to NE 15, south on NE 15 to NE 4, west on NE 4 to U.S. 281, north on U.S. 281 to the beginning.

Remainder of State: The remainder portion of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Dark Geese

Missouri River Zone: That area encompassed by a line extending from the South Dakota border north on U.S. 83 and I–94 to ND 41, north to ND 53, west to U.S. 83, north to ND 23, west to ND 37, south to ND 1804, south approximately 9 miles to Elbowoods Bay on Lake Sakakawea, south and west across the lake to ND 8, south to ND 200, east to ND 31, south to ND 25, south to I–94, east to ND 6, south to the South Dakota border, and east to the point of origin.

Statewide: All of North Dakota.

South Dakota

Dark Geese

Unit 1: Statewide except for Units 2 and 3.

Power Plant Area: That portion of Grant County east of SD 15 and north of SD 20.

Unit 2: Brule, Buffalo, Campbell, Dewey, Hughes, Hyde, Lyman, Potter, Stanley, Sully, and Walworth Counties and that portion of Corson County east of State Highway 65.

Unit 3: Charles Mix and Gregory Counties.

Texas

West Unit: That portion of the State laying west of a line from the international toll bridge at Laredo; north along I–35 and I–35W to Fort Worth; northwest along U.S. 81 and U.S. 287 to Bowie; and north along U.S. 81 to the Oklahoma border.

East Unit: Remainder of State.

Wyoming (Central Flyway Portion)

Area 1: Converse, Hot Springs, Natrona, and Washakie Counties, and that portion of Park County south of T58N.

Area 2: Platte County.

Area 3: Albany, Big Horn, Campbell, Crook, Fremont, Johnson, Laramie, Niobrara, Sheridan, and Weston Counties and those portions of Carbon County east of the Continental Divide and Park County north of T58N.

Area 4: Goshen County.

Pacific Flyway

Arizona

GMU 22 and 23: Game Management Units 22 and 23.

Remainder of State: The remainder of Arizona.

California

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road;

south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

Del Norte and Humboldt Area: The Counties of Del Norte and Humboldt.

Sacramento Valley Special Management Area (East): That area bounded by a line beginning at the junction of the Gridley-Colusa Highway and the Cherokee Canal; west on the Gridley-Colusa Highway to Gould Road; west on Gould Road and due west 0.75 miles directly to Highway 45; south on Highway 45 to Highway 20; east on Highway 20 to West Butte Road; north on West Butte Road to Pass Road; west on Pass Road to West Butte Road; north on West Butte Road to North Butte Road; west on North Butte Road and due west 0.5 miles directly to the Cherokee Canal; north on the Cherokee Canal to the point of beginning.

Sacramento Valley Special Management Area (West): That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

San Joaquin Valley Special Management Area: That area bounded by a line beginning at the intersection of Highway 5 and Highway 120; south on Highway 5 to Highway 33; southeast on Highway 33 to Crows Landing Road; north on Crows Landing Road to Highway 99; north on Highway 99 to Highway 120; west on Highway 120 to the point of beginning.

Western Canada Goose Hunt Area: That portion of the above described Sacramento Valley Area lying east of a line formed by Butte Creek from the Gridley-Colusa Highway south to the Cherokee Canal; easterly along the Cherokee Canal and North Butte Road to West Butte Road; southerly on West Butte Road to Pass Road; easterly on Pass Road to West Butte Road; southerly on West Butte Road to CA 20; and westerly along CA 20 to the Sacramento River.

Colorado (Pacific Flyway Portion)

West Central Area: Archuleta, Delta, Dolores, Gunnison, LaPlata, Montezuma, Montrose, Ouray, San Juan, and San Miguel Counties and those portions of Hinsdale, Mineral and Saguache Counties west of the Continental Divide.

State Area: The remainder of the Pacific-Flyway Portion of Colorado.

Idaho

Zone 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

Zone 2: The Counties of Ada; Adams; Boise; Canyon; those portions of Elmore north and east of I-84, and south and west of I–84, west of ID 51, except the Camas Creek drainage; Gem; Owyhee west of ID 51; Payette; Valley; and Washington.

Zone 3: The Counties of Blaine; Camas; Cassia; those portions of Elmore south of I–84 east of ID 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of ID 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls.

Zone 4: The Counties of Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville, Butte; Caribou except the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of ID 37 and ID 39 except the Minidoka National Wildlife Refuge; and Teton.

Zone 5: All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

In addition, goose frameworks are set by the following geographical areas:

Northern Unit: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

Southwestern Unit: That area west of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border (except the Northern Unit and except Custer and Lemhi Counties).

Southeastern Unit: That area east of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border, including all of Custer and Lemhi Counties.

Montana (Pacific Flyway Portion)

East of the Divide Zone: The Pacific Flyway portion of the State located east of the Continental Divide.

West of the Divide Zone: The remainder of the Pacific Flyway portion of Montana.

Nevada

Lincoln Clark County Zone: All of Lincoln and Clark Counties

Remainder-of-the-State Zone: The remainder of Nevada.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Southwest Zone: Douglas, Coos, Curry, Josephine and Jackson Counties.

Northwest Special Permit Zone: That portion of western Oregon west and north of a line running south from the Columbia River in Portland along I–5 to OR 22 at Salem; then east on OR 22 to the Stayton Cutoff; then south on the Stayton Cutoff to Stayton and due south to the Santiam River; then west along the north shore of the Santiam River to I–5; then south on I–5 to OR 126 at Eugene; then west on OR 126 to Greenhill Road; then south on Greenhill Road to Crow Road; then west on Crow Road to Territorial Hwy; then west on Territorial Hwy to OR 126; then west on OR 126 to OR 36; then north on OR 36 to Forest Road 5070 at Brickerville; then west and south on Forest Road 5070 to OR 126; then west on OR 126 to the Pacific Coast.

Northwest Zone: Those portions of Clackamas, Lane, Linn, Marion, Multnomah, and Washington Counties outside of the Northwest Special Permit Zone.

Closed Zone: Those portions of Coos, Curry, Douglas and Lane Counties west of US 101.

Eastern Zone: Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Deschutes, Jefferson, Crook, Wheeler, Grant, Baker, Union, and Wallowa Counties.

Lake County Zone: All of Lake County.

Utah

Washington County Zone: All of Washington County.

Remainder-of-the-State Zone: The remainder of Utah.

Washington

Eastern Washington: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Area 1: Lincoln, Spokane, and Walla Walla Counties; that part of Grant County east of a line beginning at the Douglas-Lincoln County line on WA 174, southwest on WA 174 to WA 155, south on WA 155 to US 2, southwest on US 2 to Pinto Ridge Road, south on Pinto Ridge Road to WA 28, east on WA 28 to the Stratford Road, south on the Stratford Road to WA 17, south on WA 17 to the Grant-Adams County line; those parts of Adams County east of State Highway 17; those parts of Franklin County east and south of a line beginning at the Adams-Franklin County line on WA 17, south on WA 17 to US 395, south on US 395 to I–182, west of I–182 to the Franklin-Benton County line; those parts of Benton County south of I–182 and I–82; and those parts of Klickitat County east of U.S. Highway 97.

Area 2: All of Okanongan, Douglas, and Kittitas Counties and those parts of Grant, Adams, Franklin, and Benton Counties not included in Eastern Washington Goose Management Area 1.

Area 3: All other parts of eastern Washington not included in Eastern Washington Goose Management Areas 1 and 2.

Western Washington: All areas west of the East Zone.

Area 1: Skagit, Island, and Snohomish Counties.

Area 2: Clark County, except portions south of the Washougal River, Cowlitz, Pacific, and Wahkiakum Counties, and that portion of Grays Harbor County south of U.S. highway 12 and east of U.S. highway 101.

Area 3: All parts of western Washington not included in Western Washington Goose Management Areas 1 and 2.

Lower Columbia River Early-Season Canada Goose Zone: Beginning at the Washington-Oregon border on the I–5 Bridge near Vancouver, Washington; north on I–5 to Kelso; west on Highway 4 from Kelso to Highway 401; south and west on Highway 401 to Highway 101 at the Astoria-Megler Bridge; west on Highway 101 to Gray Drive in the City of Ilwaco; west on Gray Drive to Canby Road; southwest on Canby Road to the North Jetty; southwest on the North Jetty to its end; southeast to the Washington-Oregon border; upstream along the Washington-Oregon border to the point of origin.

Wyoming (Pacific Flyway Portion): See State Regulations.

Bear River Area: That portion of Lincoln County described in State regulations.

Salt River Area: That portion of Lincoln County described in State regulations.

Eden-Farson Area: Those portions of Sweetwater and Sublette Counties described in State regulations.

Swans

Central Flyway

South Dakota: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Deuel, Day, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box, Elder, Weber, Davis, Salt Lake, and Toole Counties lying south of State Hwy 30, I–80/84, west of I–15, and north of I–80.

[FR Doc. 99–22364 Filed 8–26–99; 8:45 am]

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federal register

Friday
August 27, 1999

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN: 1018–AF24

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final early-season frameworks which States, Puerto Rico, and the Virgin Islands may select season dates, limits, and other options for the 1999–2000 migratory bird hunting seasons. Early seasons are those which generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. The effect of this final rule is to facilitate the selection of hunting seasons by the States and Territories to further the annual establishment of the early-season migratory bird hunting regulations. These selections will be published in the **Federal Register** as amendments to 20.101 through 20.107, and 20.109 of title 50 CFR part 20.

DATES: This rule takes effect on August 27, 1999.

ADDRESSES: States and Territories should send their season selections to: Chief, Office of Migratory Bird Management, US Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW, Washington, DC 20240. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Jonathan Andrew, Chief, or Ron W. Kokel, Office of Migratory Bird Management, US Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1999

On May 3, 1999, the US Fish and Wildlife Service (hereinafter Service or we) published in the **Federal Register** (64 FR 23742) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 17, we published in the **Federal Register** (64 FR 32758) a second document providing supplemental proposals for early-and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 1999-2000 duck hunting season. The June 17 supplement also provided detailed information on the 1999-2000 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

On June 22–23, we held meetings that reviewed information on the current status of migratory shore and upland game birds and developed 1999–2000 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 1999–2000 regular waterfowl seasons. On July 22, we published in the **Federal Register** (64 FR 39460) a third document specifically dealing with the proposed frameworks for early-season regulations for the 1999–2000 duck hunting season.

This document is the fourth in a series of proposed, supplemental, and final rulemaking documents. It establishes final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 1999–2000 season.

Review of Public Comments

The preliminary proposed rulemaking, which appeared in the May 3 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The public comment period for early season issues ended on August 2, 1999. We have considered all pertinent comments received in developing this document. Early-season comments are summarized below and numbered in the order used in the May 3 **Federal Register**. Only the numbered items pertaining to early seasons issues for which written comments were received are included. We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

General

Written Comments: The Humane Society of the United States (HSUS) believed that all migratory bird seasons should be closed or severely restricted for those species either lacking reliable population data or which data indicates significant and sustained declines. HSUS recommended all seasons open at noon, mid-week, to reduce the large kills associated with the traditional Saturday openings and that hunting during the one-half hour before sunrise be eliminated.

Service Response: The long-term objectives of the Service continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Annually, we evaluate the status of populations and considers the potential impacts of hunting. We believe that the hunting seasons provided herein are consistent with the current status of populations and long-term population goals and there is no evidence to suggest the frameworks provided are not appropriate.

Regarding mid-week season openings, we have previously stated in the **Federal Register** (58 FR 50190) that a State may choose to delay its opening date to correspond with a particular day of the week or to close earlier to maximize the number of weekends that hunting is allowed.

In regard to shooting hours, we have compiled information which demonstrates that shooting hours beginning one-half hour before sunrise do not contribute significantly to the harvest of nontarget species. Consistent with the Service's long-term strategy for shooting hours, published in the September 21, 1990, **Federal Register** (55 FR 38898), the frameworks herein provide for shooting hours of one-half hour before sunrise to sunset, unless otherwise specified.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. The categories correspond to previous published issues/discussion and only those containing substantial recommendations are discussed below.

G. Special Seasons/Species Management

iv. September Teal/Wood Duck Seasons

Council Recommendations: The Lower-Region Regulations Committee of the Mississippi Flyway Council requested that the Service clarify the linkage between the Flyway-wide wood duck harvest strategy, September teal seasons, and regional (reference area) September wood duck seasons. They further recommended the continuation of the experimental September teal/wood duck seasons in Kentucky and Tennessee in 1999 with no changes from the 1998 season.

Written Comments: The Wildlife Management Institute supported the decision to discontinue special teal and wood duck seasons in Florida, Kentucky, and Tennessee after September 2000 and to replace those seasons with Flyway-wide prescriptions.

An individual in Alabama, citing Tennessee's experimental September teal/wood duck season requested we allow wood ducks in the daily bag limit during Alabama's September teal season.

Service Response: In the July 17, 1998, **Federal Register** (63 FR 38707) we indicated that September wood duck seasons would be allowed to continue for a maximum of 3 years. Results from the Wood Duck Population Monitoring Initiative indicate that sufficient monitoring capabilities currently do not exist at the sub-Flyway level to support continuation of September wood duck seasons. Therefore, the seasons in Florida, Kentucky, and Tennessee will be discontinued after September 2000. Flyway harvest strategies that address regular-season wood duck regulations will then be implemented for the 2001–2002 season. We see no linkage between the Flyway-wide wood duck strategy, September teal seasons, and regional September wood duck seasons.

v. Youth Hunt

Council Recommendations: The Lower-Region Regulations Committee of the Mississippi Flyway Council and the Central Flyway Council recommended expansion of the special youth waterfowl hunt to 2 days.

Written Comments: The Alabama Division of Game and Fish recommended expansion of the special youth hunt to 2 consecutive days.

Service Response: We appreciate the Flyway Councils' support of the youth waterfowl hunting day, but do not support the recommendation of the Mississippi Flyway Council's Lower-Region Regulations Committee and the Central Flyway Council to expand the youth hunt to two consecutive days. Our intent in establishing this special day of opportunity was to introduce youth to the concepts of ethical utilization and stewardship of waterfowl and other natural resources, encourage youngsters and adults to experience the outdoors together, and to contribute to the long-term conservation of the migratory bird resource. We view the special youth hunting day as a unique educational opportunity, above and beyond the regular season, which helps ensure high-quality learning experiences for those youth indicating interest in hunting. We believe that the youth hunting day will help develop a conservation ethic in our youth and is consistent with the Service's responsibility to foster an appreciation for our nation's valuable wildlife resources. We do not believe an extensive evaluation of the effects of youth hunting day is cost effective but believe waterfowl populations can support this limited additional opportunity. Increases in the duration of this unique opportunity would increase the pressure to conduct additional evaluations. With the above objectives and potential costs in mind, there is not a compelling reason to extend the opportunity beyond the 1-day period.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council made several recommendations concerning September goose seasons. They recommended the approval of operational status for a September 1 to 25 framework in Crawford County, Pennsylvania, and a September 1 to 30 framework in New Jersey. They further recommended the expansion of the September goose season framework closing date around Montezuma National Wildlife Refuge, New York from September 15 to 20.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that Minnesota be allowed to have an experimental extension of their September special season from September 16 to 22, except in the Northwest Goose Zone, for the 1999–2001 hunting seasons. The Lower-Region Regulations Committee of the Mississippi Flyway Council urged the Service to use caution in changing or expanding special goose seasons.

The Pacific Flyway Council recommended the addition of the Bridger Valley hunt unit to the existing September RMP Canada goose seasons in western Wyoming, with frameworks of September 1 to 7.

Written Comments: The Alabama Division expressed appreciation for the caution demonstrated by the Service in changing or expanding special Canada goose seasons.

The Pennsylvania Farm Bureau recommended lengthening hunting seasons for resident geese to provide relief from excessive crop damage. An individual in Pennsylvania also supported increasing hunting seasons to help farmers control excessive goose damage.

The Friends of Lake Shelbyville Wildlife opposed any hunting of Canada geese in the Lake Shelbyville, Illinois area due to declining populations in this area. They further request that the Service and the Illinois Department of Natural Resources examine the circumstances for the population decline.

The Wildlife Management Institute supported the proposed changes in Canada goose special seasons in New Jersey, Pennsylvania, New York, Minnesota, and Wyoming.

Service Response: We concur with the recommendations regarding the change in status for the New Jersey and Pennsylvania special seasons. Additionally, we concur with the recommendations for experimental extensions of the special September Canada goose seasons in New York and Minnesota, with the provisions and evaluation outlined in their proposals. We also concur with the proposal to add the Bridger Valley Hunt Unit in Wyoming.

Regarding the specific area of concern in Illinois, we note that the Mississippi Flyway Giant Population (MFGP) of Canada geese (i.e., resident Canada geese) now numbers almost 1.4 million according to the 1999 spring survey. Additionally, conditions were favorable to extremely favorable for nesting geese throughout their breeding range this year and we expect another large fall flight. While localized populations may have experienced recent declines, we believe the current population status of MFGP supports the continued use of special seasons. Further, we note that, as always, Illinois may be more restrictive than Federal frameworks. As such, we have forwarded the comments in question to the Illinois Department of Natural Resources.

B. Regular Seasons

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the 1999 regular goose season opening date be as early as

September 18 in Michigan and Wisconsin.

Service Response: We concur with the recommendations for a September 18 opening date in Wisconsin and the North Zone (Upper Peninsula) of Michigan. For the Lower Peninsula (Middle and South Zones) of Michigan, we concur with the recommendation for a September 18 opening under the conditions for Canada geese identified in the following frameworks. Continuation of an opening date earlier than the Saturday nearest October 1 in the Lower Peninsula beyond the 1999–2000 hunting season will be contingent upon the State's developing a proposal for evaluating the population composition of the Canada goose harvest during the earlier regular seasons in comparison to seasons with a traditional opening date. In addition to identifying the kinds of data to be collected and analyzed during the next few years, the proposal should include a summary of data collected during the earlier regular seasons in 1998–99 and 1999–2000. Michigan should submit the proposal to us and the Mississippi Flyway Council prior to the Council's March 2000 meeting.

Regarding the Lower-Region Regulation Committee's concern for cumulative impacts of special-season harvests on migrant Canada goose populations of concern, we are aware of the Committee's concern and are monitoring the harvests occurring during these seasons.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended removal of the ''float'' portion (10% of the total allowable harvest) of the Rocky Mountain Population (RMP) greater sandhill crane annual harvest allocation for the 1999–2000 and 2000–2001 seasons. The Council recommended removal of this harvest portion to allow a research study.

The Pacific Flyway Council recommended several changes in sandhill crane seasons. For greater sandhill cranes, the Council recommended the establishment of a new experimental crane hunt in Box Elder County, Utah, between September 1 and September 30. For RMP cranes, the Council recommended that the frameworks be modified to include Bear Lake and Fremont Counties in Idaho, and that the current requirement for hunter check stations in these counties be waived. The Council further recommended that the annual check station requirement for the Arizona RMP Greater Sandhill Crane hunt be modified to a required check station every 3 years.

Written Comments: The HSUS recommends that all crane seasons be closed. The HSUS believes that these seasons are held largely to sustain hunter interest.

Service Response: We concur with the various proposals from the Central and Pacific Flyway Councils regarding RMP Cranes. We note that several of the proposals received from the Pacific Flyway Council were requests for exemptions from specific provisions of the management plan for this population. We believe the biological information was clearly in support of the recommended exemptions, however, we would also note that it is our strong preference to see the Councils address these types of issues through management plan revisions rather than through exemptions to procedures placed in Federal regulations. Therefore, we have approved these recommendations but require that the management plan for this population be revised to reflect these changes in procedures by July, 2001. Further, we request that the Pacific Flyway Council give consideration to changing management plans rather than requesting federal regulatory changes if similar situations should develop with this or other populations of migratory game birds in the future.

Regarding HSUS's recommendations for closed seasons, available information indicates that harvest pressure on cranes is commensurate with the population status and the various crane management plans. Crane harvest is closely monitored by the Service, the Flyway Councils, and the States and there is no evidence to suggest the frameworks provided are not appropriate.

18. Alaska

Council Recommendations: The Pacific Flyway Council made several recommendations concerning Alaska. For sea ducks, the Council recommended reducing the separate sea duck bag and possession limits from 15/30 to 10/20 king and common eiders, scoters, and mergansers in the aggregate. Long-tailed ducks (oldsquaws) and harlequins would be included in general duck limits and seasons would remain closed for spectacled and Steller's eiders. For Canada geese, the Council recommended removal of Canada goose bag limit restrictions within dark goose bag limits (4/8) in Alaska Game Management Subunit 9E (Alaska Peninsula) and Unit 18 (Y–K Delta). Further, for tundra swans, the Council recommended that tundra swan permits issued for swan hunts in Alaska allow the take of up to 3 swans per permit, with no change in reporting requirements or other framework conditions.

Written comments: The HSUS recommended that the opening date for all seasons in Alaska be delayed by 2 weeks so that young birds are able to leave natal marshes before being subjected to hunting pressure.

A constituent from Alaska wrote regarding the need for greater reductions in sea duck harvest regulations than had been proposed by the Pacific Flyway Council. The constituent noted the declining trends seen in sea ducks, the differing reproductive strategy of sea ducks, pertinent biological considerations, cumulative mortality factors, historical bag limits, and additive mortality considerations.

Service Response: We concur with the recommendations regarding Alaska's migratory game birds regulations for the 1999–2000 hunting season. We have carefully reviewed the recommendation regarding changes in Alaska's sea duck regulations from both the Council and from a concerned constituent. The population status of sea ducks remains a concern. We believe that the Council's proposed changes constitute a good first step in developing a more comprehensive strategy for the long-term harvest management of sea ducks in Alaska. We are convinced that the long-term solution will involve both sport and subsistence harvest as well as meeting many of the pressing information needs for this important waterfowl group. We look forward to working with our partners in the newly formed Sea Duck Joint Venture to meet these challenges.

Additionally, we note that the tundra swan permit request for Alaska is another instance where the Council is requesting an exemption from procedures outlined in approved management plans. While we recognize the special circumstances that have led to this recommendation and have approved the change in procedures as recommended by the Council, we strongly prefer that future deviations from procedures in the management plan be addressed through management plan revisions rather than Federal regulation. Further, it is our belief that changes in total harvest allocation were not intended to result from the proposed changes in the permit procedure. Therefore, we have not changed the total swan harvest allocated to Alaska. We strongly recommend that the western tundra swan management and hunt plans be revised in a timely fashion and prior to any further requests

for exceptions to the procedures outlined in the management and hunt plans. We suggest that July of 2001 would seem a reasonable target date for completion of such a revision and will work with the Council to achieve this goal.

Regarding Alaska's opening date, we reiterate previous responses that hunting pressure on migratory birds is comparatively light. Many species migrate from Alaska before seasons opening in September and there is no evidence indicating regulated hunting has adversely impacted local populations.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under the caption **ADDRESSES**.

Endangered Species Act Consideration

As in the past, we design hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. We conducted consultations to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. Final frameworks reflect any modifications. The biological opinions resulting from section 7 consultation are public documents available for inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES**.

Executive Order (E.O.) 12866

This rule is economically significant and was reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between $429 and $1,084 million at small businesses in 1998. Copies of the Analysis are available upon request.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 9/30/2000). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that these regulations meet the applicable standards found in sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections. This process preserves the ability of the States to determine which seasons meet their individual needs. Any State may be more restrictive than the Federal frameworks. The frameworks are developed in a cooperative process with

the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended, (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season and option selections from these officials, we will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 1999–2000 season.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1999–2000 hunting season are authorized under 16 U.S.C. 703–711, 16 U.S.C. 712, and 16 U.S.C. 742 a–j.

Dated: August 16, 1999.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 1999–2000 Early Hunting Seasons on Certain Migratory Game Birds Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following frameworks which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select for certain migratory game birds between September 1, 1999, and March 10, 2000.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

Mourning Dove Management Units

Eastern Management Unit—All States east of the Mississippi River, and Louisiana.

Central Management Unit—Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit—Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions:

Eastern Management Region—Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region—Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway—Delaware, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia. All seasons are experimental.

Mississippi Flyway—Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, and Tennessee.

Central Flyway—Colorado (part), Kansas, New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive days in the Atlantic Flyway and 16 consecutive days in the Mississippi and Central Flyways. The daily bag limit is 4 teal.

Shooting Hours:

Atlantic Flyway—One-half hour before sunrise to sunset, if evaluated; otherwise sunrise to sunset.

Mississippi and Central Flyways—One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida: A 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate.

Kentucky and Tennessee: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 18). The daily bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process. The remainder of the regular duck season may not begin before October 10.

Special Youth Waterfowl Hunting Day

Outside Dates: States may select 1 day per duck-hunting zone, designated as ''Youth Waterfowl Hunting Day,'' in addition to their regular duck seasons. The day must be held outside any regular duck season on a weekend, holiday, or other non-school day when youth hunters would have the maximum opportunity to participate. The day may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limit may include ducks, geese, mergansers, coots, moorhens, and gallinules and would be the same as that allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult could not duck hunt but may participate in other seasons that are open on the special youth day.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 20.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected for the Montezuma Region of New York, the Lake Champlain Region of New York and Vermont, the Eastern Unit of Maryland, and Delaware. Seasons not to exceed 20 days during September 1–20 may be selected for the Northeast Hunt Unit of North Carolina. Seasons not to exceed 30 days during September 1–30 may be selected by New Jersey. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway, except Georgia and Florida, where the season is closed. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Experimental Seasons

Experimental Canada goose seasons of up to 20 days during September 1–20 may be selected by New York (Montezuma Region). Experimental seasons of up to 30 days during September 1–30 may be selected by New York (Long Island Zone), North Carolina (except in the Northeast Hunt Unit), and South Carolina. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Mississippi Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected, except in the Upper Peninsula in Michigan, where the season may not extend beyond September 10, and in the Michigan Counties of Huron, Saginaw and Tuscola, where no special season may be held. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Experimental Seasons

An experimental Canada goose season of up to 7 consecutive days during September 16–22 may be selected by Minnesota, except in the Northwest Goose Zone. The daily bag limit may not exceed 5 Canada geese.

Central Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Pacific Flyway

General Seasons

Wyoming may select an 8-day season on Canada geese between September 1–15. This season is subject to the following conditions:

1. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.

2. All participants must have a valid State permit for the special season.

3. A daily bag limit of 2, with season and possession limits of 4 will apply to the special season.

Oregon may select a special Canada goose season of up to 15 days during the period September 1–15. In addition, in the NW goose management zone, a 15-day season may be selected during the period September 1–20. Any portion of the season selected between September 16 and 20 will be considered experimental. Daily bag limits may not exceed 5 Canada geese. In the NW goose zone, at a minimum, Oregon must provide an annual evaluation of the number of dusky Canada geese present in the hunt zone during the period September 16–20 and agree to adjust seasons as necessary to avoid any potential harvest of dusky Canada geese.

Washington may select a special Canada goose season of up to 15 days during the period September 1–15. Daily bag limits may not exceed 3 Canada geese.

Idaho may select a 15-day season in the special East Canada Goose Zone, as described in State regulations, during the period September 1–15. All participants must have a valid State permit and the total number of permits issued is not to exceed 110 for this zone. The daily bag limit is 2.

Idaho may select a 7-day Canada Goose Season during the period September 1–15 in Nez Perce County, with a bag limit of 4.

California may select a 9-day season in Humboldt County during the period September 1–15. The daily bag limit is 2.

Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Regular goose seasons may open as early as September 18 in Wisconsin and Michigan. In Wisconsin, and in Michigan for all geese except Canada geese, season lengths and bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process. In the Middle and South Zones of Michigan, for Canada goose seasons opening September 18, the season may not exceed 23 days. The daily bag limit will be 2 Canada geese, except that in the South Zone, during that portion of the season that overlaps the duck season, the daily bag limit will be one Canada goose. Provision for seasons opening October 2 or later will be contained in the late-season frameworks.

Sandhill Cranes

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit and/or, in those States where a Federal sandhill crane permit is not issued, a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting, in their possession while hunting.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils with the following exceptions:

(1) In Utah, the requirement for monitoring the racial composition of the harvest in the experimental season is waived and 100% of the harvest will be assigned to the RMP quota;

(2) In Arizona, the annual requirement for monitoring the racial composition of the harvest is changed to once every 3 years; and

(3) In Idaho, seasons are experimental and the requirement for monitoring the racial composition of the harvest is waived, 100% of the harvest will be assigned to the RMP quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 20 in the Atlantic Flyway, and between September 1 and the Sunday nearest January 20 (January 23) in the Mississippi and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 20 on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits:

Clapper and King Rails—In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails—In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28, except in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 6 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 25) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 30 days in the Atlantic Flyway and 45 days in

the Central and Mississippi Flyways. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 24 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with bag and possession limits of 2 and 2 band-tailed pigeons, respectively.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 4.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. The hunting seasons in the South Zones of Alabama, Florida, Georgia, Louisiana, and Mississippi may commence no earlier than September 20. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Each zone may have a daily bag limit of 12 doves (15 under the alternative) in the aggregate, no more than 2 of which may be white-tipped doves, except that during the special white-winged dove season, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

Hunting Seasons and Daily Bag Limits: Idaho, Nevada, Oregon, Utah, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves (in Nevada, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate).

Arizona and California—Not more than 60 days which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is restricted to 10 mourning doves. In California, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-Winged and White-Tipped Doves

Hunting Seasons and Daily Bag Limits

Except as shown below, seasons in Arizona, California, Florida, Nevada, New Mexico, and Texas must be concurrent with mourning dove seasons.

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In Florida, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate, of which no more than 4 may be white-winged doves.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In New Mexico, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate.

In Texas, the daily bag limit may not exceed 12 doves (15 under the alternative) in the aggregate, of which not more than 2 may be white-tipped doves.

In addition, Texas may also select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of five zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on Aleutian Canada geese, emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession limits:

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. The basic limits may include no more than 1 canvasback daily and 3 in possession.

In addition to the basic duck limits, there is a sea duck daily bag limit of 10, with a possession limit of 20, scoter, common and king eiders, and common and red-breasted mergansers, singly or in the aggregate. Alaska may choose to allow these sea duck limits in addition to regular duck bag limits. However, the

total daily bag limit for any duck species may not exceed 10.

Light Geese—A basic daily bag limit of 3 and a possession limit of 6.

Dark Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark-goose seasons are subject to the following exceptions:

1. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16. A special, permit only Canada goose season may be offered on Middleton Island. No more than 10 permits can be issued. A mandatory goose identification class is required . Hunters must check-in and check-out. Bag limit of 1 daily and 1 in possession. Season to close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

2. In Unit 10 (except Unimak Island), the taking of Canada geese is prohibited.

3. In Unit 9(D) and the Unimak Island portion of Unit 10, the limits for dark geese are 6 daily and 12 in possession.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—A daily bag limit of 3.

Tundra Swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. All seasons are by registration permit only.

2. All season framework dates are September 1–October 31.

3. In GMU 18, no more than 500 swans may be harvested during the operational season. Up to 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

4. In GMU 22, no more than 300 swans may be harvested during the operational season. Each permittee may be authorized to take up to 3 tundra swan per permit. No more than 1 permit may be issued per hunter per season.

5. In GMU 23, no more than 300 swans may be harvested during the experimental season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season. The experimental season evaluation must adhere to the guidelines for experimental seasons as described in the Pacific Flyway Management Plan for the Western Population of (Tundra) Swans.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida, mourning, and white-winged doves in the aggregate. Not to exceed 5 scaly-naped pigeons.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits:

Ducks—Not to exceed 6.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Mourning and White-Winged Doves

Alabama

South Zone—Baldwin, Barbour, Coffee, Conecuh, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone—Remainder of the State.

California

White-winged Dove Open Areas—Imperial, Riverside, and San Bernardino Counties.

Florida

Northwest Zone—The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone—Remainder of State.

Georgia

Northern Zone—That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County; thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of the Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County, to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans County to U.S. Highway 301; thence northeast along U.S. Highway 301 to the South Carolina line.

South Zone—Remainder of the State.

Louisiana

North Zone—That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone—The remainder of the State.

Mississippi

South Zone—The Counties of Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Marion, Pearl River, Perry, Pike, Stone, and Walthall.

North Zone—The remainder of the State.

Nevada

White-winged Dove Open Areas—Clark and Nye Counties.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to Uvalde; south on U.S. 83 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions—Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone—That portion of the State lying between the North and South Zones.

Band-Tailed Pigeons

California

North Zone—Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Washington

Western Washington—The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone—That portion of the State north of NJ 70.

South Zone—The remainder of the State.

Special September Canada Goose Seasons

Atlantic Flyway

Connecticut

North Zone—That portion of the State north of I–95.

Maryland

Eastern Unit—Anne Arundel, Calvert, Caroline, Cecil, Charles, Dorchester, Harford, Kent, Queen Annes, St. Marys, Somerset, Talbot, Wicomico, and Worcester Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Western Unit—Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Massachusetts

Western Zone—That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone—That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of Massachusetts east and south of the Central Zone.

New York

Lake Champlain Zone—The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone—That area consisting of Nassau County, Suffolk

County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone—That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border, except for the Montezuma Zone.

Montezuma Zone—Those portions of Cayuga, Seneca, Ontario, Wayne, and Oswego Counties north of U.S. Route 20, east of NYS Route 14, south of NYS Route 104, and west of NYS Route 34.

Northeastern Zone—That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone—The remaining portion of New York.

North Carolina

Northeast Hunt Unit—Counties of Bertie, Camden, Chovan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

South Carolina

Early-season Hunt Unit—Clarendon County and those portions of Orangeburg County north of SC Highway 6 and Berkeley County north of SC Highway 45 from the Orangeburg County line to the junction of SC Highway 45 and State Road S–8–31 and west of the Santee Dam.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: The remaining portion of Vermont.

Mississippi Flyway

Illinois

Northeast Canada Goose Zone—Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

North Zone: That portion of the State outside the Northeast Canada Goose Zone and north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State outside the Northeast Canada Goose Zone and south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

South Zone: The remainder of Illinois.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Minnesota

Twin Cities Metropolitan Canada Goose Zone—

A. All of Hennepin and Ramsey Counties.

B. In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County; all of the cities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, and Centerville; and all of the city of Ham Lake except that portion lying north of CSAH 18 and east of U.S. Highway 65.

C. That part of Carver County lying north and east of the following described line: Beginning at the northeast corner of San Francisco Township; thence west along the north boundary of San Francisco Township to the east boundary of Dahlgren Township; thence north along the east boundary of Dahlgren Township to U.S. Highway 212; thence west along U.S. Highway 212 to State Trunk Highway (STH) 284; thence north on STH 284 to County State Aid Highway (CSAH) 10; thence north and west on CSAH 10 to CSAH 30; thence north and west on CSAH 30 to STH 25; thence east and north on STH 25 to CSAH 10; thence north on CSAH 10 to the Carver County line.

D. In Scott County, all of the cities or Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

E. In Dakota County, all of the cities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

F. That portion of Washington County lying south of the following described line: Beginning at County State Aid Highway (CSAH) 2 on the west boundary of the county; thence east on CSAH 2 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 97; thence east on STH 97 to the intersection of STH 97 and STH 95; thence due east to the east boundary of the State.

Northwest Goose Zone—That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Two Goose Zone—That portion of the state lying east of Interstate Highway 35 and south of the Twin Cities Metropolitan Canada Goose Zone.

Five Goose Zone—That portion of the state not included in the Twin Cities Metropolitan Canada Goose Zone, the Northwest Goose Zone, or the Two Goose Zone.

West Zone—That portion of the state encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

Tennessee

Middle Tennessee Zone—Those portions of Houston, Humphreys, Montgomery, Perry, and Wayne Counties east of State Highway 13; and Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, and Wilson Counties.

East Tennessee Zone—Anderson, Bledsoe, Bradley, Blount, Campbell, Carter, Claiborne, Clay, Cocke, Cumberland, Dekalb, Fentress, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White Counties.

Wisconsin

Early-Season Subzone A—That portion of the State encompassed by a line beginning at the Lake Michigan shore in Sheboygan, then west along State Highway 23 to State 67, southerly along State 67 to County Highway E in Sheboygan County, southerly along County E to State 28, south and west along State 28 to U.S. Highway 41, southerly along U.S. 41 to State 33, westerly along State 33 to County Highway U in Washington County, southerly along County U to County N, southeasterly along County N to State 60, westerly along State 60 to County Highway P in Dodge County, southerly along County P to County O, westerly along County O to State 109, south and west along State 109 to State 26, southerly along State 26 to U.S. 12, southerly along U.S. 12 to State 89, southerly along State 89 to U.S. 14, southerly along U.S. 14 to the Illinois border, east along the Illinois border to the Michigan border in Lake Michigan, north along the Michigan border in Lake Michigan to a point directly east of State 23 in Sheboygan, then west along that line to the point of beginning on the Lake Michigan shore in Sheboygan.

Early-Season Subzone B—That portion of the State between Early-Season Subzone A and a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Central Flyway

Kansas

September Canada Goose Unit—That part of Kansas bounded by a line from the Kansas-Missouri state line west on KS–68 to its junction with KS–33, then north on KS–33 to its junction with US–56, then west on US–56 to its junction with KS–31, then west-northwest on KS–31 to its junction with KS–99, then north on KS–99 to its junction with US–24, then east on US–24 its junction with KS–63, then north on KS–63 to its junction with KS–16, then east on KS–16 to its junction with KS–116, then east on KS–116 to its junction with US–59, then northeast on US–59 to its junction with the Kansas-Missouri line, then south on the Kansas-Missouri line to its junction with KS–68.

North Dakota

Special Early Canada goose Unit—Richland and Sargent Counties.

South Dakota

September Canada Goose Unit—Brookings, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Lake, Marshall, McCook, Moody Counties, and Miner County east of SD 25, and that portion of Minnehaha County north and west of a line beginning at the junction of County 130 (Renner Road) and the Minnesota border, then west on County 130 to I–29 and along I–29 to the Lincoln County line.

Pacific Flyway

Idaho

East Zone—Bonneville, Caribou, Fremont and Teton Counties.

Oregon

Northwest Zone—Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Zone—Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties.

East Zone—Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union and Wasco Counties.

Washington

Southwest Zone—Clark, Cowlitz, Pacific, and Wahkiakum Counties.

East Zone—Asotin, Benton, Columbia, Garfield, Klickitat, and Whitman Counties.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Edon Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

Teton Area—Those portions of Teton County described in State regulations.

Bridger Valley Area—The area described as the Bridger Valley Hunt Unit in State regulations.

Ducks

Atlantic Flyway

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the

Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Mississippi Flyway

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Central Flyway

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

Pacific Flyway

California

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Canada Geese

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Sandhill Cranes

Central Flyway

Colorado

Regular-Season Open Area—The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Regular Season Open Area—That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

New Mexico

Regular-Season Open Area—Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area—The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Southwest Zone—Sierra, Luna, and Dona Ana Counties.

Oklahoma

Regular-Season Open Area—That portion of the State west of I–35.

Texas

Regular-Season Open Area—That portion of the State west of a line from the International Toll Bridge at Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Austin; I–35 to the Texas-Oklahoma border.

North Dakota

Regular-Season Open Area—That portion of the State west of U.S. 281.

South Dakota

Regular-Season Open Area—That portion of the State west of U.S. 281.

Montana

Regular-Season Open Area—The Central Flyway portion of the State except that area south of I–90 and west of the Bighorn River.

Wyoming

Regular-Season Open Area—Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit—Portions of Fremont County.

Park and Bighorn County Unit—Portions of Park and Bighorn Counties.

Pacific Flyway

Arizona

Special-Season Area—Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area—See State regulations.

Utah

Special-Season Area—Rich, Cache, and Box Elder Counties.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Eden-Farson Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10—Unimak Island only.

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10—except Unimak Island.

Kodiak Zone—State Game Management Unit 8.

All Migratory Birds in the Virgin Islands

Ruth Cay Closure Area—The island of Ruth Cay, just south of St. Croix.

All Migratory Birds in Puerto Rico

Municipality of Culebra Closure Area—All of the municipality of Culebra.

Desecheo Island Closure Area—All of Desecheo Island.

Mona Island Closure Area—All of Mona Island.

El Verde Closure Area—Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas—All of Cidra Municipality and portions of Aguas, Buenas, Caguas, Cayer, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of beginning.

[FR Doc. 99–22363 Filed 8–26–99; 8:45 am]

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federal register

Friday
August 27, 1999

Part VI

Department of Labor

Office of the Secretary

29 CFR Part 18

Use of Settlement Judges in Longshore and Related Proceedings Before the Office of Administrative Law Judges; Final Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 18

RIN 1290–AA20

Use of Settlement Judges in Longshore and Related Proceedings Before the Office of Administrative Law Judges

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: Settlement judges have been made available, with certain exceptions, for proceedings before the Office of Administrative Law Judges since mid-August 1993. Cases arising pursuant to the Longshore and Harbor Workers' Compensation Act and related statutes, however, were excluded from the formal settlement judge procedure because of the high rate of settlement already existing in that program. Existing methods of promoting settlements, both before the Office of Workers' Compensation Programs and the Office of Administrative Law Judges, continue to accommodate high rates of resolution of cases without the need for a formal hearing. Experience with the settlement judge procedure, however, indicates that making settlement judges available in cases arising pursuant to the Longshore and Harbor Workers' Compensation Act and related statutes would be appropriate and beneficial where the parties consent to the appointment, and the Chief Administrative Law Judge concludes that such an appointment is a prudent use of resources. The Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges, therefore, is hereby amended to permit the appointment of settlement judges in cases arising out of Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 *et seq.*, the Defense Base Act, the Outer Continental Shelf Lands Act, the Nonappropriated Fund Instrumentalities Act, and the former District of Columbia Workmen's Compensation Act.

EFFECTIVE DATE: August 27, 1999.

FOR FURTHER INFORMATION CONTACT: John M. Vittone, Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K St, NW., Suite 400–N, Washington, DC 20001, Telephone: (202) 565–5341.

SUPPLEMENTARY INFORMATION: Settlement judges have been made available, with certain exceptions, for proceedings before the Office of Administrative Law Judges since mid-August 1993. See 58 FR 38498 (July 16, 1993). One variety of proceeding in which settlement judge proceedings have not been available is cases arising pursuant to the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 *et seq.*, and related statutes. The related statutes include the Longshore Act's direct extensions—the Defense Base Act, the Outer Continental Shelf Lands Act, Nonappropriated Fund Instrumentalities Act—and the former District of Columbia Workmen's Compensation Act, 45 Stat. 600.

The Longshore and directly related workers' compensation cases were excluded from the formal settlement judge procedure because existing techniques for promoting settlements in such cases were already achieving significant rates of settlement in cases pending before the administrative law judges. Success in the use of settlement judges in other case areas, and interest in the procedure arising from the workers' compensation bar, however, indicates that it would be beneficial and appropriate to make the settlement judge procedure available in proceedings arising pursuant to the Longshore Act and the aforementioned related statutes. Accordingly, the following rule would end the exclusion of such cases from the settlement judge provision of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges.

This amendment of the settlement judge rule is not intended to supplant informal methods of dispute resolution long used successfully in Longshore and related cases, such as the informal conference before the Office of Workers' Compensation Programs, or settlement conferences before the presiding administrative law judge. Rather, it is intended to provide an additional method of dispute resolution in cases where the parties are unable to resolve the issues at the OWCP district office level, one or more party has requested a formal hearing, all consent to the appointment of a settlement judge, and the Chief Administrative Law Judge concludes that such an appointment represents a prudent use of resources. Settlements reached before a settlement judge remain subject to review by the presiding administrative law judge in accordance with section 8(i) of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 908(i). Moreover, the availability of the settlement judge process does not change existing law regarding the effect of settlements on petitions for Special Fund relief pursuant to section 8(f) of the Longshore Act, 33 U.S.C. 908(f).

Executive Order 12866

This rule has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866, Principles of Regulation. The Department has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning And Review. Accordingly, it does not require an assessment of potential costs and benefits under section 6(a)(3) of that order.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under section 553(b) of the Administrative Procedure Act (APA), the requirements of the Regulatory Flexibility Act (5 U.S.C. 601) pertaining to regulatory flexibility do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

This final rule is not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since it does not contain any new collection of information requirements.

Publication in Final

The Department has determined that these amendments need not be published as a proposed rule, as is generally required by the APA (5 U.S.C. 553), since this rulemaking merely reflects agency organization, procedure, or practice. It is thus exempt from notice and comment by virtue of section 553(b)(A).

Effective Date

This document will become effective upon publication pursuant to 5 U.S.C. 553(d). The undersigned has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. This determination is based upon the fact that the rule is technical and nonsubstantive, and merely reflects agency organization, practice and procedure.

Small Business Regulatory Fairness Act of 1996

This rule is not classified as a ''rule'' under Chapter 8 of the Small Business Regulatory Fairness Act of 1996, because it is a rule pertaining to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

List of Subjects in 29 CFR Part 18

Administrative practice and procedure.

Accordingly, part 18 of title 29 of the Code of Federal Regulations is amended as follows:

PART 18—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

1. The authority citation for part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 551–553; 5 U.S.C. 571 note; E.O. 12778; 57 FR 7292.

2. Section 18.9 is amended by revising paragraph (e)(2) to read as follows:

§ 18.9 Consent order or settlement; settlement judge procedure.

* * * * *

(e) * * *

(2) *How initiated.* A settlement judge may be appointed by the Chief Administrative Law judge upon a request by a party or the presiding administrative law judge. The Chief Administrative Law Judge has sole discretion to decide whether to appoint a settlement judge, except that a settlement judge shall not be appointed when—

(i) A party objects to referral of the matter to a settlement judge;

(ii) Such appointment is inconsistent with a statute, executive order, or regulation;

(iii) The proceeding arises pursuant to Title IV of the Federal Mine Safety and Health Act, 30 U.S.C. 901 *et seq.*, also known as the Black Lung Benefits Act.

* * * * *

Signed at Washington, DC, this 20th day of August, 1999.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 99–22259 Filed 8–26–99; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 211/P.L. 106–48

To designate the Federal building and United States courthouse located at 920 West Riverside Avenue in Spokane, Washington, as the ''Thomas S. Foley United States Courthouse'', and the plaza at the south entrance of such building and courthouse as the ''Walter F. Horan Plaza''. (Aug. 17, 1999; 113 Stat. 230)

H.R. 1219/P.L. 106–49

Construction Industry Payment Protection Act of 1999 (Aug. 17, 1999; 113 Stat. 231)

H.R. 1568/P.L. 106–50

Veterans Entrepreneurship and Small Business Development Act of 1999 (Aug. 17, 1999; 113 Stat. 233)

H.R. 1664/P.L. 106–51

Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999 (Aug. 17, 1999; 113 Stat. 252)

H.R. 2465/P.L. 106–52

Military Construction Appropriations Act, 2000 (Aug. 17, 1999; 113 Stat. 259)

S. 507/P.L. 106–53

Water Resources Development Act of 1999. (Aug. 17, 1999; 113 Stat. 269)

S. 606/P.L. 106–54

For the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes. (Aug. 17, 1999; 113 Stat. 398)

S. 1546/P.L. 106–55

To amend the International Religious Freedom Act of 1998 to provide additional administrative authorities to the United States Commission on International Religious Freedom, and to make technical corrections to that Act, and for other purposes. (Aug. 17, 1999; 113 Stat. 401)

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