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# federal register

Thursday
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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Part 246

**RIN 0584–AC80**

## WIC Farmers' Market Nutrition Program: Legislative Changes From the William F. Goodling Child Nutrition Reauthorization Act of 1998

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements three WIC Farmers' Market Nutrition Program (FMNP) related nondiscretionary provisions mandated in the William F. Goodling Child Nutrition Reauthorization Act of 1998. The three provisions pertain to the use of program income as a State matching fund source, elimination of specific State Plan ranking criteria used to determine funding preferences, and use of expansion funds to increase the value of benefits to recipients.

**DATES:** This regulation is effective October 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Debra Whitford, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 542, Alexandria, Virginia 22302. (703) 305–2746.

**SUPPLEMENTARY INFORMATION:**

### Background

On October 31, 1998, the President signed Pub. L. 105–336, the William F. Goodling Child Nutrition Reauthorization Act of 1998 (the Goodling Act), which included three non-discretionary provisions regarding the FMNP. The three provisions address: program income as an allowable State matching fund source, elimination of specific State Plan ranking criteria used to determine funding preferences, and use of expansion funds to increase the value of benefits to recipients. This final rule implements those nondiscretionary FMNP provisions as reflected in section 203(o) of the Goodling Act. These provisions serve the interests of the President and Congress by providing greater flexibility for FMNP State agencies in the operation of the program, and expanding the allowable sources for meeting the State matching fund requirement. Because of the nondiscretionary nature of these legislative provisions, the Administrator of the Food and Nutrition Service has determined that, in accordance with 5 U.S.C. 553, prior notice and comment is unnecessary and contrary to the public interest, and for the same reason, that good cause exists for the publication of this rule less than 30 days prior to its effective date. The effective date of this rule is October 1, 1998, the same date on which the Goodling Act was signed.

### Program Income

Section 203(o)(1) of the Goodling Act amended section 17(m)(3) of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1786(m)(3)) to allow States to use program income as a source for meeting the FMNP State matching fund requirement. The conference report accompanying the Goodling Act [House Report No. 105–786, October 6, 1998] stated that the term ''program income'' was to be defined as in the Uniform Federal Assistance Regulations (7 CFR Part 3016.25), thereby permitting donations by companies and vendor fines for violations in the WIC Program to be used to meet the State matching fund requirement. Sections 248.2 and 248.14(a)(1) of the FMNP regulations are hereby amended to reflect this change. Current section 248.13 defines program income for FMNP purposes.

### Expansion Funds

Section 203(o)(2) of the Goodling Act amended Section 17(m)(6)(C) of the CNA, (42 U.S.C. 1786(m)(6)(C)) by permitting use of Federal expansion funds for increases in the value of benefits in lieu of, or in addition to, the criterion that State agencies must serve additional recipients in order to receive the expansion funds. It also replaced the requirement for documentation that justifies the need for an increase in participation when seeking expansion funds with language requiring the Department of Agriculture (the Department) to consider the State agency's need for an increase in funding, and whether the use of the increased funding would be consistent with serving nutritionally at-risk persons and expanding program awareness. The law also added a requirement that the Department consider whether the rate of coupon redemption will be increased in those State agencies that use expansion funds to increase the value of benefits provided to individual recipients. The Department wishes to point out that under section 17(m)(5)(C) 42 U.S.C. 1786(m)(5)(C), the maximum Federal FMNP benefit level remains unchanged at $20 per recipient, per year. Sections 248.4(a)(19) and 248.14(e) are hereby amended to reflect these changes.

### Selection of New State Agencies

Section 203(o)(3) of the Goodling Act eliminated section 17(m)(6)(F) of the CNA (42 U.S.C. 1786(m)(6)(F)) which outlined specific criteria and preferences for consideration by the Department in ranking State Plans from new FMNP State agencies for the purposes of determining the amount of Federal funds to be allocated. Accordingly, section 248.5 is hereby amended to reflect elimination of the criteria and preferences.

### Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

### Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Samuel Chambers, Jr., Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant impact on a substantial number of small entities. This rule provides additional flexibility in program initiation and operation for FMNP State agencies, some of whom are small entities.

### Paperwork Reduction Act

This final rule imposes no new reporting or recordkeeping requirements that are subject to OMB review in accordance with the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–20).

**Executive Order 12372**

The WIC Farmers Market Nutrition Program is listed in the Catalog of Federal Domestic Assistance Programs under 10.572. For reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related notice (48 FR 29115), this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **DATES** paragraph of the final rule. Prior to any judicial challenge to the application of provisions of this rule, all applicable administrative procedures must be exhausted.

**Public Law 104–4**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law (Pub. L.) 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, FNS 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 or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**List of Subjects in 7 CFR Part 248**

Administrative practice and procedure, Civil rights, Food assistance programs, Food donations, Grant programs—health, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Penalties, Public assistance programs, Reporting and recordkeeping requirements, WIC, Women.

For the reasons set forth in the preamble, 7 CFR part 248 is amended as follows:

## PART 248—WIC FARMERS' MARKET NUTRITION PROGRAM (FMNP)

1. The authority citation for part 248 continues to read as follows:

**Authority:** 42 U.S.C. 1786.

2. In § 248.2 the definitions of ''FMNP funds'' and ''Matching requirement'' are revised to read as follows:

### § 248.2 Definitions.

* * * * *

*FMNP funds* means Federal grant funds provided for the FMNP, plus the required matching funds.

* * * * *

*Matching requirement* means State, local or private funds, or program income equal to not less than 30 percent of the total FMNP costs for the fiscal year. The Secretary may negotiate with an Indian State agency a lower percentage of matching funds, but not less than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council. The match may be satisfied through expenditures for similar farmers' market programs which operate during the same period as the FMNP. Similar programs include other farmers' market programs which serve low-income women, infants and children (who may or may not be WIC participants or on the waiting list for WIC services), as well as other categories of low-income recipients, such as, but not limited to, low-income elderly persons.

* * * * *

3. In § 248.4, paragraph (a)(19) is revised to read as follows:

### § 248.4 State Plan.

(a) * * *

(19) For States making expansion requests, documentation which demonstrates:

(i) The need for an increase in funding;

(ii) That the use of the increased funding will be consistent with serving WIC participants, or persons on a waiting list for WIC benefits, by expanding benefits to more persons, by enhancing current benefits, or a combination of both, and expanding the awareness and use of farmers' markets;

(iii) The ability to satisfactorily operate the existing FMNP;

(iv) The management capabilities of the State agency to expand; and

(v) Whether, in the case of a State agency that intends to use the funding to increase the value of the Federal share of the benefits received by a recipient, the funding provided will increase the rate of coupon redemption.

* * * * *

4. Section 248.5 is revised to read as follows:

### § 248.5 Selection of new State agencies.

In selecting new State agencies, the Department will use objective criteria to rank and approve State plans submitted in accordance with § 248.4. In making this ranking, the Department will consider the amount of funds necessary to successfully operate the FMNP in the State compared with other States and with the total amount of funds available to the FMNP. Approval of a State Plan does not equate to an obligation on the part of the Department to fund the FMNP within that State agency.

5. In § 248.14, paragraphs (a)(1)(i) and (e) are revised to read as follows.

### § 248.14 Distribution of funds.

(a) * * *

(1) * * *

(i) *Match amount.* As a prerequisite to the receipt of Federal funds, a State agency must agree to contribute State, local or private funds, or program income, equal to not less than 30 percent of its total FMNP cost. The Secretary may negotiate a lower percentage of matching funds, but not lower than 10 percent of the total cost of the program, in the case of an Indian State agency that demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council. The State agency may contribute more than this minimum amount. State, local or private funds for similar programs as defined in (248.2 may satisfy the State matching requirement.

* * * * *

(e) *Expansion for current State agencies.* In providing funds to State agencies that participated in the FMNP in the previous fiscal year, the Department shall consider on a case-by-case basis, the following:

(1) Whether the State agency utilized at least 80 percent of its prior year food grant. States that did not spend at least 80 percent of their prior year food grant may still be eligible for expansion funding if, in the judgment of the Department, good cause existed which

was beyond the management control of the State, such as severe weather conditions, or unanticipated decreases in participant caseload in the WIC Program.

(2) Documentation supporting the funds expansion request as outlined in § 248.4(a)(19).

* * * * *

Dated: August 23, 1999.

**Samuel Chambers, Jr.,**

*Administrator.*

[FR Doc. 99–22903 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–30–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 924

**[Docket No. FV99–924–1 FR]**

### Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, Oregon; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Washington-Oregon Fresh Prune Marketing Committee (Committee) under Marketing Order No. 924 for the 1999–2000 and subsequent fiscal periods from $1.00 to $1.50 per ton of fresh prunes handled. The Committee is responsible for local administration of the marketing order which regulates the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon. Authorization to assess fresh prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1999–2000 fiscal period began April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** September 3, 1999.

**FOR FURTHER INFORMATION CONTACT:** Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 924, as amended (7 CFR part 924), regulating the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon, hereinafter referred to as the ''order.'' The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Washington-Oregon fresh prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable fresh prunes beginning April 1, 1999, and continue until modified, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from $1.00 to $1.50 per ton of fresh prunes handled.

The Washington-Oregon fresh prune marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members and three handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 1998–99 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $1.00 per ton that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 27, 1999, and unanimously recommended 1999–2000 expenditures of $7,630 and an assessment rate of $1.50 per ton of fresh prunes handled. In comparison, last year's budgeted expenditures were $7,003. The assessment rate of $1.50 is $0.50 higher than the rate currently in effect. The Committee recommended an increased assessment rate because assessable 1999–2000 tonnage is expected to be less than the 5-year average of 4,985 tons, and the current rate will not generate enough income to adequately administer the program. The Committee also plans on hiring an additional part-time staff person which will increase its salary expense.

Major expenses recommended by the Committee for the 1999–2000 fiscal period include $3,560 for salaries, $1,000 for travel, $528 for rent and maintenance, and $475 for its annual audit. Budgeted expenses for these items in 1998–99 were $2,880, $1,000, $528, and $475, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington-Oregon fresh prunes. Fresh prune shipments for the year are estimated at 4,600 tons, which should provide $6,900 in assessment

income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve (currently $6,013) will be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1999–2000 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, the AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 producers of fresh prunes in the production area and approximately 12 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Currently, all of the Washington-Oregon fresh prune handlers ship under $5,000,000 worth of fresh prunes. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of Washington-Oregon fresh prune producers, the average annual producer revenue is approximately $21,000. In view of the foregoing, it can be concluded that the majority of Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from $1.00 to $1.50 per ton of fresh prunes handled. The Committee met on May 27, 1999, and unanimously recommended 1999–2000 expenditures of $7,630 and an assessment rate of $1.50 per ton of fresh prunes handled. In comparison, last year's budgeted expenditures were $7,003. The assessment rate of $1.50 is $0.50 higher than the 1998–99 rate. The Committee recommended an increased assessment rate because assessable 1999–2000 tonnage is expected to be smaller than the 5-year average of 4,985 tons, and the current rate will not generate enough income to adequately administer the program. The Committee also plans on hiring an additional part-time staff person which will increase its salary expense.

Major expenses recommended by the Committee for the 1999–2000 fiscal period include $3,560 for salaries, $1,000 for travel, $528 for rent and maintenance, and $475 for its annual audit. Budgeted expenses for these items in 1998–99 were $2,880, $1,000, $528, and $475, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh prunes. Fresh prune shipments for the year are estimated at 4,600 tons, which should provide $6,900 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. The reserve is within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

The Committee considered alternative levels of assessment but determined that, with the reduced estimate of assessable tonnage, increasing the assessment rate to $1.50 per ton would be appropriate. The Committee decided that an assessment rate of more than $1.50 per ton would generate income in excess of that needed to adequately administer the program.

A review of historical information and preliminary information pertaining to the upcoming crop indicates that the producer price for the 1999–2000 marketing season could range between $200 and $500 per ton of fresh prunes handled. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total producer revenue should range between 0.30 and 0.75 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 27, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Washington-Oregon fresh prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on July 14, 1999 (64 FR 37888). The proposal was made available through the Internet by the Office of the Federal Register. A copy of the proposed rule was also mailed to the Committee's administrative office for distribution to producers and handlers. A 30-day comment period ending August 13, 1999, was provided for interested persons to respond to the proposal. No comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found

that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 1999–2000 fiscal period began on April 1, 1999, and the order requires that the rate of assessment for each fiscal period apply to all assessable fresh prunes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years. Also, a 30-day comment period was provided for in the proposed rule, and no comments were received.

**List of Subjects in 7 CFR Part 924**

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 924 is amended as follows:

## PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

1. The authority citation for 7 CFR part 924 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 924.236 is revised to read as follows:

**§ 924.236 Assessment rate.**

On and after April 1, 1999, an assessment rate of $1.50 per ton is established for the Washington-Oregon Fresh Prune Marketing Committee.

Dated: August 26, 1999.

**Bernadine M. Baker,**

*Acting Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99–22906 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–02–P

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 948

**[Docket No. FV99–948–1 FR]**

### Irish Potatoes Grown in Colorado; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Colorado Potato Administrative Committee, Area III (Committee) under Marketing Order No. 948 for the 1999–2000 and subsequent fiscal periods from $0.01 per hundredweight to $0.02 per hundredweight of potatoes handled. The Committee is responsible for local administration of the marketing order which regulates the handling of potatoes grown in Colorado. Authorization to assess Colorado potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1999–2000 fiscal period began July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** September 3, 1999.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948 [7 CFR Part 948], both as amended, regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate issued herein will be applicable to all assessable potatoes beginning on July 1, 1999, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from $0.01 per hundredweight to $0.02 per hundredweight of potatoes handled.

The Colorado potato order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of five producer members and four handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate.

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

A meeting of the Committee was scheduled for May 13, 1999, to review the assessment rate and budget needs of the program for the 1999–2000 fiscal

period. However, a quorum was not present. Based upon discussion among those Committee members who showed up for the meeting, the manager of the Committee prepared information and voting material that was sent by facsimile copy (fax) to Committee members and alternates. Voting by telegraph, telephone, or other means of communication is provided for in § 948.61(c) of the marketing order. Seven members subsequently faxed completed votes back to the manager during the voting period May 14 through May 19, 1999. Thus, a fax vote was used to determined the Committee's level of support for an increased rate of assessment and to recommend an operating budget for the 1999–2000 fiscal period. All seven members approved the $0.02 assessment rate. The 1999–2000 budget of $24,450 was approved by a vote of 6 to 1. Those voting confirmed their votes at the Committee meeting held on June 20, 1999.

Based on the fax vote, the Committee approved an assessment rate of $0.02 per hundredweight of potatoes handled during the 1999–2000 and subsequent fiscal periods. This is a $0.01 increase over the rate previously in effect. The increased assessment rate was recommended because the $.01 rate would not generate enough income to adequately administer the program, given the projected short crop for 1999. The assessment rate increase is based on the 1999–2000 crop estimate, the 1999–2000 fiscal period expenditures estimate, and the current and projected balance of the operating reserve.

The estimated Area III assessable potato crop for 1999–2000 is approximately 792,000 hundredweight. This is about 380,000 hundredweight less than the assessed crop of 1998–99 due to a reduction in the acreage planted this season. The increased assessment ensures that the operating reserve is not depleted at the end of the 1999–2000 fiscal period because of the projected short crop.

The increased assessment rate of $.02 per hundredweight should provide $15,840 in assessment income. This amount, when supplemented with an estimated $3,000 interest income, $1,500 rental income from the sublease of office space to the State Inspection Service, and $4,110 from the operating reserve, should be adequate to cover the budgeted expenses of $24,450. The recommended budget is $1,603 less than the 1998–99 budget of $26,053.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $10,500 for the manager's salary, $3,000 for rent, and $2,000 for office supplies. Budgeted expenses for these items in the 1998–99 fiscal period were $11,500, $3,000, and $2,000, respectively.

The Committee estimates it has approximately $38,245 in its operating reserve, which should be adequate to cover any income shortages for the current fiscal period. This amount is within the maximum permitted by the order of approximately two fiscal periods' expenditures (§ 948.78).

The assessment rate of $.02 will continue in effect for the 2000–2001 and subsequent fiscal periods unless modified, suspended, or terminated by the Secretary, based on recommendation and information submitted by the Committee, or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department and are locally published. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, the AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 17 handlers of Colorado Area III potatoes who are subject to regulation under the order and approximately 60 potato producers in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of Colorado Area III potato handlers and producers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from $0.01 per hundredweight to $0.02 per hundredweight of potatoes handled. The $0.02 assessment rate was approved by all seven of the Committee members who cast votes during a fax vote held between May 14 and May 19, 1999. The assessment rate is $0.01 greater than the rate previously in effect. The Committee recommended the increased assessment rate because the previous rate would not have generated enough income to adequately administer the program. The anticipated fresh potato crop of 792,000 hundredweight is approximately 380,000 hundredweight less than the 1998–99 crop. The $0.02 rate should provide $15,840 in assessment income, which, when combined with interest income of $3,000, rental income of $1,500 from the sublease of office space to the State Inspection Service, and $4,110 from the operating reserve, should be adequate to meet the 1999–2000 fiscal period's budgeted expenses. The 1999–2000 budget of $24,450 was approved by a vote of 6 to 1.

The Committee's 1999–2000 budget of $24,450 is $1,603 less than last year's budgeted expenses. Prior to recommending this budget, the Committee considered historical income and expenses, current income and expense levels, the 1999–2000 estimated crop production, current and projected operating reserve levels, and input from the Committee officers. The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $10,500 for the manager's salary, $3,000 for rent, and $2,000 for office supplies. Budgeted expenses for these items in the 1998–99 fiscal period were $11,500, $3,000, and $2,000, respectively.

A review of historical data and preliminary information pertaining to the upcoming season indicates that the price to producers for the 1999–2000 Colorado Area III potato season could average $5.30 per hundredweight of potatoes. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period ($0.02 × 792,000 cwt = $15,840) as a percentage of the projected total revenue at the farm gate ($5.30 × 792,000 cwt = $4,197,600) would be 0.37 percent. This figure indicates that the $0.02 assessment rate will have an insignificant impact on the Colorado potato industry.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Colorado potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 13, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule imposes no additional reporting or recordkeeping requirements on either small or large potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on July 14, 1999 (64 FR 37890). A copy of the proposed rule was mailed to the Committee's administrative office for distribution to producers and handlers. The proposed rule was also made available through the Internet by the Office of the Federal Register. A 30-day comment period ending August 13, 1999, was provided for interested persons to respond to the proposal. No comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis, the 1999–2000 fiscal period began on July 1, 1999, and the order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period. Further, handlers are aware of this action which is similar to other assessment rate actions issued in past years. Also, a 30-day comment period was provided for in the proposed rule, and no comments were received.

**List of Subjects in 7 CFR Part 948**

Potatoes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

## PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 948.215 is revised to read as follows:

**§ 948.215 Assessment rate.**

On and after July 1, 1999, an assessment rate of $0.02 per hundredweight is established for Colorado Area III potatoes.

Dated: August 26, 1999.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99–22907 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–02–P

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## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 1106

**[DA–99–06]**

## Milk in the Southwest Plains Marketing Area; Suspension of Certain Provisions of the Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final Rule; Suspension of rule.

**SUMMARY:** This document suspends certain provisions of the Southwest Plains Federal milk marketing order (Order 106) from September 1, 1999, through August 31, 2000, or until implementation of Federal order reform. The suspension removes a portion of the supply plant shipping standard and the producer delivery requirement. The action was requested by Kraft Foods, Inc. (Kraft), and is necessary to prevent the uneconomical and inefficient movement of milk and to ensure that producers historically associated with the market will continue to have their milk pooled under Order 106.

**EFFECTIVE DATE:** September 1, 1999, through August 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932, e-mail address Nicholas.Memoli@usda.gov.

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding:

Notice of Proposed Suspension: Issued August 3, 1999; published August 6, 1999 (64 FR 42860).

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

**Small Business Consideration**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are

''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of June 1999, 2,045 dairy farmers were producers under Order 106. Of these producers, 2,001 producers (i.e., 98%) were considered small businesses. For the same month, there were 12 regulated handlers under Order 106. Five of these handlers were considered small businesses.

The supply plant shipping standard and the producer delivery requirement are designed to attract an adequate supply of milk to the market to meet fluid needs. This final rule will allow a supply plant that has been associated with the Southwest Plains market during the months of September 1998 through January 1999 to qualify as a pool plant without shipping any milk to a pool distributing plant during the following months of September 1999 through August 2000 or until implementation of Federal order reform. The rule also will suspend the requirement that a producer's milk must first be received at a pool distributing plant during the month before the milk is eligible to be diverted to an unregulated manufacturing plant.

Marketing conditions in the Southwest Plains order indicate that there should be a sufficient amount of local milk available during the requested suspension period to supply the fluid needs of the market. Therefore, supplemental milk supplies should not be needed. The existing order provisions would require milk to be shipped longer distances than necessary for the sole purpose of fulfilling order standards. Thus, this rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Southwest Plains marketing area.

**Statement of Consideration**

This rule suspends a portion of the supply plant shipping standard and the producer delivery requirement of the Southwest Plains order for the period of September 1999 through August 2000 or until Federal order reform is completed. The suspension will allow a supply plant that has been associated with the Southwest Plains order during the months of September 1998 through January 1999 to qualify as a pool plant without shipping any milk to a pool distributing plant during the following months of September 1999 through August 2000 or until completion of Federal order reform. Without the suspension, a supply plant would be required to ship 50 percent of its producer receipts to pool distributing plants during the months of September through January and 20 percent of its producer receipts to pool distributing plants during the months of February through August to qualify as a pool plant under the order.

The rule also suspends the requirement that a producer's milk must be received at a pool plant during the month before it is eligible for diversion to a unregulated manufacturing plant. By suspending this provision, producer milk would not be required to be delivered to pool plants before going to such plants.

According to Kraft, the proponent of the suspension, supplemental milk supplies will not be needed to meet the fluid needs of distributing plants. Kraft anticipates that there will be an adequate supply of direct-ship producer milk located in the general area of distributing plants available to meet the Class I needs of the market. The handler notes that the supply plant shipping provision and the producer delivery requirement have been suspended since 1993 and 1992, respectively.

Kraft states there is no need to require producers located some distance from pool distributing plants to deliver their milk to such plants when their milk can more economically be diverted directly to manufacturing plants in the production area. Thus, the handler contends the suspension is necessary to prevent the uneconomical and inefficient movement of milk and to ensure producers historically associated with Order 106 will continue to have their milk pooled under the order.

A notice of proposed rulemaking was published in the **Federal Register** on August 6, 1999 (64 FR 42860), concerning the proposed suspension. Interested persons were afforded opportunity to file written data, views and arguments thereon. One comment supporting the proposed suspension was received. No comment was filed in opposition.

Dairy Farmers of America (DFA), a cooperative association representing producers whose milk is the largest volume marketed under the Southwest Plains order, filed a comment in favor of the proposed suspension. DFA states that both the supply plant standard and producer delivery requirement have been suspended for a number of years. The cooperative contends that the market has had an adequate supply of milk available to meet the fluid needs of the market and that the existing order provisions would cause milk to be shipped longer distances than necessary for the sole purpose of meeting order requirements. Moreover, DFA notes, these provisions have been modified to reflect current industry needs under the proposed language for Federal order reform.

As noted by Kraft and DFA, the supply plant shipping standard and the producer milk delivery requirement have been suspended for a number of years. Market conditions in the Order 106 marketing area indicate that there should be sufficient amounts of milk available in the local area to meet the fluid needs of the order for the requested time period. Therefore, supplemental milk supplies should not be needed.

The suspension is found to be necessary for the purpose of assuring that producers' milk will not have to be moved in an uneconomic and inefficient manner to assure that producers whose milk has long been associated with the Southwest Plains marketing area will continue to benefit from pooling and pricing under the order. In addition, the provisions have been modified in the proposed language for Federal order reform.

After consideration of all relevant material, including the proposal in the notice, the comment received, and other available information, it is hereby found and determined that for the months of September 1, 1999, through August 31, 2000, or until implementation of Federal order reform, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1106.6, the words ''during the month''.

In § 1106.7(b)(1), beginning with the words ''of February through August'' and continuing to the end of the paragraph.

In § 1106.13, paragraph (d)(1) in its entirety.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary

and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. One comment supporting the suspension was received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

### List of Subjects in 7 CFR Part 1106

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR Part 1106 is amended as follows for the period of September 1, 1999, through August 31, 2000:

## PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR Part 1106 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

### § 1106.6 [Suspended in part]

2. In § 1106.6, the words ''during the month'' are suspended.

### § 1106.7 [Suspended in part]

3. In § 1106.7 paragraph (b)(1), the words beginning with ''of February through August'' and continuing to the end of the paragraph are suspended.

### § 1106.13 [Suspended in part]

4. In § 1106.13, paragraph (d)(1) is suspended in its entirety.

Dated: August 26, 1999.

**Richard M. McKee,**

*Deputy Administrator, Dairy Programs.*

[FR Doc. 99–22905 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

## Rural Housing Service

## Rural Business-Cooperative Service

## Rural Utilities Service

## Farm Service Agency

## 7 CFR Part 1924

RIN 0575–AC11

## Manufactured Housing Thermal Requirements

**AGENCIES:** Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural Housing Service (RHS), a part of the former Farmers Home Administration (FmHA), and now an agency within the Rural Development mission area of the U.S. Department of Agriculture, is amending its regulations regarding the thermal requirements for manufactured homes. The intended effect is to make the references to thermal requirements for manufactured homes consistent with requirements for the U.S. Department of Housing and Urban Development (HUD) zones that correspond to the RHS climatic zones. This will reduce the burden on the manufactured housing industry, RHS field personnel, and most importantly RHS customers.

**EFFECTIVE DATE:** October 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Samuel J. Hodges III, Architect, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, Stop 0761, Washington, DC 20250–0761, Telephone: (202) 720–9653.

**SUPPLEMENTARY INFORMATION:**

### Classification

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of the issuing agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

### Intergovernmental Consultation

This action affects the following programs as listed in the Catalog of Federal Domestic Assistance:

10.405 Farm Labor Housing Loans and Grants
10.410 Very Low to Moderate Income Housing Loans
10.415 Rural Rental Housing Loans

All of the affected programs, except 10.410 Very Low to Moderate Income Housing Loans, are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials prior to making individual loans.

### Civil Justice Reform

The final rule has been reviewed under Executive Order 12998, Civil Justice Reform. In accordance with this rule:

(1) Unless otherwise specifically provided all state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule: and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit.

### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3507), the information collection requirements included in this rule have been approved through 7 CFR part 3550. The assigned OMB number is 0575–0172. This rule does not impose any new information collection or recordkeeping requirements from those approved by the Office of Management and Budget.

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome

alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**Background**

Subsection 502(e)(1) of the Housing Act of 1949, 42 U.S.C. 1472(e)(1), establishes standards for manufactured homes which will be financed with RHS single family housing loans under section 502 of the Housing Act of 1949. Subsection 502(e)(1)(C) provides that manufactured homes must meet the energy conservation requirements applicable to other non-manufactured housing financed by RHS single family housing loans until the agency established energy conserving requirements under section 502(e)(2). The purpose of this regulation is to establish energy conserving requirements specifically designed for manufactured homes pursuant to section 502(e)(2).

The section 502(e) criteria for energy conserving requirements for RHS financed manufactured housing require that the requirements: ''(A) reduce the operating costs for a borrower by maximizing the energy savings and be cost-effective over the life of the manufactured home or the term of the loan, whichever is shorter, taking into account variations in climate, types of energy used, the cost to modify the home to meet such requirements, and the estimated value of the energy saved over the term of the mortgage; and (B) be established so that the increase in the annual loan payment resulting from the added energy conserving requirements in excess of those required by the standards prescribed under title VI of the Housing and Community Development Act of 1974 [42 U.S.C. 5401 *et seq.*] shall not exceed the projected savings in annual energy costs.''

The agency is adopting the energy conserving standards established by HUD under title VI of the Housing and Community Development Act of 1974 and, as hereinafter discussed, has determined that these zoned standards maximize energy savings and are cost-effective to the borrower. Under this final rule manufactured homes will no longer be required to meet the RHS thermal requirements applicable to non-manufactured single family housing financed by RHS. Exhibit D of 7 CFR part 1924, subpart A, adopts the HUD thermal design zone requirements for the Federal Manufactured Home Construction and Safety Standards (FMHCSS) that correspond to the RHS climatic zones.

The existing RHS requirements for a manufactured unit are: (1) The unit must meet the FMHCSS, and (2) the unit must meet the same RHS thermal requirements as are applicable to other, non-manufactured single family housing, financed by RHS prior to the National Energy Policy Act of 1992. Since HUD increased its energy requirements for manufactured homes (58 FR 54975, Oct. 25, 1993, effective Oct. 25, 1994), RHS has compared these new requirements with the RHS thermal requirements to evaluate the differences.

Our analysis indicates that the thermal performance of a unit built to the HUD requirements is roughly comparable to the thermal performance of a unit built to the requirements of the corresponding RHS climatic zones. The table below lists the HUD zones that are roughly comparable to the RHS climatic zones.

| RHS climate zone (degree-days) | HUD zones (state boundary) |
|---|---|
| 0–1000 | 1 |
| 1001–2500 | 2 |
| 2501–4500 | 2 |
| 4501–6000 | 3 |
| >6000 | 3 |

The HUD increases in the thermal requirements of the building envelope are substantial. However, HUD's requirements are not based on climatic region; instead, they are based on state boundary. As an example, in the State of California there are 5 RHS climatic zones; whereas, HUD has identified the entire state as a single zone (HUD Zone 2). In California, the HUD-code home would be acceptable to RHS in climatic zones with 4500 or less heating degree days. However, in colder climates of California, the HUD Zone 2 unit would not be adequate. The HUD Zone 3 requirements are roughly comparable to the RHS requirements for climatic zones with 4501 or more heating degree days. Similar comparisons can be made in other states.

On this basis, in order to simplify requirements we are amending our current energy requirements for manufactured housing to adopt the design requirements for the HUD zones that correspond to the RHS climatic zones.

These are the benefits to the manufactured housing industry, RHS, and most importantly, RHS customers:

1. Manufacturers will no longer have to conform with the energy requirements of two Federal agencies. As required by federal law, manufacturers will continue to follow the FMHCSS for non-thermal requirements.

2. Manufacturers will not have to retain qualified consultants to certify that designs conform with the existing RHS thermal requirements.

3. Manufacturers will no longer have to substantiate design conformance to RHS thermal standards.

4. Loan processing will be expedited since less paperwork will have to be reviewed by RHS loan approval officials.

5. RHS will reduce its regulatory requirements.

6. This will simplify on-site inspection by the RHS Community Development Managers (CDM). Since each local office already knows their climatic zone, and since HUD requires the thermal zone for which a unit is built to be posted on a sticker in the unit, a CDM could quickly determine if a unit is acceptable by simply inspecting the HUD required sticker. RHS's current requirement for a separate certification sticker would be deleted.

7. The RHS customer will have a wider selection of manufactured homes to chose from.

8. The energy efficiency of the manufactured home will be roughly the same and in some cases exceed existing RHS thermal requirements.

9. The elimination of a separate energy efficiency requirement applicable only to RHS manufactured homes will make lending institutions more willing to make loans to guarantee RHS customers for manufactured homes.

**Discussion of Comments**

On October 6, 1998 RHS published a proposed rule in the **Federal Register**, 63 FR 53616. The five comments received were from persons representing organizations that are directly affected by the rule. The commenters included a housing developer and rural development consultant, an engineer with a manufactured housing producer and representatives from federal agencies involved in financing manufactured homes.

All commenters approved or supported the adoption of the FMHCSS thermal design zone requirements that correspond to RHS climatic zones. The positive comments on the proposed rule included such statements as it ''is a positive measure'', ''reduce paper work'', ''improves loan processing'', ''streamlines lending procedure for manufactured housing in rural areas'', ''eliminates the need for manufacturers

and RHS staff becoming familiar with different standards'', ''will reduce the cost of housing for low and moderate income applicants'', ''will give loan applicants a greater range of choices of housing design, style and size for their family needs'', ''improves the agencies relationship with the manufactured housing industry and lending community'' and ''improves the services to the customer.'' The Agency has not changed the basic structure or content of the proposed rule.

Finally, one commenter suggested that a requirement be added to Rural Development (RD) Form 1924–25, ''Plan Certification'', that would require the dealer-contractor to certify the unit meet the FMHCSS thermal design zone requirements that correspond to RHS climatic zones. The FMHCSS requires that the manufacturer permanently affix a ''Heating Certificate'' that certifies the design zone that the manufactured home complies with. This Heating Certificate is affixed to an interior surface of the home that is readily visible to the Agency staff and the homeowner. It is the Agency's position that the determination as to which FMHCSS thermal design zone requirement corresponds to the appropriate RHS climatic zones is best covered early in the loan making process and will be addressed at or before the pre-construction conference. Therefore, the Agency has not changed RD Form 1924–25.

**List of Subjects in 7 CFR part 1924**

Agriculture, Construction and repair, Construction management, Energy conservation, Housing, Loan programs—Agriculture, Low and moderate income housing.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

## PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for part 1924 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

### Subpart A—Planning and Performing Construction And Other Development

2. Exhibit D of subpart A to part 1924 is amended by adding paragraph IV. G to read as follows:

**Exhibit D to Subpart A—Thermal Performance Construction Standards**

* * * * *

**IV. Minimum Requirements**

* * * * *

*G. New Manufactured Housing*

The Uo Value Zone indicated on the ''Heating Certificate'' for comfort heating shall be equal to or greater than the HUD Zone listed in the following table:

| RHS climate zones (winter degree days) | FMHCSS (HUD code) Uo value zones |
|---|---|
| 0–1000 | 1 |
| 1001–2500 | 2 |
| 2501–4500 | 2 |
| 4501–6000 | 3 |
| > 6000 | 3 |

**Example:** If a manufactured home is to be located in a geographic area having between 2501 and 4500 RHS winter degree days, the Agency will accept a Uo value Zone 2 unit or Zone 3 unit constructed to the HUD FMHCSS.

If a central air conditioning system is provided by the home manufacturer, a ''Comfort Cooling Certificate'' must be permanently affixed to an interior surface of the unit that is readily visible. This certificate may be combined with the heating certificate on the data plate.

* * * * *

Dated: August 26, 1999.

**Jill Long Thompson,**

*Under Secretary, Rural Development.*

[FR Doc. 99–22902 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–XV–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–AWP–9]**

## Name Change of Guam Island, Agana NAS, GU Class D Airspace Area

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

**ACTION:** Final rule, correction and delay of effective date.

**SUMMARY:** This action corrects a final rule that was published in the **Federal Register** on Monday, August 2, 1999 (64 FR 41780), Airspace Docket No. 99–AWP–9, changing the name of Guam Island, Agana NAS, GU, Class D airspace area to Guam International Airport, GU, Class D airspace area and delaying the effective date to November 4, 1999. The geographical coordinates for the airport were published incorrectly.

**EFFECTIVE DATE:** 0901 UTC, November 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Debra Trindle, Airspace Specialist, Airspace Branch, AWP–520.10, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, CA 90261, telephone (310) 725–6613.

**SUPPLEMENTARY INFORMATION:**

### History

Federal Register Document 99–19692, Airspace Docket No. 99–AWP–9, published on August 2, 1999, changed the name of Guam Island, Agana NAS, GU, Class D airspace area to Guam International Airport, GU, Class D airspace area. The geographical airport reference points listed in that document were incorrect. This action corrects those errors.

### Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description for Guam International Airport, GU, Class D airspace area is corrected as follows:

## PART 71—[CORRECTED]

**§ 71.1 [Corrected]**

On page 41780, column 3, correct the geographical coordinates of the Guam International Airport, GU, Class D airspace area, incorporated by reference in § 71.1, as follows:

* * * * *

**AWP GU D Guam International Airport, GU—[Corrected]**

Guam International Airport, GU
(Lat. 13°29′00″N, long. 144°47′46″E)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.3 mile radius of Guam International Airport.

* * * * *

Issued in Los Angeles, California, on August 19, 1999.

**Dawna J. Vicars,**

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

[FR Doc. 99–22892 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–AAL–16]**

## Revision of Class D Airspace; Lake Hood, Elmendorf AFB, and Merrill Field, AK; Revision of Class E Airspace; Elmendorf AFB and Merrill Field, AK

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

**ACTION:** Final rule, correction.

**SUMMARY:** This action corrects the error in the geographic description of a final rule that was published in the **Federal Register** on August 13, 1999 (64 FR 44114), Airspace Docket 99–AAL–6.

**EFFECTIVE DATE:** 0901 UTC, November 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Robert Durand, Operations Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at.

**SUPPLEMENTARY INFORMATION:**

### History

**Federal Register** Document 99–21039, Airspace Docket 99–AAL–6, published on August 13, 1999, (64 FR 44114), revised the Class D and Class E airspace areas at Lake Hood, Elmendorf AFB, and Merrill Field, AK. The geographic descriptions for the Merrill Field Class D and Class E are in error. The Class D and Class E descriptions incorrectly read ''. . . west along Tudor Road to the New Seward Highway, thence direct to the Mouth of Fish Creek, thence direct to the Northern Lights Blvd railroad bridge, thence direct to Point MacKenzie, . . .'' The Northern Lights Blvd railroad bridge should be listed before the Mouth of Fish Creek and the descriptions should read ''. . . west along Tudor Road to the New Seward Highway, thence direct to the Northern Lights Blvd railroad bridge, thence direct to the Mouth of Fish Creek, thence direct to Point MacKenzie, . . .'' This action corrects these errors.

### Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic descriptions listed for the Merrill Field Class D and Class E as published in the **Federal Register** on August 13, 1999, (64 FR 44114), (**Federal Register** Document 99–21039, pages 44115–44116), is corrected as follows:

**§ 71.1 [Corrected]**

* * * * *

**AAL AK D Anchorage, Merrill Field, AK [Corrected]**

Anchorage, Merrill Field, AK
(Lat. 61° 12′ 52″ N., long. 149° 50′ 46″ W.)
Point Noname
(Lat. 61° 15′ 36″ N., long. 149° 55′ 39″ W.)
Point MacKenzie
(Lat. 61° 14′ 14″ N., long. 149° 59′ 12″ W.)
Ship Creek
(Lat. 61° 13′ 26″ N., long. 149° 53′ 37″ W.)
Northern Lights Blvd Railroad bridge
(Lat. 61° 11′ 43″ N., long. 149° 55′ 48″ W.)
Mouth of Fish Creek
(Lat. 61° 12′ 21″ N., long. 149° 55′ 59″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at Point Noname, thence direct to the Mouth of Ship Creek, thence direct to the intersection of the Glenn Highway and Muldoon Road, thence south along Muldoon Road to Tudor Road, thence west along Tudor Road to the New Seward Highway, thence direct to the Northern Lights Blvd railroad bridge, thence direct to the Mouth of Fish Creek, thence direct to Point MacKenzie, thence via the north bank of Knik Arm to the point of beginning; excluding that airspace within the Anchorage International Airport, AK, Class C airspace. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

**AAL AK E2 Anchorage, Merrill Field, AK [Corrected]**

**Anchorage, Merrill Field, AK**

(Lat. 61° 12′ 52″ N., long. 149° 50′ 46″ W.)
Point Noname
(Lat. 61° 15′ 36″ N., long. 149° 55′ 39″ W.)
Point MacKenzie
(Lat. 61° 14′ 14″ N., long. 149° 59′ 12″ W.)
Ship Creek
(Lat. 61° 13′ 26″ N., long. 149° 53′ 37″ W.)
Northern Lights Blvd railroad bridge
(Lat. 61° 11′ 43″ N., long. 149° 55′ 48″ W.)
Mouth of Fish Creek
(Lat. 61° 12′ 21″ N., long. 149° 55′ 59″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at Point Noname, thence direct to the Mouth of Ship Creek, thence direct to the intersection of the Glenn Highway and Muldoon Road, thence south along Muldoon Road to Tudor Road, thence west along Tudor Road to the New Seward Highway, thence direct to the Northern Lights Blvd railroad bridge, thence direct to the Mouth of Fish Creek, thence direct to Point MacKenzie, thence via the north bank of Knik Arm to the point of beginning; excluding that airspace within the Anchorage International Airport, AK, Class C airspace. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Anchorage, AK, on August 25, 1999.

**Willis C. Nelson,**

*Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 99–22894 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–ACE–41]**

## Amendment to Class E Airspace; Herrington, KS

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

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends Class E airspace area at Herrington Regional Airport, Herrington, KS. A review of the Class E airspace area for Herrington Regional Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace has been enlarged to conform to the criteria of FAA Order 7400.2D.

In addition, a minor revision to the Airport Reference Point (ARP) coordinates is included in this document.

The intended effect of this rule is to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR), revise the ARP, and comply with the criteria of FAA Order 7400.2D.

**DATES:** Effective date: 0901 UTC, December 30, 1999.

Comments for inclusion in the Rules Docket must be received on or before October 19, 1999.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–41, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours

in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** This amendment to 14 CFR 71 revises the Class E airspace at Herrington, KS. A review of the Class E airspace for Herrington Regional Airport, KS, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 100 feet per mile plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Herrington Regional Airport, KS, will provide additional controlled airspace for aircraft operating under IFR, revise the ARP, and comply with the criteria of FAA Order 7400.2D. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, 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 Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipates the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

## Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–ACE–41.'' The postcard will be date stamped and returned to the commenter.

## Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## Adoption of the Amendment

Accordingly, 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 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

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

*Pargraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More above the Surface of the Earth.*

* * * * *

**ACE KS E5 Herrington, KS [Revised]**

Herrington Regional Airport, KS
(Lat. 39°41′54″N., long. 96°48′29″W.)
Herrington NDB
(Lat. 38°41′34″N., long. 96°48′40″W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Herrington Regional Airport and within 2.6 miles each side of the 010°bearing from Herrington NDB extending from the 6.6-mile radius to 7.4 miles north of the airport and within 2.6 miles each side of the 168° bearing from the Herrington NDB extending from the 6.6-mile radius to 7.4 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on August 23, 1999.

**Herman J. Lyons, Jr.,**

*Manager, Air Traffic Division, Central Region.*

[FR Doc. 99–22890 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–ACE–39]**

## Amendment to Class E Airspace; Emmetsburg, IA

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

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends the Class E airspace area at Emmetsburg Municipal Airport, Emmetsburg, IA. The FAA has revised the Nondirectional Radio Beacon (NDB) or Global Positioning System (GPS) Runway (RWY) 13 Standard Instrument Approach Procedure (SIAP) to serve Emmetsburg Municipal Airport, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate this SIAP and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the revised NDB or GPS RWY 13 SIAP in controlled airspace.

In addition, a minor revision to Airport Reference Point (ARP) is included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the NDB or GPS RWY 13 SIAP, amend the ARP, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

**DATES:** This direct final rule is effective on 0901 UTC, December 30, 1999.

Comments for inclusion in the Rules Docket must be received on or before October 18, 1999.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–39, 601 East 12th Street, Kansas City MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** The FAA has revised the NDB or GPS RWY 13 SIAP to serve the Emmetsburg Municipal Airport, Emmetsburg, IA.

The amendment to Class E airspace at Emmetsburg, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the revised SIAP within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The ARP is amended and included in this document. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, 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 Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–ACE–39.'' The postcard will be date stamped and returned to the commenter.

### Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive

Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

Accordingly, 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 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 19998, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

* * * * *

**ACE IA E5 Emmetsburg, IA [Revised]**

Emmetsburg Municipal Airport, IA
(Lat. 43°06′07″N., long. 94°42′18″W.)
Emmetsburg NDB
(Lat. 43°06′04″N., long. 94°42′26″W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Emmetsburg Municipal Airport and within 2.6 miles each side of the 128° bearing from the Emmetsburg NDB extending from the 6.5-mile radius to 7.4 miles southeast of the airport and within 2.5 miles each side of the 324° bearing from the Emmetsburg NDB extending from the 6.5-mile radius to 7 miles northwest of the airport.

* * * * *

Issued in Kansas City, MO, on August 23, 1999.

**Herman J. Lyons, Jr.,**

*Manager, Air Traffic Division, Central Region.*

[FR Doc. 99–22889 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–AWP–2]**

## Modification of Class E Airspace; Mojave, CA

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Class E airspace area at Mojave, CA. The establishment of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 4 and GPS RWY 22 at Mojave Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the GPS RWY 4 and GPS RWY 22 SIAP to Mojave Airport. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Mojave Airport, Mojave, CA. This action also corrects an error in the geographic coordinates of the Mojave Airport, CA, and removes the Edward AFB, CA, header of the Notice of Proposed Rulemaking that was published in the **Federal Register** on July 7, 1999 (64 FR 36631) Airspace Docket No. 99–AWP–2.

**EFFECTIVE DATE:** 0901 UTC November 4, 1999.

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

**SUPPLEMENTARY INFORMATION:**

### History

On July 7, 1999, the FAA proposed to amend 14 CFR part 71 by modifying the Class E airspace area at Mojave, CA (64 FR 36631). Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the GPS RWY 4 and GPS RWY 22 SIAP at Mojave Airport. This action will provide adequate controlled airspace for aircraft executing the GPS RWY 4 and GPS RWY 22 SIAP at Mojave Airport, Mojave, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations for airspace extending 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 the Class E airspace area at Mojave, CA. The development of a GPS RWY 4 and GPS RWY 22 SIAP has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 4 and GPS RWY 22 SIAP at Mojave Airport, Mojave, CA.

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; ROUTES; AND REPORTING POINTS

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

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

### § 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*

* * * * *

**AWP CA E5 Mojave, CA—[Revised]**

Mojave Airport, CA
(Lat 35°03′34″N, long. 118°09′07″W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Mojave Airport.

* * * * *

Issued in Los Angeles, California, on August 13, 1999.

**John Clancy,**

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

[FR Doc. 99–22897 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 73

**[Airspace Docket No. 99–AAL–13]**

**RIN 2120–AA66**

## Amendment to Time of Designation and Using Agency for Restricted Area R–2211 (R–2211), Blair Lakes, AK

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

**ACTION:** Final rule.

**SUMMARY:** This action changes the using agency and eliminates the 24-hour Notice to Airmen (NOTAM) requirement for the activation of R–2211, Blair Lakes, AK. The FAA is taking this action in response to a request from the United States Air Force (USAF) and the Alaska Regional Air Traffic Division to standardize procedures for the activation of airspace in Alaska.

**EFFECTIVE DATE:** 0901 UTC, November 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

### Background

As a result of a review of restricted area operation, the USAF and the FAA Alaska Air Traffic Division requested to change the requirements for the activation of R–2211, Blair Lakes, AK, by eliminating the requirement for a 24-hour NOTAM to activate the airspace. The USAF Special Use Airspace Information System, operated by the USAF in interior Alaska, provides real-time information on the status of R–2211 and makes the advanced NOTAM requirement unnecessary.

### The Rule

This amendment to 14 CFR part 73 changes the times of designation for R–2211, Blair Lakes, AK, by removing the words ''NOTAM issued by the using agency at least 24 hours in advance,'' and inserting the words ''NOTAM issued by the using agency,'' and changes the using agency. This is an administrative change and does not affect the boundaries, designated altitudes, or activities conducted within the restricted areas. Therefore, I find that notice and public procedures under 5 U.S.C. 553(b) are unnecessary. Section 73.22 of part 73 was republished in FAA Order 7400.8F, dated October 27, 1998.

The FAA has determined that this action 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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

In accordance with FAA Order 1050.1D, ''Polices and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969, this action is not subject to environmental assessments and procedures.

### List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

## PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 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.

**§ 73.22 [Amended]**

2. Section 73.22 is amended as follows:

* * * * *

**R–2211 Blair Lakes, AK [Amended]**

By removing the words ''Time of designation. 0800 to 1800, local time, Monday–Friday and at other times as activated by NOTAM issued by the using agency at least 24 hours in advance'' and inserting the words ''Time of designation. 0800 to 1800, local time, Monday–Friday and at other times as activated by NOTAM issued by the using agency''; and by removing the words ''Using agency. U.S. Air Force, 345th Fighting Wing, Eielson AFB, AK'' and inserting the words ''Using agency. U.S. Air Force, 354th Fighter Wing, Eielson AFB, AK.''

* * * * *

Issued in Washington, DC, August 25, 1999.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 99–22893 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 73

**[Airspace Docket No. 99–AWP–18]**

**RIN 2120–AA66**

## Change Using Agency for Restricted Areas R–2510A and R–2510B; El Centro, CA

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

**ACTION:** Final rule.

**SUMMARY:** This action changes the using agency for R–2510A and R–2510B, El Centro, CA, from ''U.S. Navy, Commander, Fleet Area Control and Surveillance Facility, San Diego, CA'' to ''Commanding Officer (CO), Yuma Marine Corps Air Station (MCAS), AZ.'' This is an administrative change that was initiated by the U.S. Navy to reflect the current using organization. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted areas.

**EFFECTIVE DATE:** 0901 UTC, November 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Joseph C. White, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

## The Rule

This action amends 14 CFR part 73 by changing the name of the using agency for R–2510A and R–2510B, from ''U.S. Navy, Commander, Fleet Area Control and Surveillance Facility, San Diego, CA'' to ''CO, Yuma MCAS, AZ.''

This administrative change will not alter the existing boundaries, altitudes, times of designation, or the activities conducted within the affected restricted areas. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested.

Section 73.25 of part 73 was republished in FAA Order 7400.8F, dated October 27, 1998.

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.

## Environmental Review

This action is a minor administrative change to amend the name of the using agency of existing restricted areas. There are no changes to the dimensions of the restricted areas, or to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969.

## List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

## Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

## PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 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.

### § 73.25 [Amended]

2. Section 73.25 is amended as follows:

* * * * *

**R–2510A El Centro, CA [Amended]**

By removing ''Using agency. U.S. Navy, Commander, Fleet Area Control and Surveillance Facility, San Diego, CA'' and substituting ''Using agency. CO, Yuma MCAS, AZ.''

**R–2510B El Centro, CA [Amended]**

By removing ''Using agency. U.S. Navy, Commander, Fleet Area Control and Surveillance Facility, San Diego, CA'' and substituting ''Using agency. CO, Yuma MCAS, AZ.''

* * * * *

Issued in Washington, DC, on August 26, 1999.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 99–22898 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR Part 12

**[T.D. 99–68]**

**RIN 1515–AC49**

## Textiles and Textile Products; Denial of Entry

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations to provide that textiles and textile products that are covered by textile trade agreements negotiated under section 204 of the Agricultural Act of 1956, as amended, will be denied entry if entry documents show that the textiles or textile products have been produced at certain factories that are named in a Directive published in the **Federal Register** by the Committee for the Implementation of Textile Agreements (CITA) as companies found to be illegally transshipping, closed or unable to produce records to verify production. The purpose of this action is to avoid the circumvention of textile trade agreements.

**EFFECTIVE DATE:** September 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** William Trujillo, Office of Field Operations, 202–927–1959.

**SUPPLEMENTARY INFORMATION:**

## Background

In order to implement import policies with respect to textiles and textile products, Congress provided authority to the President to negotiate textile agreements in section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and authority to issue regulations governing the entry of such products to carry out any such agreement. The Committee for the Implementation of Textile Agreements (CITA) was established by Executive Order 11651 on March 3, 1972 to supervise the implementation of textile trade agreements. Section 2(a) of that Executive Order requires the Commissioner of Customs to take such actions as CITA, through its Chairman, shall recommend to carry out those agreements.

Moreover, Executive Order 12475 of May 9, 1984, directed the Secretary of the Treasury, in accordance with policy guidance provided by CITA through its Chairman, to issue regulations governing the entry of textiles and textile products subject to section 204 of the Agricultural Act of 1956, as amended, to the extent necessary to implement more effectively the United States textile program.

In 1995, the World Trade Organization Agreement on Textiles and Clothing (ATC) entered into force with respect to the United States. Article 5 of the ATC recognizes that circumvention of textile and textile product quotas, including through illegal transshipment of textiles and textile products from one country through another, frustrates the implementation of that Agreement.

Customs has attempted to combat illegal transshipment through various efforts, including on-site production verification visits and working with foreign governments and the domestic textile and apparel industry.

If, during a textile production verification visit, Customs finds that a textile manufacturer, factory, or producer shown on U.S. entry documents is closed, or engages in illegal transshipment, or is unable to provide adequate proof of production for previous shipments of merchandise to the United States, in accordance with § 12.130(g), Customs Regulations (19 CFR 12.130(g)), Customs may require additional information from importers claiming their shipments were manufactured at the factory in question.

On July 27, 1999, the Chairman of CITA directed the Commissioner of

Customs, as soon as possible, to issue regulations permitting U.S. Customs to deny entry to textiles and textile products where the declared manufacturer has been named in a CITA directive as a company found to be illegally transshipping, closed or unable to produce records to verify production. This document amends the Customs Regulations accordingly.

Customs will deny entry to textiles and textile products subject to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), where the factory, producer or manufacturer is named in a Directive issued by CITA to Customs that is published in the **Federal Register**. In these circumstances, additional information will not be accepted or considered by Customs for purposes of determining the admissibility of the textiles or textile products in question.

### The Regulatory Flexibility Act, Executive Order 12866 and Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements

In accordance with the provisions of 5 U.S.C. 553(a)(1), prior public notice and comment procedures are inapplicable to this regulation. This regulation is promulgated pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and is thus within the foreign affairs function of the United States. This regulation is necessary in order to prevent circumvention or frustration of bilateral and multilateral agreements to which the United States is a party and to facilitate efficient and equitable administration of the U.S. textile import program as authorized in section 204. The authority to promulgate this regulation was delegated by the President to the Secretary of the Treasury by Executive Order 12475. Since this document is not subject to the requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor does the amendment result in a ''significant regulatory action'' under E.O. 12866.

### List of Subjects in 19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Reporting and recordkeeping requirements, Textiles and textile products, Trade agreements.

### Amendment to the Regulations

Part 12, Customs Regulations (19 CFR part 12), is amended as set forth below.

## PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for part 12 continues to read in part as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.130 and 12.131 also issued under 7 U.S.C. 1854;

* * * * *

2. Section 12.131 is amended by designating the existing text as paragraph (a), and by adding a heading to newly designated paragraph (a), and adding a new paragraph (b) to read as follows:

**§ 12.131 Entry of textiles and textile products.**

(a) *General.* * * *

(b) *Denial of entry pursuant to directive.* Textiles and textile products subject to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), whether or not the requirements set forth in § 12.130 have been met, will be denied entry where the factory, producer or manufacturer named in the entry documents for such textiles or textile products is named in a directive published in the **Federal Register** by the Committee for the Implementation of Textile Agreements as a company found to be illegally transshipping, closed or unable to produce records to verify production. In these circumstances, no additional information will be accepted or considered by Customs for purposes of determining the admissibility of such textiles or textile products.

Approved: August 20, 1999.

**Raymond W. Kelly,**

*Commissioner of Customs.*

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 99–23032 Filed 8–31–99; 2:28 pm]

BILLING CODE 4820–02–P

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## POSTAL SERVICE

## 39 CFR Part 111

## Eligibility Requirements for Certain Nonprofit Standard Mail Rate Matter

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This document adopts a proposed rule, which was published in the **Federal Register** on March 6, 1998 (63 FR 11199–11200). It amends the standards for mail matter eligible to be sent at the Nonprofit Standard Mail rates. Specifically, mail matter that seeks or solicits membership dues payments may contain ''promotional'' material concerning membership benefits when certain criteria are met. This final rule adopts the proposal as it was published with an explanation below.

**EFFECTIVE DATE:** September 9, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jerome M. Lease, 202–268–5188.

**SUPPLEMENTARY INFORMATION:** Eligibility to mail at Nonprofit Standard Mail rates (referred to below as ''nonprofit'' rates) is established by statute. These statutes prescribe which organizations may mail at these rates along with the limitations on what may be mailed. As it has noted in numerous rulemakings concerning nonprofit rates (see, for example, 56 FR 46551 (September 13, 1991)), the Postal Service views its role in this area as that of an administrator, rather than that of a policymaker. That is, the Postal Service simply seeks to administer the eligibility provisions on nonprofit mail as set forth by Congress.

On two occasions at the beginning of this decade, Congress enacted limitations on the inclusion of advertising matter at the nonprofit rates. The first of these, codified to a large extent as 39 U.S.C. 3626(j)(1)(A–C), limited solicitations for credit cards and other financial instruments, insurance, and travel. The second, codified as 39 U.S.C. 3626(j)(1)(D), limited solicitations for all other products and services. There are no exceptions listed to the restrictions on advertising for financial instruments; the statute does set forth exceptions to the restrictions on advertising for travel, insurance, and all other products and services. Unfortunately, there is little legislative history concerning these provisions.

The statutes contain two additional exceptions that apply to each of the categories in 39 U.S.C. 3626(j)(1). These exceptions, which are set forth in 39 U.S.C. 3626(j)(2), allow certain acknowledgments of sponsors and references to member benefits to be mailed at the nonprofit rates. The latter exception, which is codified at 39 U.S.C. 3626(j)(2)(B), is the subject of this rulemaking. Again, there is little legislative history concerning these provisions.

The membership benefit exception states that a mailpiece shall not be excluded from being mailed at nonprofit rates solely because that material contains, but is not primarily devoted to, references to and a response card or other instructions for making inquiries about services or benefits available from membership in the authorized organization, if advertising,

promotional, or application materials for such services or benefits are not included. Up to now, the Postal Service has applied this rule in a literal, straightforward manner. That is, nonprofit organizations have been permitted to list a product or service available to members and a response card or instructions for inquiring about the product or service. They have not, however, been permitted to provide additional information concerning the product, such as a description, brand name, price or other terms of purchase that would be promotional in nature. For instance, an organization could state: ''An affinity credit card is available to members. For information, please call John Doe at xxx–xxxx,'' assuming the mailpiece did not consist to a primary degree (i.e., was ''not primarily devoted to'' under the statute) such product and service references. Contrary to arguments made by mailers, the Postal Service interpretation of the statute was consistent with the statute and created an exception to the blanket preclusion of 3626(j)(1), since the example quoted above would be prohibited by 39 U.S.C. 3626(j)(1)(A) if not for the member benefit exception. However, the Postal Service has not permitted a description of the credit card as ''low cost'' or as having ''no annual fee'' or a ''five percent interest rate'' under the exception since these descriptions would constitute ''advertising, promotional, or application materials'' prohibited under the statute.

Consideration of the proposed policy was prompted by concerns that the literal reading and Postal Service application of the statute was hindering the efforts of nonprofit organizations to attract and retain members. That is, nonprofit organizations claim that their goal in these mailings is to attract or retain members, rather than to sell benefits, and that the success of these membership efforts hinges on their ability to provide a favorable description of the nonprofit's membership benefits. Although the Postal Service was sympathetic to the concerns raised by some nonprofit organizations, it was mindful, as discussed above, that the accommodation sought appeared to go beyond the literal language of the statute. Moreover, as noted above, there was little legislative history to support the nonprofit organizations' view. Nevertheless, in the belief that the statute was not intended to create an impediment to membership in nonprofit organizations, the Postal Service determined to propose this rule to alleviate this effect. Accordingly, as discussed in its proposal, 63 FR 11199, the Postal Service proposed to follow the principles utilized in an earlier rule change concerning ''back end premiums'' by looking at the mailpiece as a single solicitation and considering whether it was primarily intended to attract or retain members or solicit sales of other products and services (citing 62 FR 61014–61015 (November 14, 1997)). This was to be accomplished by objective criteria concerning the relative amount of space devoted in the mailpiece to these purposes.

The application of the new standards is prospective. The former standards were clear, rational, and, as discussed above, consistent with the statute. Therefore, the new standard will not be applied retroactively to any previously assessed revenue deficiencies.

The proposed rule offered standards under which a membership solicitation could be entered at the nonprofit rates, notwithstanding the inclusion of promotional material for products and services. For purposes of this exception, ''minor'' is defined as less than half. Measurement of contents would be performed in accordance with the same standards for measuring advertising and nonadvertising in a Periodicals publication as described in Domestic Mail Manual (DMM) P200.1.7. Except as allowed below, only the solicitation letter is eligible to contain information about membership benefits under this standard. It does not apply to any brochures, circulars, flyers, or other separate, distinct, or independent documents. Any advertising, promotional, or benefit application materials in these latter documents will cause the entire mailpiece to be ineligible for the nonprofit rates unless other provisions allow it to be entered at those rates. The proposed rule did establish a limited exception for an organization that prepares a standard, preprinted document, consisting of a single sheet, that lists and describes its membership benefits. This document may be enclosed with and considered part of the solicitation letter for purposes of applying the proposed test, provided that the membership letter does not itself list or describe the member benefits. The membership letter may, however, refer the addressee to the separate list of benefits. (For example, the letter may state ''For a description of benefits available to members, please see the attached sheet,'' as long as no promotional material concerning the benefits is included in the letter.)

The Postal Service received a total of 29 comments on the proposed rule. A majority of commenters supported the rule, but in some cases with reservations that the proposal does not go far enough to allow nonprofit organizations to describe membership benefits in the mails. There were two commenters who expressed disagreement with the proposed rule or any change that would make it easier to describe such benefits.

**Evaluation of Comments Received**

Written comments were received from 26 organizations and associations representing nonprofit organizations, one individual, and two organizations representing the travel industry. Of primary concern to 23 of the commenters is the Postal Service's proposed limitation of mailpieces eligible to contain descriptive material about membership benefits to mailpieces that are a solicitation for membership, renewal of membership, or requests to become a contributing member. These commenters, many of which operate on a monthly dues cycle, do not communicate with members by solicitation or renewal letter, but by newsletter. This group of commenters wants the proposal to extend to nonprofit organizations the ability to describe with favorable terms membership benefits in newsletters. One individual simply requested a copy of the proposed rule, which has been provided. One commenter believes the proposed rule does not make clear that among membership benefits that may be described under the proposal are credit cards, travel arrangements, and insurance. These services, advertising for which has been restricted since 1991 under 39 U.S.C. 3626(j)(1)(A–C), are subject to restrictions whether they are described in a stand-alone mailpiece or a newsletter. This same commenter also was concerned about the limitations of the proposal to membership solicitations. Two additional commenters expressed concern that the proposed rule would create an overly narrow definition of a membership solicitation or renewal mailpiece. Like the previous commenters, they suggested that the proposal be extended to include all membership mailings, not just membership solicitations or renewals. They also stated that the Postal Service should exclude membership benefits that are substantially related to a nonprofit organization's purposes when determining whether a mailpiece contains a ''minor'' description of benefits under the rule.

The two commenters representing the travel industry strongly opposed the proposed rule change. These commenters requested that the Postal Service withdraw the proposed

modification to standards on the bases that the proposed rule's literal language contravenes the statute on which it is based; the rule conflicts with federal policy pronouncements on competition between small firms and nonprofit organizations; the rule constitutes a faulty interpretation of the statute; and the rule reflects unsound postal policy.

The Postal Service considered the comments, and has determined to adopt the rule as proposed. The requests to extend the policy beyond membership solicitation letters but to newsletters sent to all members are beyond the scope of the proposal. The standards adopted here were undertaken to ensure that the advertising restrictions did not have a detrimental effect on the ability of nonprofit organizations to attract and retain members. They are intended to apply where the mailpiece is intended only to attract or retain members, rather than to sell the products or services described in them, and the proposal was limited to membership solicitation letters for that reason. Moreover, this decision does not prohibit organizations from mentioning their benefits in member newsletters. Indeed, unless the benefit concerns travel, insurance, or financial instruments (the so-called TIF advertisements), the organization likely is already free to describe them in newsletters under 39 U.S.C. 3626(j)(1)(D)(III) and DMM E670.5.4(d)(2). Further, even if a ''TIF'' benefit is involved and it is not within the statutory exceptions in 39 U.S.C. 3626(j)(1), the newsletter can, as described above, include an announcement such as: ''(Product) is available to members. For further information, contact . . .''

The request that the calculation of the percentage of membership benefits not include ''substantially related'' advertisements appears to the Postal Service to be inconsistent with the language of the statute. That is, nothing indicates that all relevant references to benefits should not be included in determining whether the mailpiece is ''primarily devoted'' to member benefit references. If the Postal Service were to adopt this proposal, it would permit, at the nonprofit rate, letters consisting entirely, or nearly entirely, of descriptions of membership benefits. This would seem to be inconsistent with the underlying reason for this policy change (i.e., that the letters are primarily intended to attract or retain members rather than to sell products or services).

The Postal Service agrees that the policy adopted here applies to all member benefits, including travel, insurance, and financial instruments, but does not believe that the proposed rule is misleading or requires revision concerning this issue.

The Postal Service disagrees with the commenters who oppose the proposal. As discussed above, although the Postal Service does not believe that the proposed policy represents the most literal reading of the underlying statute, it disputes the assertion that it is contrary to the language of the statute or beyond the authority of the Postal Service to adopt. The Postal Service acknowledges the keen financial interest that these commenters have in this policy, and commenters' concern that the use of nonprofit rates will put them or their members at a competitive disadvantage. The Postal Service does not believe that it can establish a special policy for membership benefits concerning travel arrangements; the language of 39 U.S.C. 3626(j)(2)(B) provides no basis for distinguishing travel from other products and services. Nevertheless, the Postal Service believes that the limited scope of the policy change will minimize any adverse effect on for-profit businesses. The rules are intended to help nonprofit organizations attract and maintain members, rather than to compete in the sale of products and services. Thus, mailings should be made to prospective members only and existing members only at the time when renewals are due, rather than to the membership or public at large. Should circumstances require, the Postal Service will consider revisiting this policy.

After full consideration of the comments received and for the reasons discussed above, the Postal Service believes it appropriate to adopt, without revisions, the proposed changes in eligibility requirements.

### List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

## PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend Domestic Mail Manual E670.5.7, by revising b. to read as follows:

**Domestic Mail Manual (DMM)**

* * * * *

E Eligibility

* * * * *

E670 Nonprofit Standard Mail

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5.0 Eligible and Ineligible Matter

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5.7 Other Matter

An authorized nonprofit organization's material is not disqualified from being mailed at the Nonprofit Standard Mail rates solely because that material contains, but is not primarily devoted to:

* * * * *

b. References to and a response card or other instructions for making inquiries about services or benefits available from membership in the authorized organization, if advertising, promotional, or application materials for such services or benefits are not included. For purposes of this section, descriptions of membership benefits available as a part of membership, including the use of adjectives, terms, conditions, and brand names, are permissible when they are a minor part of a solicitation or renewal request for membership payments. For purposes of this provision, ''minor'' is defined as ''less than half.'' Measurement is made in accordance with P200. The solicitation or renewal request in which, to a minor degree, membership benefits may be promoted is considered to include only a printed letter to prospective members or current members whose membership is about to expire, and not to any separate, distinct, or independent brochure, circular, flyer, or other documents. Such separate documents will be considered advertising if they contain any advertising, promotional, or application materials. Exception: A separate document prepared by the qualifying organization, consisting of one sheet, will be considered to be part of the solicitation letter if it describes the organization's membership benefits and the solicitation letter does not describe the organization's benefits but instead refers the reader to the separate document.

* * * * *

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 99–22822 Filed 9–1–99; 8:45 am]

BILLING CODE 7710–12–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[MA–35–1–6659a; A–1–FRL–6425–4]**

## Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides and Nitrogen Oxide Requirements at Municipal Waste Combustors

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Massachusetts. These revisions establish and require the implementation of reasonably available control technology (RACT) at major stationary sources of nitrogen oxides ($NO_X$). Additionally, Massachusetts has requested SIP approval of $NO_X$ emission limits, monitoring, record keeping, and reporting requirements for municipal waste combustors. The intended effect of this action is to approve regulations and facility-specific requirements in accordance with the Clean Air Act.

**DATES:** This direct final rule is effective on November 1, 1999 without further notice, unless EPA receives adverse comment by October 4, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Steven A. Rapp, at (617) 918–1048, or by e-mail at: Rapp.Steve@EPAMAIL.EPA.GOV.

**SUPPLEMENTARY INFORMATION:** The following questions will be covered in this section:

A. What action is EPA taking?
B. What air pollutants are reduced by the Massachusetts regulation?
C. Who is affected by today's action?
D. When does today's action take effect?
E. What is ''reasonably available control technology'' (RACT) for sources of nitrogen oxides ($NO_X$)?
F. Where is $NO_X$ RACT required?
G. Why is the Massachusetts submittal approvable as $NO_X$ RACT?
H. Why is EPA approving the municpal waste combustor $NO_X$ requirements as a SIP revision?
I. Where to go for more information on $NO_X$ RACT?
J. What does ''direct final rulemaking'' mean?

### A. What Action is EPA Taking?

Today, EPA is approving Massachusetts regulation, 310 CMR 7.19, ''Reasonably Available Control Technology (RACT) for Oxides of Nitrogen ($NO_X$),'' as well as facility-specific $NO_X$ RACT emission control plans (ECPs) for Specialty Minerals, Incorporated in Adams, Monsanto Company's Indian Orchard facility in Springfield, Medusa Minerals Company (formerly Lee Lime) in Lee, Turners Falls Limited Partnership/Indeck Energy Services Turners Falls, Inc., in Montague (Turners Falls). These SIP revisions were submitted in response to the Clean Air Act (CAA) requirement that States require Reasonably Available Control Technology (RACT) at all major stationary sources of $NO_X$. EPA is taking this approval action under section 110, Implementation Plans, of the CAA. By adding this regulation and ECPs to its SIP, Massachusetts meets the nitrogen oxides ($NO_X$) reasonably available control technology (RACT) requirements of the Clean Air Act (CAA) found in sections 182(b)(2), Reasonably Available Control Technology; 182(f), $NO_X$ Requirements; and 184(b) Plan Provisions for States in Ozone Transport Regions.

Additionally, EPA is approving the $NO_X$ emission limits, monitoring, record keeping, and reporting requirements for municipal waste combustors (MWCs) that were promulgated under Massachusetts' regulation 310 CMR 7.08(2), ''Municipal Waste Combustors.'' These requirements were developed pursuant to requirements under sections 111 and 129 of the CAA but will reduce $NO_X$ emissions at MWCs and were therefore submitted as a SIP revision under section 110 as well.

### B. What Air Pollutants Are Reduced by the Massachusetts Regulation?

Massachusetts' $NO_X$ RACT regulation and facility-specific RACT determinations require certain stationary sources, for example, powerplants and factories with boilers, to limit their daily, or in some cases monthly, airborne emissions of nitrogen oxides. Since June 1995, the regulation has reduced $NO_X$ emissions at major stationary sources by almost 50% each year from a 1990 baseline. The $NO_X$ requirements under 310 CMR 7.08(2) will reduce $NO_X$ emissions at MWC facilities by as much as 45% below RACT emission levels.

Decreases in $NO_X$ emissions help improve the environment in several important ways. First, because $NO_X$, is an ozone precursor, reducing $NO_X$ reduces concentrations of ground level ozone. Decreases in $NO_X$ emissions also reduce concentrations of nitrogen dioxide, particulate matter, and certain other types of toxic air pollutants. Additionally, decreases in $NO_X$ emissions to the air also decrease acidic rain and snow, nitrates in drinking water, and nitrogen loadings to water and land ecosystems. And, on a global scale, decreases in $NO_X$ emissions help reduce greenhouse gases and stratospheric ozone depletion.

### C. Who Is Affected By Today's Action?

All sources that are subject to 310 CMR 7.19, the facility-specific ECPs, and 310 CMR 7.08(2) are affected by this action. EPA's approval today does not change the applicability of 310 CMR 7.19, the facility-specific ECPs, or 310 CMR 7.08(2). But, today's action makes the requirements of 310 CMR 7.19, the facility-specific ECPs, and 310 CMR 7.08(2) enforceable by EPA as well as by the Massachusetts DEP.

### D. When Does Today's Action Take Effect?

If EPA receives no adverse comments during the 30-day public comment period that follows the publication of this document, EPA approval action will be effective 60 days after the date of publication.

### E. What Is ''Reasonably Available Control Technology'' (RACT) for Sources of Nitrogen Oxides ($NO_X$)?

EPA defines RACT as the lowest emission limit that a polluting source is capable of meeting if it uses pollution control equipment and/or material or process changes that are reasonably available considering costs and current technology. In general, EPA considers a 30 to 50% reduction in $NO_X$ from a 1990 baseline emission level to be reasonable. EPA believes such a reduction is available at a cost between $250 to $1,300 per ton of $NO_X$ reduced. EPA allows States to require the reduction from each and every piece of equipment or as an average among sources or categories of sources.

### F. Where Is $NO_X$ RACT Required?

The CAA required certain States to develop RACT regulations for major stationary sources of $NO_X$. Section 182(b)(2) requires States with areas that were classified as ''moderate,'' ''serious,'' ''severe,'' and ''extreme'' nonattainment of the ozone NAAQS, subsequent to the passage of the 1990 Clean Air Act Amendments, to impose RACT requirements on major sources of volatile organic compounds (VOCs). Section 182(f) of the CAA extends the RACT requirement of section 182(b)(2) to major stationary sources of $NO_X$ as well. Under the CAA, the definition of major stationary source is based on the tons per year of air pollution a source emits and the quality of the air in the area of the source. In ''serious'' non-attainment areas, a major stationary source is defined as a source with the potential to emit 50 tons per year.

The entire Commonwealth of Massachusetts was classified as serious nonattainment when it developed its $NO_X$ RACT regulations. The reader should refer to the November 6, 1991, **Federal Register** document at 56 FR 56694 for more information regarding nonattainment classifications. The $NO_X$ RACT requirements approved today apply the 50 tons per year threshold to the entire Commonwealth. Thus, any stationary source with the potential to emit 50 tons or more per year of $NO_X$ must install and operate $NO_X$ RACT.

### G. Why is the Massachusetts Submittal Approvable as $NO_X$ RACT?

EPA considers an aggregate reduction in $NO_X$ of 30% to 50% from a 1990 baseline emission level to be RACT. Since June 1995, the emission limits and requirements in regulation 310 CMR 7.19 and facility-specific ECPs have reduced $NO_X$ by almost 50% each year from the major stationary sources in Massachusetts. Therefore, EPA considers the regulation and ECPs to meet the CAA $NO_X$ RACT requirements.

### H. Why Is EPA Approving the Municipal Waste Combustor $NO_X$ Requirements as a SIP Revision?

On July 3, 1999, EPA approved all of the requirements for municipal waste combustors (MWCs) in 310 CMR 7.08(2) as meeting sections 111(d) and 129 of the Clean Air Act. However, because $NO_X$ is a ground level ozone precursor and 310 CMR 7.08(2) will reduce $NO_X$ from 1995 levels, Massachusetts requested that EPA approve the $NO_X$ related requirements of 310 CMR 7.08(2) into the State implementation plan (SIP) to reduce ozone pursuant to section 110 as well.

### I. Where To Go for More Information on $NO_X$ RACT?

EPA provides additional guidance on determining $NO_X$ RACT in a **Federal Register** document entitled, ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' published November 25, 1992 (57 FR 55620). The November 25, 1992 notice is also known as ''The $NO_X$ Supplement.'' EPA also published additional $NO_X$ RACT guidance memoranda in the ''$NO_X$ Policy Document for the Clean Air Act of 1990,'' also known as ''The $NO_X$ Policy Document,'' (EPA–452/R–96–005, March 1996). You can refer to The $NO_X$ Supplement and The $NO_X$ Policy Document for more information on $NO_X$ RACT.

Additionally, for a more detailed discussion of Massachusetts' $NO_X$ RACT regulation and EPA's proposed action, you can refer to the Technical Support Document, entitled, ''Technical Support Document for Massachusetts' Regulation 310 CMR 7.19, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen ($NO_X$),'' dated April 1999. For copies of the Technical Support Document, contact the EPA or Massachusetts Department of Environmental Protection at the addresses listed in the **ADDRESSES** section of this notice.

### J. What Does ''Direct Final Rulemaking'' Mean?

Essentially, direct final rulemaking means that the EPA is publishing this rule without prior proposal. EPA is doing so because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective November 1, 1999 without further notice unless the Agency receives adverse comments by October 4, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 1, 1999 and no further action will be taken on the proposed rule.

## II. Final Action

EPA is approving Massachusetts' regulation, 310 CMR 7.19, ''Reasonably Available Control Technology (RACT) for Oxides of Nitrogen ($NO_X$),'' as well as facility-specific $NO_X$ RACT emission control plans (ECPs) for Specialty Minerals, Incorporated in Adams, Monsanto Company's Indian Orchard facility in Springfield, Medusa Minerals Company (formerly Lee Lime) in Lee, Turners Falls Limited Partnership/ Indeck Energy Services Turners Falls, Inc., in Montague (Turners Falls). Additionally, EPA is approving the $NO_X$ emission limits, monitoring, recordkeeping, and reporting requirements for municipal waste combustors (MWCs) that were promulgated under Massachusetts' regulation 310 CMR 7.08(2), ''Municipal Waste Combustors.''

## III. Administrative Requirements

### *A. Executive Order 12866*

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

### *B. Executive Order 12875*

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

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of

section 1(a) of E.O. 12875 do not apply to this rule.

*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 E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

*E. Regulatory Flexibility*

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

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

*G. Submission to Congress and the Comptroller General*

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

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 1, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

**Note:** Incorporation by reference of the State Implementation Plan for the Commonwealth of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 10, 1999.

**John P. DeVillars,**

*Regional Administrator, Region I.*

Part 52 of 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 *et seq.*

## Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(119) to read as follows:

### § 52.1120 Identification of plan

* * * * * *

(c) * * *

(119) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on July 15, 1994, October 4, 1996, December 2, 1996, January 11, 1999, and April 16, 1999.

(i) Incorporation by reference.

(A) Letters from the Massachusetts Department of Environmental Protection dated July 15, 1994, October 4, 1996, December 2, 1996, January 11, 1999, and April 16, 1999 submitting revisions to the Massachusetts State Implementation Plan.

(B) Regulation, 310 CMR 7.19, ''Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen ($NO_X$)'' as adopted by the Commonwealth of Massachusetts on June 29, 1994 and effective on July 1, 1994.

(C) Emission Control Plan for Specialty Minerals, Incorporated, in Adams, issued by Massachusetts and effective on June 16, 1995.

(D) Emission Control Plan for Monsanto Company's Indian Orchard facility in Springfield, issued by Massachusetts and effective on October 28, 1996.

(E) Emission Control Plan for Turners Falls Limited Partnership/Indeck Energy Services Turners Falls, Inc., in Montague, issued by Massachusetts and effective on March 10, 1998.

(F) Emission Control Plan for Medusa Minerals Company in Lee, issued by Massachusetts and effective on April 17, 1998.

(G) Regulation 310 CMR 7.08(2), ''Municipal Waste Combustors, adopted on July 24, 1998 and effective on August 21, 1998, excluding the following sections which were not submitted as part of the SIP revision: (a); the definition of ''Material Separation Plan'' in (c); (d)1; (d)2; (d)3; (d)4; (d)5; (d)6; (d)8; (f)1; (f)2; (f)5; (f)6; (f)7; (g)1; (g)2; (g)3; (g)4; (h)2.a; (h)2.b; (h)2.d; (h)2.e; (h)2.g; (h)2.h; (h)4; (h)5.a; (h)5.c; (h)5.d; (h)9; (h)10; (h)13; (i)1.b; (i)1.g; (i)2.c; (i)2.d; (i)2.e; and (k)3.

(H) Amendments to regulation 310 CMR 7.19, ''Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen ($NO_X$)'' as adopted by the Commonwealth of Massachusetts on January 5, 1999 and effective on January 22, 1999.

For the State of Massachusetts:

3. In § 52.1167, Table 52.1167 is amended by adding new entries to existing state citations for 310 CMR 7.08 and 310 CMR 7.19 to read as follows:

### § 52.1167 EPA-approved Massachusetts State regulations.

* * * * *

TABLE 52.1167—EPA—APPROVED MASSACHUSETTS REGULATIONS

| State citation | Title/Subject | Date submitted by state | Date approved by EPA | Federal Register citation | 52.1120(c) | Explanations/unapproved sections |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | * |
| 310 CMR 7.08(2), except sections: (a); the definition of ''Material Separation Plan'' in (c); (d)1; (d)2; (d)3; (d)4; (d)5; (d)6; (d)8; (f)1; (f)2; (f)5; (f)6; (f)7; (g)1; (g)2; (g)3; (g)4; (h)2.a; (h)2.b; (h)2.d; (h)2.e; (h)2.g; (h)2.h; (h)4; (h)5.a; (h)5.c; (h)5.d; (h)9; (h)10; (h)13; (i)1.b; (i)1.g; (i)2.c; (i)2.d; (i)2.e; and (k)3.. | MWC $NO_X$ requirements. | 1/11/99 | 9/2/99 | [Insert *FR* citation from published date]. | 119 | Only approved $NO_X$ related requirements of state plan for MWCs. The following sections were not submitted as part of the SIP: (a), the definition of ''Material Separation Plan'' in (c), (d)1, (d)2, (d)3, (d)4, (d)5, (d)6, (d)8, (f)1, (f)2, (f)5, (f)6, (f)7, (g)1, (g)2, (g)3, (g)4, (h)2.a, (h)2.b, (h)2.d, (h)2.e, (h)2.g, (h)2.h, (h)4, (h)5.a, (h)5.c, (h)5.d, (h)9, (h)10, (h)13, (i)1.b, (i)1.g, (i)2.c, (i)2.d, (i)2.e, and (k)3. |
| * | * | * | * | * | * | * |
| 310 CMR 7.19 | $NO_X$ RACT | 7/15/94 | 9/2/99 | [Insert *FR* citation from published date]. | 119 | $NO_X$ RACT regulations. |
| 310 CMR 7.19 | $NO_X$ RACT | 10/4/96 | 9/2/99 | [Insert *FR* citation from published date]. | 119 | Facility specific $NO_X$ RACT for Specialty Minerals, Incorporated. |
| 310 CMR 7.19 | $NO_X$ RACT | 12/2/96 | 9/2/99 | [Insert *FR* citation from published date]. | 119 | Facility specific $NO_X$ RACT for Monsanto Company's Indian Orchard facility. |
| 310 CMR 7.19 | $NO_X$ RACT | 4/16/99 | 9/2/99 | [Insert *FR* citation from published date]. | 119 | Facility specific $NO_X$ RACT for Turners Falls Limited Partnership/Indeck Energy Services Turners Falls, Inc., in Montague. |

TABLE 52.1167—EPA—APPROVED MASSACHUSETTS REGULATIONS—Continued

| State citation | Title/Subject | Date submitted by state | Date approved by EPA | Federal Register citation | 52.1120(c) | Explanations/unapproved sections |
|---|---|---|---|---|---|---|
| 310 CMR 7.19 | $NO_X$ RACT | 4/16/99 | 9/2/99 | [Insert *FR* citation from published date]. | 119 | Facility specific $NO_X$ RACT for Medusa Minerals Company in Lee. |
| 310 CMR 7.19 | $NO_X$ RACT | 4/16/99 | 9/2/99 | [Insert *FR* citation from published date]. | 119 | Approval of the replacement of section 310 CMR 7.19(1)(c)1, (1)(c)8, (2)(b), (3)(a), (3)(c)2, (4)(a)3.b, (7)(a)4, (9), (13)(a), (13)(a)3, (13)(a)9, and (13)(a)13. |
| * | * | * | * | * | * | * |

[FR Doc. 99–22185 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 271

**[FRL–6431–2]**

## Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions

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

**ACTION:** Immediate final rule.

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

**DATES:** This action is effective on November 1, 1999 without further notice, unless the EPA receives relevant adverse comments by October 4, 1999. If adverse comments are received, EPA will publish a timely withdrawal of the immediate final rule or identify the issues raised, respond to the comments, and affirm that the immediate final rule will take effect as scheduled.

**ADDRESSES:** Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Louisiana during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas Texas 75202–2733, (214) 665–8533: or Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810,(504) 765–0617.

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

**SUPPLEMENTARY INFORMATION:**

### A. What Is Resource Conservation and Recovery Act State Authorization?

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

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

### B. Why Are Revisions to State Programs Necessary?

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

### What Is the Effect of This Authorization?

This authorization should not have little impact because the State's requirements are already effective. However, upon approval of the revisions, Louisiana will have authority to regulate the rules pertaining to RCRA Cluster VII. Currently, the EPA regulates this waste. Louisiana will have authority to issue permits in RCRA Cluster VII rules and to ensure that all permits issued to hazardous waste facilities protect of human health and the environment.

### D. What Is the History of Louisiana's Final Authorization and Its Revisions?

The State of Louisiana initially received final authorization on February 7, 1985 (50 FR 3348), to implement its

base Hazardous Waste Management program. Louisiana received authorization for revisions to its program on January 29, 1990 (54 FR 48889), October 25, 1991 (56 FR 41958), and technical corrections at (56 FR 51762), effective January 23, 1995 and another technical corrections was made at (59 FR 55368–55371), (60 FR 18360), March 8, 1995. We authorized the additional following revisions: (59 FR 66200), October 17, 1995, (60 FR 53707) effective January 2, 1996, March 28, (61 FR 13777–13782) effective June 11, 1996, December 29, 1997, (62 FR 67572–67577) effective March 16, 1998 and October 23, 1998 (63 FR 56830–56891) effective December 22, 1998, August 25, 1999 (64 FR 46302–46333), effective October 25, 1999. On January 26, 1999, Louisiana applied for approval of its complete final program. In this application, Louisiana is seeking additional approval of its program revision in accordance with 40 CFR 271.21(b)(3).

In 1983, the Louisiana legislature adopted Act 97, which amended and reenacted Louisiana Revised Statutes 30:1051 *et seq.*, the Environmental Affairs Act. This Act created the LDEQ, which has lead agency jurisdictional authority for administering the RCRA Subtitle C program in the State. Also, LDEQ is designated to facilitate communication between EPA and the State. The State of Louisiana has adopted the Federal regulations in cluster VII promulgated from July 1, 1996, through June 30, 1997; the State of Louisiana regulations became effective September 20, 1998.

### E. What Revisions Are We Approving With Today's Action?

The State of Louisiana submitted a final complete program revision application, seeking authorization of their revisions in accordance with 40 CFR 271.21. Louisiana's revisions consist of regulations which specifically govern's RCRA cluster VII rules. Louisiana requirements appear on the chart included in this document. The EPA is now making a final decision, subject to receipt of written comments that oppose this action, that Louisiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Louisiana final authorization for the following program revisions:

| Federal Citation | State Analog |
|---|---|
| 1. Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs, [61 FR 34252] July 1, 1996. (Checklist 153). | Louisiana Revised States (LRS) 30:§ 2180 et seq., as amended June 14, 1991, effective June 14, 1991; Louisiana Hazardous Waste Regulations (LHWR) §§ 3911, as amended October 20, 1994, effective October 20, 1994; 3915.B, 3915.B.1–3, 3915.B.4, 3915.B.4.a–b, 3915.B.5, as amended September 20, 1998; effective September 20, 1998, 301.B.1, as amended April 20, 1996, effective April 20, 1996; 315.N, as amended September 20, 1997, effective September 20, 1997; and 521.H, as amended September 20, 1993, effective September 20, 1993. LAC 33:V.3913 and LAC 33:V.3915.B are more stringent than the 40 CFR 261.5(f)–(g). The State does not recognize the class of generators generating 0–100 kilogram per month as ''conditionally exempt small quantity generators''. Generators in Louisiana who generate 0–100 kg/mth must follow more stringent guidelines, such as filing annual reports for small quantity generators.<br>The State regulations are more stringent because generators who generate more than 1 kg acutely hazardous waste are subject to full regulations. LAC 33:VII.301.B.1, LAC 33:VII.315.N. and LAC 33:VII.521.H) is more stringent than 40 CFR 261.5(f)(3)(iv)(v) and (g)(3)(iv)–(v) because solid waste landfills are prohibited from accepting hazardous waste, with the exception of household hazardous waste. |
| 2. Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance, [62 FR 1992] January 14, 1997. (Checklist 155). | LRS 30:2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§ 109 Excluded Scrap Metal, 109. Processed Scrap Metal, 109. Home Scrap Metal, 109. Prompt Scrap Metal, 109. Table 1, 105.D.1.m–n, 105.D.1.n.i–ii, 4105.B.4, 2201.l–l.2, 2201.l.3, 2237.A.2.d, 2237.A.4, 2245.A, 2245.A, 2245.B.1–6, 2245.B, 2245.C.1.a–d, 2245.C.2, 2245.C, 2245.C.1.a, 2245.C.1.b, 2245.D.3–7, 2245.D, 2245.E, 2245.E.1–3, 2245.F, 2245.G, 2245.H, 2245.L, 2245.L.1–3, 2747.A, 2247.A.1–2, 2247.B, 2247.B.1–2, 2247.B.2.a–e, 2247.C, 2247.C.1–3, 2247.D–E, 2247.F.1–2, 2246.A, 2246.D.1.b, 2209.A, 2209.A.1–3, 2209.B–D, 2209.D.2–3, 2209.D.1, 2209.D.4, 2209.E, 2213–2219, Chapter 22 Tables 2–3, 2231.L, Chapter 22. Table 10 and Chapter 22 Tables 5 and 11, as amended September 20, 1998, effective September 20, 1998. The State has no equivalent citation to 40 CFR 268.1(e)(1). The State does not recognize the class of generators generating 0=100 kg/mth as ''conditionally small quantity generators (SQGs)'' Generators in Louisiana who generate 0–100 kg/mth must follow more stringent guidelines for SQGs). LAC 33:V.2237.A.4 is more stringent than 40 CFR 268.4(a)(4) because Louisiana specifies that the owner or operator must submit to the administrative authority a written certification. There is not an equivalent citation to 40 CFR 268.7(a)(10). In this case the State does not offer the relief to SQG and thus the State is more stringent. |
| 3. Military Munition Rule: Hazardous Waste Identification and Management; Explosive emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties, [62 FR 6622] February 12, 1997. (Checklist 156). | LRS 30:2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§ 109, 109. Active Range, 109. Administrative Authority, 109. Chemical Agents and Munitions, 109. Explosives or Emergency, Response Specialist, 109. Inactive Range, 109. Military, 109. Military Munitions, 109. Military Range, 109. Unexploded Ordnance (UXO), 109. Solid Waste.1.b.iii–iv, 305.C.12–13, 321.C.8, 321.C.8.a–c, 321.C.9, 1101, 1107A.11, 1301.G, 1301.H, 1501.C.7.a.iv, 1501.C.7.d, 1501.C.12, 901, 2401, 2403.A, 2403.A.1–5, 2403.B, 2403.B.1, 2403.B.1.a–b, 2403.B.1.b.1–iii, 2403.B.1.c, 2403.B.2–3, 2403.C–F, 2405.A–B, 4307, 4351, 4707, 4709.A, 4709.A.1–5, 4709.B, 4709.B.1, 4709.B.1.a–b, 4709.B.b.1–iii, 4709.B.1.c, 4709.B.2–3, 4709.C–F, 4711.A–B, 5301.A–B, 5303.A, 5303.A.1, 5303.A.1.a–c, 5303.A.2, 5303.B, 5303.B.1–4, 5303.C, 5303.C.1–2, 5303.D, 5305.A, 5305.A.1, 5305.A.l.a–c, 5305.A.2–4, 5305.B–C, 5307, 5309, 5309.A.1, 5309.A.1.a–g, 5309.A.2–3, 5309.B–D, 5309.D.1–2, 5309.E, 5311, 305.C.13.d, 305.C.15, as amended September 20, 1998, effective September 20, 1998. |

| Federal Citation | State Analog |
|---|---|
| 4. Land Disposal Restrictions—Phase IV: Treatment Standards for Wood Preserving Waste, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions, [62 FR 25998] May 12, 1997. (Checklist 157). | LRS 30:2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§109. Excluded Scrap Metal, 109. Processed Scrap Metal, 109. Home Scrap Metal, 109. Prompt Scrap Metal, 109. Table 1, 105.D.1.m–n, 105.D.1.n.i–ii, 4105.B.4, 2201.l.l–2, 2201.l.3, 2237.A.2.d, 2237.A.4, 2245.A, 2245.B.1–6, 2246.B, 2245.C.1.a–d, 2245.C.2, 2245.C, 2245.C.1.a–b, 2245.D.3–7, 2245.D, 2245.E, 2245.E.1–4, 2245.F–H, 2245.l, 2245.l.1, 2245.l.2–3, 2245.l.3, 2747.A, 2247.A.1–2, 2247.B, 2247.B.1–2, 2247.B.a–e, 2247.C, 2247.C.1–3, 2247.D, 2247.E, 2247.F.1–2, 2246.A, 2246.D.1.b, 2209.A, 2209.A.1–3, 2209.B–D, 2209.D.2–3, 2209.D.1, 2209.D.4, 2209.E, 2213–2219, Chapter 22. Table 2, Chapter 22. Table 3, 2231.L, Chapter 22. Table 10, 5 and 11, as amended September 20, 1998, effective September 20, 1998 |
| 5. Hazardous Waste Management System; Testing and Monitoring Activities, [62 FR 32452] June 13, 1997. (Checklist 158). | LRS 30:2180 et seq., as amended June 14, 1991, effective June 14, 1991; LHWR §§110.A, 110.A.1–10, as amended April 20, 1998, effective April 20, 1998; 110.A.11, as amended September 20, 1998, effective September 20, 1998, 110.A.12–15, as amended April 20, 1998, effective April 20, 1998, 1711.D.1.c, 1711.F, 1741.D.2, Chapter 33. Table 4, 4557, 4587, 3009.E.1, 3013.G.1–2, 3015.F, as amended September 20, 1998, effective September 20, 1998; and Chapter 30. Appendix I, as amended December 20, 1992, effective December 20, 1992 |

**F. What Decisions Has the EPA Made?**

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

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

EPA considers the following State requirements to be more stringent than the Federal: The State has no equivalent citation to 40 CFR 268.1(e)(1). The State does not recognize the class of generators generating 0–100kg/mth as ''conditionally exempt small quantity generators''. Generators in Louisiana who generates 0–100kg/mth must follow more stringent guidelines for small quantity generators. LAC 33:V.2237.A.4 is more stringent than the 40 CFR 266.4(a)(4) because Louisiana specify that the owner or operator must submit to the administrative authority a written certification. There is no equivalent citation to 40 CFR 268.7(a)(10) because the State of Louisiana does not offer the relief to small quantity generators. LAC 33:VII.301.B.1, LAC 33:VII.315.N, and LAC 33:VII.521.H is more stringent than the 40 CFR 261.5(f)(3)(iv)(v) and (g)(3)(iv)–(v) because solid waste landfills are prohibited from accepting hazardous waste, with the exception of household hazardous waste. These requirements are part of Louisiana's authorized program and are federally enforceable. In this authorization of the State of Louisiana's program revisions for RCRA cluster VII, there are no provisions that are broader in scope. Broader in scope requirements are not part of the authorized program and EPA can not enforce them.

**H. Who Handles Permits After This Authorization Takes Effect?**

Louisiana will issue permits for all the provisions for which it has authority and will administer the permits it issues.

EPA will continue to administer any RCRA hazardous waste permits or portions of permits which it issued before the effective date of this authorization until they expire or are terminated. EPA will not issue any more permits or portions of permits for the provisions listed in this document after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which the State is not yet authorized.

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

EPA is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial and we expect no comments that oppose this action. EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State changes. If EPA receives comments which oppose this authorization, that document will serve as a proposal to authorize the changes.

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

You should send written comments to Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533. Please refer to Docket Number LA–99–2. We must receive your comments by October 4, 1999. You may not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

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

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

**L. When Will This Approval Take Effect?**

Unless EPA receives comments opposing this action, this final authorization approval will become effective without further notice on November 1, 1999.

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

You can view and copy the State of Louisiana's application from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810, (504) 765–0617 and EPA, Region

6 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444. For further information contact Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

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

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

**O. What Is Codification?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, subpart T for this authorization of Louisiana's program changes until a later date.

**Regulatory Requirements**

*Compliance With Executive Order (E.O.) 12866*

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

*Compliance Executive Order 13045*

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' applies to any rule that: (1) The OMB determines is ''economically significant'' as defined under E.O. 12866; and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

*National Technology Transfer and Advancement Act*

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

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

*Unfunded Mandates Reform Act*

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

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

*Certification Under the Regulatory Flexibility Act*

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

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

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

**Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

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

### Paperwork Reduction Act

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

### Executive Order 12875 Enhancing Intergovernmental Partnerships

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

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

### *Executive Order 13084 Consultation and Coordination With Indian Tribal Governments*

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

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

### List of Subjects in 40 CFR Part 271

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

### Authority

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

Dated: June 15, 1999.

**Jerry Clifford,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 99–22627 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 439

[FRL–6431–8]

RIN 2040–AA13

## Pharmaceutical Manufacturing Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Correcting Amendments

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

**ACTION:** Correcting amendments.

**SUMMARY:** EPA is correcting minor errors in the effluent limitations guidelines and standards for the pharmaceutical manufacturing point source category which appeared in the **Federal Register** on September 21, 1998.

**DATES:** These corrections shall become effective September 2, 1999. In accordance with 40 CFR 23.2, this rule will be considered promulgated for purposes of judicial review at 1:00 p.m. Eastern Time on September 16, 1999.

**FOR FURTHER INFORMATION CONTACT:** Dr. Frank H. Hund, Office of Water, Engineering and Analysis Division (4303), U. S. Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, (202) 260–7182, *hund.frank@epamail.epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

In a final rule published on September 21, 1998 (63 FR 50388), EPA established final effluent limitations and standards for the pharmaceutical manufacturing point source category for the control of wastewater pollutants. The final rule omitted a clarifying abbreviation and contained four incorrect subsections. This notice inserts a clarifying abbreviation, deletes four incorrect subsections, changes the parenthetical letters identifying two subsections and deletes the parenthetical letters identifying two other subsections. The clarifying abbreviation ''Mg/L'' (milligrams per liter) is necessary to avoid confusion with the abbreviation ''Mg '' (megagrams) which is used in the preamble section devoted to the discussion of the MACT rule which was promulgated at the same time as the pharmaceuticals effluent guidelines rule. The subsection deletions are in the Pretreatment Standards for New Sources (PSNS) sections of the rule. These subsections contained a cite from the regulations concerning new source direct dischargers which is inconsistent

with the definition of new source contained in section 403.3(k) of the general pretreatment regulations. As a result of today's correction, the PSNS sections of the pharmaceuticals effluent guidelines will be consistent with the general pretreatment regulations. The PSNS sections will also be consistent with PSNS sections in other recently promulgated effluent guidelines rules. Today's correction also ''renumbers'' (by revising or deleting) the labels for the PSNS sections. For example, if paragraph (d) is deleted, paragraph (e) is renamed as (d).

## II. Administrative Requirements

Under Executive Order 12886 (58 FR 51735, October 4, 1993), this is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to the notice-and-comment requirements under the Administrative Procedure Act, 5 U.S.C. 533, or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined under E.O. 12866. Further, EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health and safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This rule is not subject to the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) because it does not involve any technical standards. This action contains no information collection requirements. Therefore, it is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 1501, *et seq.* EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the **Federal Register** notice of September 21, 1998.

The revisions in this final rule are not substantive. These revisions add a clarifying abbreviation, delete four incorrect subsections of the rule, change parenthetical letters identifying two subsections and delete parenthetical letters identifying two other subsections. For this reason, EPA has determined that public participation in this action is unnecessary and constitutes good cause for issuing this rule without notice and comment. For the same reason, the Agency has determined that good cause exists to waive the requirement for a 30-day period before the amendments become effective. Therefore, the amendments are effective immediately.

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. Section 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of September 2, 1999. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 439

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

Dated: August 25, 1999.

**J. Charles Fox,**

*Assistant Administrator for Water.*

For reasons set out in the preamble, part 439, title 40, chapter I of the Code of Federal Regulations is amended as follows:

## PART 439—PHARMACEUTICAL MANUFACTURING POINT SOURCE CATEGORY

1. The authority citation for part 439 continues to read:

**Authority:** Secs. 301, 304, 306, 307, 308, 402 and 501 of the Clean Water Act, as amended; 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

2. Section 439.1 is amended by adding paragraph (n) to read as follows:

### § 439.1 General definitions.

* * * * *

(n) The abbreviation Mg/L means milligrams per liter or parts per million (ppm).

### § 439.17 [Amended]

3. Section 439.17 is amended by removing paragraph (d) and redesignating paragraph (e) as (d).

4. Section 439.27 is amended by removing paragraph (b) and removing the paragraph designation from paragraph (a) and revising the newly designated introductory text before the table to read as follows:

### § 439.27 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart must achieve the following pretreatment standards:

* * * * *

### § 439.37 [Amended]

5. Section 439.37 is amended by removing paragraph (d) and redesignating paragraph (e) as (d).

### § 439.47 [Amended]

6. Section 439.47 is amended by removing the paragraph designation from paragraph (a) and by removing paragraph (b).

[FR Doc. 99–22745 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## 49 CFR Parts 383 and 384

**[FHWA Docket No. FHWA–97–3103]**

**RIN 2125–AE28**

## Commercial Driver Disqualification Provision

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FHWA revises its regulations to require that commercial motor vehicle (CMV) drivers who are convicted of violating Federal, State, or local laws or regulations pertaining to railroad-highway grade crossings be disqualified from operating a CMV. Penalties also will be assessed against

employing motor carriers found to have knowingly allowed, permitted, authorized, or required a driver to operate a CMV in violation of laws or regulations pertaining to railroad-highway grade crossings. This final rule completes an action initiated in response to the requirements specified in section 403 of the ICC Termination Act (ICCTA) of 1995. The purpose of this action is to enhance the safety of CMV operations on our nation's highways.

**EFFECTIVE DATE:** October 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Goettee, Driver Division, Office of Motor Carrier Research and Standards, (202) 366–4001, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Electronic Access

An electronic copy of this document may be downloaded using a computer, 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 web page at: http://www.access.gpo.gov/nara.

## Background

This final rule completes action initiated under section 403 of the ICCTA (Pub. L. 104–88, 109 Stat. 803, 956, December 29, 1995, codified at 49 U.S.C. 31310(h) and 31311(a)(18)) to achieve safer CMV driver behavior when CMVs are crossing railroad-highway grade crossings. Section 403 amended the Commercial Motor Vehicle Safety Act (CMVSA) of 1986, Pub. L. 99–570, 100 Stat. 3207–170, by adding subsection (h) to 49 U.S.C. 31310. The amendment requires sanctions and penalties for CMV drivers who are convicted of violating laws or regulations pertaining to railroad-highway grade crossings.

The amendment also requires that monetary penalties be assessed against employers found to have knowingly allowed, permitted, authorized, or required an employee to operate a CMV in violation of a law or regulation pertaining to railroad-highway grade crossings. It requires States to adopt and enforce the Federal sanctions and penalties prescribed for CMV drivers and employing motor carriers who violate laws or regulations pertaining to railroad-highway grade crossings.

The FHWA published a notice of proposed rulemaking (NPRM) in the **Federal Register** on March 2, 1998, (63 FR 10180) to request comment on the proposed changes to 49 CFR Parts 383 and 384 in regard to violations of railroad-highway grade crossing by drivers operating CMVs. The comment period closed on May 1, 1998.

## Discussion of Petitions

The FHWA received five petitions between April 23, 1998, and May 1, 1998, to extend the comment period for the NPRM. The FHWA has decided not to grant an extension because it believes the petitioners were given more than adequate time to provide additional data to the docket.

Shell Oil Products Company and Linden Bulk Transportation Company believed more time was necessary to examine this subject. In particular they wished to know if the proposed rule would apply only to the Federal regulations at 49 CFR 392.10 and 392.11, or if it would apply to all traffic laws of any jurisdiction. They also wanted to know what protection a motor carrier has in the event a driver violates such a law or regulation.

Textile Chemical Company asked the same questions as Shell and Linden. The Company also asked: ''If a carrier provides training under HM–126F requirements for drivers concerning railroad crossings and documents such training, would this action protect the carrier from violating the proposed 49 CFR 383.37(d), if no complicity in the violation was discovered?''

North American Transportation Consultants wanted the same information as requested by the Textile Chemical. They also asked whether railroad-highway grade crossing safety violations were required to be compatible with 49 CFR 392.10 and 392.11 to preserve uniformity. If so, would the FHWA establish a review system to approve or reject local laws covered under this proposal? They proposed to gather and submit information to the docket regarding various local laws and ordinances associated with railroad-highway grade crossing requirements, and asked that the comment period be extended at least 90 days to accomplish those tasks.

Decker Transport Company asked the same questions but inquired more specifically how local laws that conflict with the provisions of 49 CFR 392.10 would be handled. They proposed to gather and submit to the docket information concerning various local laws and ordinances associated with railroad-highway grade crossing requirements.

All five petitioners either wanted more time to collect data regarding variations in State and local laws and regulations regarding railroad-highway grade crossings, or additional information to help them understand the scope of the rulemaking. It is unclear to the FHWA how the data to be collected would be relevant to the specifications contained in the ICCTA of 1995. In any case, no such information was provided to the docket. The additional information requested in the petitions is given below in a question and answer format.

*Question:* What regulations and laws are included under the proposed new regulation?

*Response:* This final rule specifically covers convictions for six types of offenses, including failing to slow down, stop, check for clear track, obey traffic control devices or law enforcement officials. Also included are crossing without having sufficient undercarriage clearance or sufficient space on the other side to clear the track without stopping. It does not matter whether the offense involves Federal, State, or local laws or regulations regarding railroad-highway operations.

*Question:* Are there any proposed Federal fines for drivers who are convicted of such a violation?

*Response:* No. This rule follows the process established by the Commercial Motor Vehicle Safety Act of 1986. It sets a minimum disqualification period for a driver convicted of one of these six offenses. Any fines or penalties are left to the discretion of the convicting jurisdiction.

Due to the seriousness of this offense, Congress mandated that an employer be subject to a civil penalty of up to $10,000, if the employer knowingly allows, requires, permits, or authorizes a driver to violate laws or regulations pertaining to railroad-highway grade crossings.

*Question:* Will the FHWA establish a review system to achieve compatibility of State and local laws and regulations with 49 CFR 392.10 and 392.11 regarding railroad-highway grade crossing violations?

*Response:* The FHWA has a system under 49 CFR part 350 of the Federal Motor Carrier Safety Regulations (FMCSRs) that requires the States to have laws and regulations compatible with the Federal regulations. Under 49 CFR 350.15, States must certify annually that they are enforcing the FMCSRs or compatible State laws. Section 355.21 also requires States to review their laws for compatibility every year, and

§ 355.23 requires them to submit the results of the review along with the annual State Enforcement Plan. Failure to adopt State laws and regulations that are compatible with 49 CFR 392.10 and 392.11 can result in a loss of Motor Carrier Safety Assistance Program funds.

Failure of the States to adopt the penalties specified by 49 U.S.C. 31310(h) and this rule can result in the withholding of certain Federal-aid funds under 49 U.S.C. 31314 for not being in substantial compliance with the CDL program requirements.

*Question:* If a local law or regulation contradicts the provisions of 49 CFR 392.10, is that law or regulation covered by this rule?

*Response:* See the previous question. The answer to that question also applies to this one.

*Question:* If a driver violates a law or regulation, how is it determined if the employer is also in violation?

*Response:* As previously established in 49 CFR 383.37 for other employer responsibilities under the CDL program, it must be proven that the employer knowingly allowed, required, permitted, or authorized a driver to violate the law or regulation.

*Question:* Why isn't violation of a railroad-highway grade crossing law or regulation being included as an addition to the existing CDL serious traffic violations?

*Response:* These convictions have different conditions for disqualification as specified in the ICCTA. The offenses classified as serious traffic violations require a second conviction before a driver receives at least a 60-day disqualification. Under this rule, a conviction for a violation of any railroad-highway grade crossing law or regulation requires at least a 60-day disqualification for a first conviction.

*Question:* Why doesn't this rule address other railroad-grade crossing issues?

*Response:* This rule was developed only to carry out the statutory requirements in section 403 of the ICCTA.

The NPRM stated that comments received after the comment closing date would be filed in the docket and considered to the extent practicable in developing the final rule. No new data or comments were filed in the docket after the initial 23 submissions. The FHWA believes it has given the petitioners more than adequate time to provide their additional data since the docket closed on May 1, 1998. This is more time than a formal extension of the comment period would have provided. Based on this fact and the responses given above to questions raised by the petitioners, the FHWA has decided to deny the five petitioners' request for a formal extension of the comment period for the NPRM.

**Discussion of Comments**

*List of Commenters*

Comments to the docket on the NPRM were received from 23 States, individuals, companies, and organizations as follows:

Five States (Colorado Department of Public Safety, Missouri Department of Revenue, California Highway Patrol, Florida Department of Highway Safety, Wisconsin Department of Transportation);

Three individuals (Steven A. Tudor, E. Lowell Lewis, E. A. Brown);

Nine Companies (Decker Transport Company; Farmland Industries, Inc.; Federal Express Corporation; Grammer Industries, Inc.; Linden Bulk Transportation; National Railroad Passenger Corporation; Phibro-Tech; Shell Oil Products Company; Textile Chemical Company);

Four associations (American Trucking Associations (ATA), National Association of Railroad Passengers, Owner Operator Independent Drivers Association, Truckload Carriers Association);

One safety advocacy group (Advocates for Highway and Auto Safety); and

One consultant (North American Transportation Consultants).

*Commenters in Favor of Rule*

Three commenters (National Association of Railroad Passengers, Advocates for Highway and Auto Safety, and National Railroad Passenger Corporation (Amtrak)) strongly supported all the provisions of the rule.

*Comments by Petitioners*

The questions and issues raised by the five petitioners (Shell Oil Products Company, Linden Bulk Transportation Company, Textile Chemical Company, North American Transportation Consultants, Decker Transport Company) requesting an extension of the comment period are addressed in the ''Discussion of Petitions'' section of this preamble.

*Proposal Too Broad*

A significant concern raised by many of the commenters either directly through their comments or through their questions asking for clarification was that the wording of the offenses to be covered is too vague. For example, Decker Transport Company asked for clarification regarding which Federal and/or local regulations constitute a violation covered under this rule. It felt the language in the NPRM was too vague and open to abuse. Similar comments were expressed by the other commenters.

Farmland Industries, the Truckload Carriers Association, and ATA expressed concern about motor carriers being charged when drivers violated railroad-highway grade crossing laws or regulations. Farmland Industries stated that it would be unfair to apply penalties to motor carriers when drivers violate company policy requiring them to comply with railroad-highway grade crossing rules and regulations.

*FHWA Response*

The FHWA agrees with the commenters that the language defining a railroad-highway grade crossing violation needs to be more specific. The final rule therefore lists six offenses under § 383.51(e) that pertain to a railroad-highway grade crossing. The FHWA believes that this change will make the final rule more enforceable and more likely to achieve the intended legislative effect.

The FHWA does not agree that motor carriers are being treated unfairly under this rule. Motor carriers are treated the same as under the existing provisions of § 383.37 that cover offenses for using a disqualified driver, a driver with more than one license, or using a driver while he or she has been ordered out of service. The key wording in all of these offenses, including the new one for railroad-highway grade crossings, is that the motor carrier must ''. . . knowingly allow, require, permit, or authorize a driver to operate a CMV . . .'' A motor carrier is not guilty of a ''knowing'' violation simply because one of its drivers violates a railroad-highway grade crossing law or regulation. The penalty can only be imposed if it can be shown that the motor carrier knew, or should have known, of the driver's violation because it actually ordered or authorized him or her to ignore the grade crossing laws or regulations, or because the motor carrier, after learning of previous violations by drivers, failed to take action to prevent them from happening again.

*Abandoned Tracks*

Five commenters (Grammer Industries, Farmland Industries, E. Lowell Lewis, Truckload Carriers Association, ATA) expressed concern about the many abandoned railroad tracks around the country that are not marked as such with a sign. A driver could be disqualified for not stopping at

the grade crossing of these abandoned tracks. The commenters want the railroads or the Federal Railroad Administration to identify these abandoned tracks with highway signs.

*FHWA Response*

Under 49 CFR 392.10(b)(4), a railroad track is considered to be abandoned only if it is so signed. This rule makes the failure to stop at a grade crossing that is still considered to be active a CDL disqualifying offense. While the FHWA agrees that abandoned tracks should be so marked, the decision to declare tracks abandoned and erect a sign declaring them abandoned is a process involving the railroads and the States. This issue is outside of the scope of this rule.

*Responsibilities of Railroads*

Three commenters (Farmland Industries, Federal Express, Owner Operator Independent Drivers Association) expressed the concern that many of the problems at grade crossings are the responsibility of the railroads which should provide warning devices and better signing at all active grade crossings.

*FHWA Response*

This rule is only one part of a concerted effort to improve safety at railroad-highway grade crossings. Other actions are being implemented to provide better grade crossing safety through a cooperative effort of the FHWA, Federal Railroad Administration (FRA), National Highway Traffic Safety Administration, the railroads and public interest groups.

Just in the past five years, crashes have been reduced by 30 percent and fatalities by 33 percent through the closing of some at-grade railroad-highway crossings, grade separation of rails and highways, better engineering of highways, more effective signage, warning devices that use the latest technology such as four way gates, train-borne devices to provide audible and visual warning of the train's approach and public education programs.

*Serious Traffic Violations*

The Colorado Department of Public Safety and the Missouri Department of Revenue stated that violations of railroad-highway grade crossing laws and regulations should be included in the existing category of serious traffic violations rather than creating a new category of violations.

E. A. Brown, a Florida police officer, stated that railroad-highway safety grade crossing violations should be treated the same as other serious traffic safety violations because minor crossing violations are in fact less serious than a violation such as reckless driving.

*FHWA Response*

Convictions for serious traffic violations such as speeding in excess of 15 miles per hour over the posted speed limit, improper or erratic traffic lane changes, or following the vehicle ahead too closely only lead to a driver disqualification if two or more convictions occur in separate incidents. The ICCTA specifically requires disqualification upon a first conviction of a violation of railroad-highway grade crossing safety laws or regulations.

Grade crossing violations can cause death and injury on a large scale. The agency has therefore established a separate category of violations and sanctions that reflects the intent of Congress in the ICCTA by requiring a driver disqualification on the first conviction.

*Traffic Jams and Rear-End Collisions*

Grammer Industries stated that the growth of towns in the vicinity of railroad-highway grade crossings has created engineering problems. The commenter stated that when CMVs stop at a railroad-highway grade crossing, they create traffic jams. Both Grammer Industries and Farmland Industries felt that these vehicles, when stopped on the highway, cause rear-end collisions. The Truckload Carriers Association stated that slowing down or stopping at railroad-highway grade crossings could significantly disrupt the flow of traffic and be deadly.

The Truckload Carriers Association, ATA, and Federal Express Corporation support the elimination of a stopping requirement at all actively-controlled grade crossings.

The California Highway Patrol stated that requiring CMVs to stop or slow down at railroad-highway grade crossings poses a greater safety risk to the public.

The Owner Operator Independent Drivers Association (OOIDA) stated that the FHWA has failed to provide statistics on the number of rear-end collisions at railroad-highway grade crossings that were due to vehicles rear-ending CMVs that had stopped even though there was no train present. The OOIDA also believes that this final rule will increase the risk of rear-end collisions and gridlock because CMV drivers will be stopping at every railroad-highway crossing to protect their CDL.

*FHWA Response*

The FHWA is not entertaining any changes to 49 CFR 392.10 and 392.11 in this rulemaking. The ICCTA and this rule only require the States to impose sanctions and penalties for CMV operators convicted of violations of railroad-highway grade crossing laws or regulations which are at least as stringent as the requirements of this rulemaking.

This rulemaking will not increase the number of rear-end collisions since no changes are being made to the current railroad-highway grade crossings requirements for CMV drivers. Whether stopping at a railroad-highway grade crossing can be more of a safety problem than not stopping, was addressed in more detail in the June 18, 1998, final notice on ''Review of the Federal Motor Carrier Safety Regulations; Regulatory Removals and Substantive Amendments'' (63 FR 33254).

*Current Prohibitions Adequate*

The Colorado Department of Public Safety and the Missouri Department of Revenue believe that the existing requirements in 49 CFR 392.10 and 392.11 adequately address the railroad-highway grade crossing safety issue.

The California Highway Patrol (CHP) opposes any new requirements that would require the State of California to legislate stricter laws and harsher penalties against drivers who violate railroad-highway grade crossing laws and regulations and civil penalties against employers. Motor carriers transporting passengers or placarded hazardous materials are the only vehicles required to stop at railroad-highway grade crossings. The CHP believes the hazardous materials industry has the best safety record in California.

The Wisconsin Department of Transportation states that its data does not indicate that CMV drivers are over represented in crashes or citations issued involving railroad-highway grade crossings.

*FHWA Response*

The FHWA agrees that the existing Federal requirements in 49 CFR 392.10 and 392.11 adequately address the railroad-highway grade crossing safety issue, but only from the standpoint of prohibitions and their related fines; not sanctions and penalties. The minimum period of disqualification for a driver and the maximum fine to be levied against a motor carrier in this rule reflect FHWA's concern about the potentially severe safety consequences, including loss of life, that may result

from the violation of a railroad-highway grade crossing law or regulation. The FHWA believes most States currently have laws and regulations regarding violations at railroad-highway grade crossings by any driver, commercial or non-commercial, but that State law may only require fines. As is the case with other CDL disqualifying offenses, the CDL driver should be held to a higher standard than other drivers due to the potential for injuries and loss of life in a crash between a CMV and a train. The FHWA acknowledges that there are far more violations by non-CDL drivers at railroad-highway grade crossings, but the severity of a crash, in injuries, fatalities, and property damage, is far greater when a commercial vehicle is involved.

*State Legislative Changes*

The Missouri Department of Revenue states that because the rule does not follow the provisions of serious traffic violations, the State must pass new legislation. The Wisconsin Department of Transportation stated that this rule will require legislative and information system changes.

*FHWA Response*

The ICCTA requires disqualification upon a first conviction of a violation of railroad-highway grade crossing safety laws or regulations. For this reason, the FHWA cannot include these offenses under the serious traffic violation category which requires two convictions before a driver can be disqualified.

As discussed in the ''Substantial Compliance'' section of the preamble, the FHWA acknowledges that the complexity of revising State legislation and establishing procedures to incorporate the new requirements into existing systems will require time. The FHWA is therefore allowing three years after the effective date of the rule for the States to come into substantial compliance with these new requirements.

*Severity of Sanctions and Penalties*

The Owner Operator Independent Drivers Association strongly opposes the rulemaking because it will not substantially improve highway safety. The rule will have a substantial effect on small business owners. Owner-operators may have to defend themselves against a $10,000 fine because they are ''employers'' as well as drivers. They also stated that the penalties are too severe given the number or severity of collisions between trains and CMVs. Only a conviction for ignoring a railroad-highway safety grade crossing signal device should be disqualifying.

The Colorado Department of Public Safety stated that disqualification should not include a conviction for stopping too close to a railroad-highway grade crossing.

The Truckload Carriers Association stated that drivers who violate railroad-highway grade crossing laws or regulations after making a ''good faith'' effort to comply with such regulations should not be penalized.

The Florida Department of Highway Safety and Motor Vehicles stated that the penalties are too severe. This commenter believes drivers should only be subject to fines on a first offense, not a disqualification. Drivers should be disqualified for a second conviction.

Mr. E. Lowell Lewis stated that fines and duration of driver license disqualification are excessively high for a violation at an unmarked abandoned railroad-highway grade crossing.

Grammer Industries believes that the potential fines are out of proportion to other serious traffic violations. They stated that road rage is a more important problem and should be addressed instead of railroad-highway grade crossing violations.

E. A. Brown, a police officer, stated that the majority of railroad-highway safety grade crossing violations do not endanger safety.

The Owner Operator Independent Drivers Association stated that the combination of up to a $10,000 penalty as an employer for the first conviction, and the loss of revenue for the length of the disqualification as a driver, will put owner/operators out of business. Further, because they are owner/operators, it will be a hardship for them to be able to make a court appearance to defend themselves.

The Colorado Department of Public Safety believes that disqualification for disobeying a railroad-highway grade crossing requirement would cause drivers to plea bargain down to a non-serious offense.

The Advocates for Highway and Auto Safety (AHAS) recommend that a one year penalty be established for third and subsequent violations of railroad-highway grade crossings because of the especially severe nature of railroad-highway grade crossing violations. They also recommended that the time limit for compiling two or more convictions be increased from three to five years.

*FHWA Response*

As stated previously, the minimum period of disqualification and the maximum fine levied in this rule reflect the concern of the Congress and the FHWA about the potentially severe safety consequences, including loss of life, that may result from a violation of a railroad-highway grade crossing law or regulation. As discussed later in the Section Analysis under § 383.51, Disqualification of Drivers, the FHWA agrees with AHAS that the potentially severe consequences of this violation warrant a one year disqualification period for a third or subsequent conviction over a three year period.

This final rule requires a penalty of not more than $10,000 to be assessed against a motor carrier who is convicted of knowingly allowing a driver to commit a railroad-highway safety grade crossing violation. The rule allows for flexibility in assessing the penalty based on the severity of the offense and the circumstances involved in the incident. The FHWA believes that the issue of ''good faith effort'' and other mitigating circumstances should be left to the discretion of the judge or administrative hearing officer.

*Changes to Current Regulations*

The ATA state that the FHWA should eliminate the prohibition against changing gears while crossing railroad tracks. The ATA and Federal Express Corporation believe that the Agency should require States to change their railroad-highway grade crossing laws and regulations to be in conformity with the Federal requirements. Railroad-highway grade crossing regulations should be uniform for both CMVs and non-CMVs.

*FHWA Response*

All of the suggestions for changing current regulations related to railroad-highway grade crossings are outside of the scope of this rulemaking. The purpose of this rule is to implement the requirements of section 403 of the ICCTA.

If the commenters feel there is a need to change current regulations, they should submit to the FHWA a formal petition for rulemaking along with supporting documentation and justifications.

**Substantial Compliance**

Section 403(c) of the ICCTA , codified at 49 U.S.C. 31311(a)(18), adds to the list of conditions necessary to achieve substantial compliance, the adoption and enforcement of FHWA sanctions and penalties for violations of laws and regulations pertaining to railroad-highway grade crossings. Substantial compliance is required to avoid having apportioned Federal-aid highway funds withheld. The FHWA understands the complexity of revising State legislation

and establishing procedures to incorporate the new requirements into existing systems. The FHWA is therefore setting the deadline for achieving substantial compliance with this 23rd requirement for State participation in the CDL program as no later than three years after the effective date of this rule.

*Federal Enforcement*

While the States are being given up to 3 years to implement these new disqualifying offenses, the FHWA has the authority, and will continue to exercise its authority to subject drivers and motor carriers operating in interstate commerce to the appropriate civil or criminal penalties if they are found guilty of violating any of the Federal prohibitions defined in 49 CFR 392.10 and 392.11.

**Section Analysis**

*Section 383.21 Number of Drivers' Licenses*

Section 4011(b)(1) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178, 112 Stat. 107, 407, June 9, 1998, codified at 49 U.S.C. 31302] removed the exception in § 383.21(b)(1) allowing a driver to hold more than one driver's license during the 10-day period beginning on the date the CDL is issued. This section is revised to reflect this change and to remove the obsolete exception in § 383.21(b)(2) allowing more than one driver's license if a State required it; that exception has been invalid since January 1, 1990.

*Section 383.37 Employer Responsibilities*

Section 403 of the ICCTA prescribes a more stringent penalty for employers who knowingly require or allow railroad-highway grade crossing violations than the existing sanctions imposed on employers using a driver while disqualified. Because there is no specific prohibition in the current regulation to which the prescribed sanction would apply, a provision is added to § 383.37 implementing this requirement.

*Section 383.51 Disqualification of Drivers*

Section 403 of the ICCTA requires the Secretary to establish by regulation, sanctions and penalties for drivers convicted of violating railroad-highway grade crossing laws or regulations.

While the ICCTA only refers in general to violations of laws and regulations pertaining to railroad-highway grade crossings, the FHWA, as explained earlier in this preamble, agrees with the commenters that the violations should be more specific, in keeping with the descriptions of other CDL major and serious traffic violations under 49 CFR 383.51. Six categories of violations are added to paragraph (e)(1) of this section to provide more specificity to the violations.

The ICCTA requires the penalty for a single violation to be not less than a 60-day disqualification, but is silent on how to treat subsequent convictions. Based on the precedents established for all other types of violations which apply a longer penalty for subsequent convictions, and the inherent authority to establish higher penalties for the violations described, 49 CFR 383.51 is amended to provide an increased period of disqualification for subsequent convictions.

Compared to other sanctions imposed in the CMVSA, violations at railroad-highway grade crossings rank higher than serious traffic violations, which require no sanction for a first conviction and disqualifications of not less than 60 days for the second conviction and not less than 120 days for a third or subsequent conviction. The FHWA initially believed a two tier sanctioning system with a minimum disqualification period of 60 days for a first conviction and 120 days for a second or subsequent conviction was a reasonable penalty structure for convictions of railroad-highway grade crossing violations. That was the proposal published in the NPRM. However, based on the severity of the railroad-highway grade crossing crashes involving commercial motor vehicles that have taken place in recent months, including the crashes in Illinois and Texas, the FHWA believes there is a need for a stronger penalty deterrent. As recommended by the Advocates for Highway and Auto Safety and the Federal Railroad Administration, the FHWA is revising the penalty structure to include a one year penalty for third and subsequent convictions for violations of railroad-highway grade crossing laws and regulations. The one year disqualification for a third conviction will bring the penalties more in line with the graduated penalty structure under 49 CFR 240.117 for railroad engineers who fail to comply with requirements for the safe operation of trains. These safety standards for railroad engineers are comparable to commercial motor vehicle driver requirements, including such offenses as failure to control a locomotive or train in accordance with a signal indication that requires a complete stop before proceeding, failure to adhere to speed limitations and occupying main track without proper authority.

The ICCTA is also silent regarding the time limit between first and subsequent violations. Referring again to the sanctions required for serious traffic violations in 49 U.S.C. 31310(e), which employ a three-year period, a three-year period is also set for these violations. A second conviction for a grade crossing violation in a CMV within a three-year period will result in a disqualification of at least 120 days and a third or subsequent conviction within a three-year period will result in a disqualification of at least one year.

*Section 383.53 Penalties*

The ICCTA amendment to 49 U.S.C. 31310 specifically provides that any motor carrier that knowingly allows, permits, authorizes, or requires a driver to operate a CMV in violation of a law or regulation pertaining to railroad-highway grade crossings must be subject to a civil penalty of not more than $10,000. This reflects congressional concern about the potentially disastrous consequences of illegally crossing a railroad track. The FHWA has therefore added a new paragraph (c) to the penalty provisions of 49 CFR 383.53 to incorporate this sanction.

*Section 384.223 Railroad-Highway Grade Crossing Violation*

As indicated in the ICCTA, the States are required to adopt and enforce the sanctions and penalties relating to violations of railroad-highway grade crossing laws or regulations codified in §§ 383.37, 383.51, and 383.53. A new § 384.223, Railroad-highway grade crossing violation, is added to part 384 as the 23rd substantial compliance requirement for State CDL programs. For State compliance purposes, existing laws or regulations applicable to violation of railroad-highway grade crossing restrictions, such as reckless driving or driving to endanger, will be acceptable provided a conviction for these offenses invokes at least the specified minimum disqualification periods.

**Rulemaking Analyses and Notices**

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or a significant regulation within the meaning of Department of Transportation regulatory policies and procedures.

*Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the

FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA believes the actual imposition of these fines and disqualifications will be required only infrequently. This is based on the fact that the FHWA believes the overwhelming majority of motor carriers, including small carriers, currently instruct their drivers to comply with all safety related laws and regulations, including those pertaining to railroad-highway grade crossings. Further, the FHWA believes this final rule establishing driver disqualification and employer civil penalties will serve as a further deterrent for drivers and/or carriers who might otherwise have violated such laws or regulations. Accordingly, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

*Unfunded Mandates Reform Act of 1995 and Executive Order 12875 (Enhancing the Intergovernmental Partnership)*

This rule does not impose a Federal mandate resulting in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. (2 U.S.C. 1531 *et seq.*).

Each of these final rule changes is a small incremental addition to an existing process. Drivers are already being disqualified as a matter of course when convicted of certain violations. This merely standardizes the minimum disqualification time drivers must receive for violating existing laws or regulations pertaining to railroad-highway grade crossings.

There is a potential one-time minor cost to States that need to modify existing laws to incorporate these standardized railroad-highway grade crossing provisions. The costs of being in substantial compliance with the provisions in this final rule are part of an existing State monitoring program, and therefore will have very little impact on ongoing State operations.

*Executive Order 12988 (Civil Justice Reform)*

This action meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

*Executive Order 13045 (Protection of Children)*

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

*Executive Order 12630 (Taking of Private Property)*

This rule will not effect a taking of private property or otherwise have taking implications under E. O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*Executive Order 12612 (Federalism Assessment)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that it will have significant implications for Federalism.

The federalism implications of the CDL program were addressed in detail in the rule which established the initial minimum standards (53 FR 27628, Thursday, July 21, 1988). A summary of the points covered in that rule follows:

(a) The Congress determined that minimum Federal standards were required because medium and heavy trucks are involved in a disproportionately large percentage of fatal accidents. The States were carefully consulted in establishing the minimum standards adopted by the FHWA.

(b) The safety problem associated with CMVs is national in scope, requiring a consistent and reciprocal approach to licensing, which retained the basic role of the States in issuing licenses.

(c) The standards adopted deliberately allowed maximum flexibility to the States in implementation of this program.

Thus, it is certified that the specifications contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order, and they accord fully with the letter and spirit of the President's Federalism initiative.

*Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

*Paperwork Reduction Act*

This action does not contain information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, that are not already approved for the CDL program and its associated commercial driver's license information system (CDLIS).

*National Environmental Policy Act*

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

*Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects in 49 CFR Parts 383 and 384**

Commercial driver's license, Commercial motor vehicles, Motor carriers, Motor vehicle safety, and Railroad-highway grade crossing.

Issued on: August 25, 1999.

**Gloria J. Jeff,**

*Federal Highway Deputy Administrator.*

In consideration of the foregoing, the FHWA hereby amends title 49, Code of Federal Regulations, Chapter III, parts 383 and 384 as set forth below.

## PART 383—[AMENDED]

1. Revise the authority citation for 49 CFR part 383 to read as follows:

**Authority:** 49 U.S.C. 31136, 31301 *et seq.*, and 31502; and 49 CFR 1.48.

2. Revise § 383.21 to read as follows:

### § 383.21 Number of drivers' licenses.

No person who operates a commercial motor vehicle shall at any time have more than one driver's license.

3. Revise § 383.37 to read as follows:

### § 383.37 Employer responsibilities.

No employer may knowingly allow, require, permit, or authorize a driver to operate a CMV in the United States:

(a) During any period in which the driver has a CMV driver's license suspended, revoked, or canceled by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV;

(b) During any period in which the driver has more than one CMV driver's license;

(c) During any period in which the driver, or the CMV he or she is driving, or the motor carrier operation, is subject to an out-of-service order; or

(d) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

4. Amend § 383.51, to redesignate paragraph (e) as paragraph (f), and to add a new paragraph (e) to read as follows:

**§ 383.51. Disqualification of drivers.**

* * * * *

(e) Disqualification for railroad-highway grade crossing violation—

(1) *General rule.* A driver who is convicted of operating a CMV in violation of a Federal, State, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in paragraph (e)(2) of this section:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) *Duration of disqualification for railroad-highway grade crossing violation.—(i) First violation.* A driver must be disqualified for not less than 60 days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

(ii) *Second violation.* A driver must be disqualified for not less than 120 days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.

(iii) *Third or subsequent violation.* A driver must be disqualified for not less than 1 year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

* * * * *

5. Amend § 383.53 to add a new paragraph (c) to read as follows:

**§ 383.53. Penalties.**

* * * * *

(c) *Special penalties pertaining to railroad-highway grade crossing violations.* An employer who is convicted of a violation of § 383.37(d) must be subject to a civil penalty of not more than $10,000.

## PART 384—[AMENDED]

6. The authority citation for 49 CFR part 384 continues to read as follows:

**Authority:** 49 U.S.C. 31136, 31301 *et seq.*, and 31502; and 49 CFR 1.48.

7. Add § 384.223 to read as follows:

**§ 384.223 Railroad-highway grade crossing violation.**

The State must have and enforce laws and/or regulations applicable to CMV drivers and their employers, as defined in § 383.5 of this title, which meet the minimum requirements of §§ 383.37(d), 383.51(e), and 383.53(c) of this title.

[FR Doc. 99–22900 Filed 9–1–99; 8:45 am]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 635

**[I.D. 080999K]**

## Atlantic Highly Migratory Species Fisheries; Bluefin Tuna Quota Adjustments

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

**ACTION:** Inseason quota adjustments.

**SUMMARY:** NMFS adjusts the 1999 Atlantic bluefin tuna (BFT) Angling and Longline category quotas and the Reserve category to account for underharvest and overharvest of these fishing category quotas during January 1 through May 31, 1999. These actions are being taken to prevent overharvest of the 1999 fishing category quotas for the affected fishing categories, to ensure maximum utilization of the quota while maintaining a fair distribution of fishing opportunities, and to be consistent with the Fishery Management Plan (FMP) for Atlantic Tunas, Sharks, and Swordfish.

**DATES:** Effective August 27, 1999, until May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Atlantic tunas are managed by the Secretary of Commerce (Secretary) under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). The authority to issue regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA. Within NMFS, daily responsibility for management of Atlantic Highly Migratory Species (HMS) fisheries rests with the Office of Sustainable Fisheries, and is administered by the HMS Management Division.

On January 20, 1999, NMFS proposed regulations to implement the draft Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and draft Amendment 1 to the Atlantic Billfish Fishery Management Plan (64 FR 3154). As part of these regulations NMFS proposed to change the way annual catch quotas are applied by changing the fishing year for Atlantic tunas from the calender year to a ''fishing year,'' beginning June 1 of one year and continuing through May 31 of the following year. The intent was to facilitate implementation of catch quota recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) that are issued at its annual meeting in November. In past years, fishing activity for certain BFT categories would commence on January 1, before NMFS could issue a final rule to implement the ICCAT catch quota recommendation.

After the proposed change to the fishing year was published, specific quota allocations for the 1999 BFT fishery, to begin on June 1, 1999, were proposed in a supplement to the proposed rule (64 FR 9299, February 25, 1999). That supplemental proposal included a separate quota to cover fishing activity that would occur in the ''bridge'' or transition period of January 1 to May 31, 1999. Additionally, the supplemental rule proposed that any underharvest or overharvest from the bridge period would be added to or subtracted from the annual quota for the proposed new fishing year, to begin on June 1, 1999.

NMFS adopted the final HMS FMP, including the 1999 adjusted quotas and the bridge period quota, in April 1999. The final rule implementing the new fishing year was published on May 28, 1999 (64 FR 29090). Final BFT quota specifications for the new fishing year starting June 1 were published on June 3, 1999 (64 FR 29806) and quotas for the bridge period (January 1 to May 31, 1999) were published on July 13, 1999 (64 FR 37700).

**Quota Adjustments**

Under the HMS FMP implementing regulations at 50 CFR 635.27(a)(9), if NMFS determines, based on landings statistics and other available information, that a BFT quota in any category or, as appropriate, subcategory has been exceeded or has not been reached, NMFS shall subtract the overharvest from, or add the underharvest to, that quota category for the following fishing year, provided that the total of the adjusted category quotas and the Reserve is consistent with a recommendation of ICCAT regarding country quotas, the take of school BFT, and the allowance for dead discards. Adjustments to the Angling category, the Longline category, and the Reserve for the 1999 fishing year (June 1, 1999, to May 31, 2000) are necessary to account for underharvest and overharvest of these fishing category quotas during the bridge period from January 1 - May 31, 1999.

Based on reported landings during the bridge period, adjustments are necessary for the Angling, Longline, and Reserve categories. Because no quota of school BFT was allocated to the Angling category for the bridge period of January 1 through May 31, 1999, and an estimated total of 0.17 mt of school BFT were landed during this time, NMFS adjusts the 1999–2000 fishing year school BFT subquota for the southern area from 38 mt to 37.83 mt. Because there were no landings of large school or small medium BFT in the northern area during the bridge period (for which the subquota was 16 mt), NMFS adjusts the 1999–2000 fishing year northern area large school/small medium subquota from 83 mt to 99 mt. Because only 8.62 mt of the 59 mt allocated for the landing of large school or small medium BFT in the southern area during the bridge period was used, NMFS adjusts the 1999–2000 fishing year southern area large school/small medium subquota from 73 mt to 123.38 mt. Finally, because only 3.16 mt of the 4 mt allocated for the landing of large medium or giant BFT in the southern area was used, NMFS adjusts the 1999–2000 fishing year southern area large medium/giant subquota from 4 mt to 4.84 mt.

In the Longline category, landings of large medium and giant BFT by longline vessels in the northern area (1.94 mt) exceeded the bridge period quota for this subcategory of 1 mt. NMFS, therefore, adjusts the 1999–2000 fishing year Longline north subquota from 24 mt to 23.06 mt. Because landings of large medium and giant BFT by longline vessels in the southern area (47.8 mt) exceeded the bridge period quota for this subcategory of 25 mt, NMFS adjusts the 1999–2000 fishing year Longline north subquota from 89 mt to 66.2 mt.

In addition, quota adjustments are necessary for the Reserve, due to landings during the bridge period and to a prior inseason transfer for the 1999 fishing year. Pursuant to § 285.7 (applicable regulations prior July 1, 1999) and under the authority of the Atlantic Tunas Convention Act, NMFS authorized fisheries biologists from the Stanford Aquarium to conduct research and to initiate studies on the use of pop-up archival tags on small medium, large medium, and giant Atlantic bluefin tuna (BFT) and authorized the North Carolina State University to conduct studies on BFT reproductive biology. These authorized studies have resulted in the landings of 1.27 mt of BFT; these landings have been deducted from the bridge period Reserve of 15 mt. Also, NMFS recently transferred 8 mt of the 1999 Reserve to the Purse Seine category, creating an adjusted Reserve quota of 35 mt for the 1999 fishing season (64 FR 36818, July 8, 1999). The 1999 fishing year Reserve is now further adjusted by the addition of 13.73 mt from the bridge period, for a revised total of 48.73 mt.

**Classification**

This action is taken under 50 CFR 635.27(a)(7). This action is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 27, 1999.

**Gary C. Matlock,**

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

[FR Doc. 99–22817 Filed 8–27–99; 5:03 pm]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 635

**[I.D. 082399A]**

## Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

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

**ACTION:** Retention limit adjustment.

**SUMMARY:** NMFS adjusts the daily retention limit for the Angling category fishery for Atlantic bluefin tuna (BFT) in all areas to two school BFT (measuring 27 to less than 47 inches (69 to less than 119 cm) curved fork length) and one large school or small medium BFT (measuring 47 to less than 73 inches (119 to less than 150 cm) curved fork length) per vessel. This daily retention limit adjustment is effective September 1 through October 6, 1999, after which it will be one large school or small medium BFT per vessel. This action is being taken to provide increased fishing and data collection opportunities in all areas without risking overharvest of this category.

**DATES:** The daily retention limit adjustment is effective 1 a.m., local time, September 1, 1999, until 11:30 p.m., local time, October 6, 1999.

**FOR FURTHER INFORMATION CONTACT:** Pat Scida or Sarah McLaughlin, 978–281–9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635.

Implementing regulations for the Atlantic tuna fisheries at § 635.23 allow for adjustments to the daily retention limits in order to provide for maximum utilization of the quota spread over the longest possible period of time. NMFS may increase or reduce the per angler retention limit for any size class BFT or may change the per angler limit to a per boat limit or a per boat limit to a per angler limit.

NMFS is responsible for implementing a recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) to limit the catch of school BFT to no more than 8 percent by weight of the total domestic quota over each 4–consecutive-year period. NMFS is implementing this ICCAT recommendation through annual and inseason adjustments to the school BFT landings and school BFT reserve categories, as necessary, and through the establishment of a school BFT reserve (64 FR 29090, May 28, 1999; 64 FR 29806, June 3, 1999). The recent ICCAT recommendation allows NMFS more flexibility to make interannual adjustments for overharvests and underharvests, provided that the 8–percent landings limit is met over the applicable 4–consecutive-year period. This approach provides NMFS with the flexibility to enhance fishing opportunities and the collection of information on a broad range of BFT size classes and responds to requests

from the recreational fishing community for more advance notice of retention limit adjustments and greater certainty in planning for the fishing season.

Since July 26, 1999, NMFS has maintained the daily retention limit at one large school or small medium BFT per vessel. In the announcement for the daily retention limit effective June 25 through July 25, 1999 (64 FR 31992, June 15, 1999), NMFS announced the intention to adjust the daily retention limit once again during late summer and early fall season when BFT have moved further north to the waters off Rhode Island, New York, and northern New Jersey, contingent upon the availability of BFT Angling category quota. NMFS has received comment from mid-Atlantic fishermen, earlier this year and since the June daily retention limit adjustment, that the implementation of an increased daily retention limit over a date-certain period is preferable to a longer season with a lower daily retention limit as it facilitates the scheduling of fishing trips, particularly charter trips. NMFS is encouraged by the positive feedback surrounding the June adjustment and, as information received from fishermen indicates that BFT are available in the northern area (New Jersey and north), has determined that a late-season daily retention limit adjustment is warranted to ensure reasonable fishing opportunities in all geographic areas without risking overharvest.

Landings of the North Carolina winter fishery BFT are deducted from the bridge period in a BFT quota adjustment action published elsewhere in this *Federal Register* issue. Preliminary Large Pelagic Survey estimates of landings for June through August 15, 1999, indicate that approximately 3.2 metric tons (mt) of school BFT and approximately 39 mt of large school/small medium BFT have been landed; reported landings of large medium and giant BFT total approximately 3.1 mt.

NMFS adjusts the BFT Angling category daily retention limit for all areas to two school BFT (measuring 27 to less than 47 inches (69 to less than 119 cm) curved fork length) and one large school or small medium BFT (measuring 47 to less than 73 inches (119 to less than 150 cm) curved fork length) per vessel.

This daily retention limit adjustment is effective September 1 through October 6, 1999, after which it will be one large school or small medium BFT per vessel. The daily retention limit and the duration of daily retention limit adjustment have been selected based on an examination of past catch and effort rates. NMFS will continue to monitor the Angling category fishery closely through the Automated Catch Reporting System, the state harvest tagging programs in North Carolina and Maryland, and the Large Pelagic Survey. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that an interim closure or additional retention limit adjustment is necessary to enhance scientific data collection from, and fishing opportunities in, all geographic areas. Additionally, NMFS may determine that an allocation from the school BFT reserve is warranted to further fishery management objectives.

Closures or subsequent adjustments to the daily retention limit, if any, shall be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at 888–USA-TUNA (888–872–8862) or 978–281–9305 for updates on quota monitoring and retention limit adjustments. Anglers aboard Charter/Headboat category vessels, when engaged in recreational fishing for school, large school, and small medium BFT, are subject to the same rules as anglers aboard Angling category vessels. All BFT landed under the Angling category quota must be reported within 24 hours of landing to the NMFS Automated Catch Reporting System by calling 888–USA-TUNA (888–872–8862) or, if landed in the states of North Carolina or Maryland, to a reporting station prior to offloading. Information about these state harvest tagging programs, including reporting station locations, can be obtained in North Carolina by calling (800) 338–7804, and in Maryland by calling (410) 213–1531.

## Classification

This action is taken under 50 CFR 635.23(b)(3). This action is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 27, 1999.

**Gary C. Matlock,**

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

[FR Doc. 99–22818 Filed 8–27–99; 5:03 pm]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 660

**RIN 0648–AM20**

**[Docket No. 990823233–9233–01; I.D. 072799C]**

## Fisheries off West Coast States and in the Western Pacific; Northern Anchovy Fishery; Quotas for the 1999–2000 Fishing Year

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

**ACTION:** Interim final quotas.

**SUMMARY:** NMFS announces the interim final harvest quotas for the northern anchovy fishery in the exclusive economic zone south of Point Reyes, California, for the 1999–2000 fishing year. These quotas were established according to the current regulations implementing the Northern Anchovy Fishery Management Plan (FMP). Amendment 8 to the FMP, which was partially approved by NMFS on June 10, 1999, will change the methodology of establishing the quota. However, the final rule implementing Amendment 8 was not published by August 1, when the fishery began. Therefore, existing regulations must be used to set the quotas for the 1999–2000 fishing season. The intended effect of this action is to establish allowable harvest levels for the central subpopulation of northern anchovy.

**DATES:** Effective August 27, 1999. Comments will be accepted until September 27, 1999.

**ADDRESSES:** Submit comments on the interim final quotas to Rodney R. McInnis, Acting Administrator, Southwest Region, (Regional Administrator), NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Administrative Reports LJ–95–11 and LJ–97–08 are available from this same address.

**FOR FURTHER INFORMATION CONTACT:** James J. Morgan, Southwest Region, NMFS, (562) 980–4030.

**SUPPLEMENTARY INFORMATION:** In consultation with the California Department of Fish and Game and with the NMFS Southwest Fisheries Science Center, the Administrator, Southwest Region, NMFS, has decided to use the 1995 estimate of 388,000 metric tons (mt) spawning biomass for the central subpopulation of northern anchovy, *Engraulis mordax*, to set interim harvest

limits for the 1999–2000 fishing year. This is the same biomass estimate that was used for the 1995–96 through 1998–99 fishing years, and is being used because no new assessment of the resource has been made. Indices of relative abundance from airplane fish-spotter logs and egg production from research cruises in 1997 (Administrative Report LJ–97–08) indicated that the biomass remained at or above that estimated in 1995.

The biomass estimate was derived from a stock assessment model using spawning biomass estimated by five indices of abundance. Documentation of the spawning biomass is described in Administrative Report LJ–95–11, published by the Southwest Fisheries Science Center, NMFS (see **ADDRESSES**). Information on the status of the resource was last provided at a public meeting of the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Plan Development Team (Planning Team) and Advisory Subpanel in Long Beach, CA, on June 11, 1998. At that time, a review of the status of the anchovy resource was presented by the Planning Team, and NMFS requested estimates of domestic processing needs from the fishing industry so that a basis could be established for setting annual quotas. The industry estimated that 13,000 mt would meet the needs of the reduction industry.

No meeting between the Planning Team and the AdvisorySubpanel was held in 1999, because no new information on the anchovy resource was available and harvests have been consistently low.

Existing regulations establish optimum yield at 100 percentof the amount of the biomass above 300,000 mt (88,000 mt) for reduction fishing plus 7,000 mt for nonreduction fishing. In allocations for reduction and nonreduction fishing, 70 percent is allocated to the U.S. fishery and 30 percent is set aside to account for the Mexican fishery.

The Council reviewed the information available at its public meeting in Portland, OR, on June 22, 1999. The Council acknowledged that the domestic reduction harvest will be low and recommended that the reduction allocation should comprise an amount consistent with recent allocations for reduction fishing (13,000 mt) and the 3,000 mt that the Council recommended as a limit for harvest by two vessels participating in an experimental fishery in the Farallon Islands Closed Area off San Francisco. This would result in a Domestic Allowable Harvest (DAH) of 16,000 mt.

The Council recommended that the total allowable level offoreign fishing (TALFF) be zero; however, the existing regulations require that the amount not allocated to the domestic fishery be reserved for TALFF.

According to the formula in the FMP, the U.S. optimum yield (OY) is 66,500 mt (70 percent of the 95,000–mt international OY). The U.S. OY includes 61,600 mt, which is allocated to reduction fisheries, plus 4,900 mt for non-reduction fisheries. There is no agreement with Mexico on the management of northern anchovy; a portion of the biomass (30 percent) above 300,000 mt is designated as the amount to account for this unregulated harvest. TALFF constitutes any portion of U.S. OY that U.S. fishermen will not use, minus the amount harvested by Mexican vessels in excess of that assumed in the FMP. The Mexican harvest increased significantly in 1995, but dropped to a moderate level in 1996. In recent years, the Mexican harvest has not exceeded the catch levels defined in the FMP.

After considering the above, the Regional Administrator made the following determinations for the 1999–2000 fishing year by applying the formulas in the FMP and in 50 CFR 660.509(b).

1. The total U.S. OY for northern anchovy is 66,500 mt.

2. The total U.S. harvest quota for reduction purposesis 16,000 mt.

a. Of the total reduction harvest quota, 1,600 mt is reserved for the reduction fishery in Subarea A (the northern portion of the Pacific anchovy fishery area (PAFA) between 38° N. lat., (Point Reyes), and a southern limit at 35°14 N. lat. (Point Buchon)). The FMP requires that 10 percent of the U.S. reduction quota or 9,072 mt, whichever is less, be reserved for the northern fishery. This is not a special quota, but only a reduction in the amount allocated to the southern fishery south of Pt. Buchon Subarea B (the southern portion of the PAFA between 35°14' N. lat. (Point Buchon), and the United States-Mexico International Boundary. After the northern fishery has harvested 1,600 mt, any unused portion of the Subarea B allocation may also be harvested north of Pt. Buchon.

b. The reduction quota for subarea B (south of Pt. Buchon) is 14,400 mt.

3. The U.S. harvest quota for non-reduction fishing(i.e., fishing for anchovy for use as dead bait or human consumption) is 4,900 mt (as set by § 660.509(b)).

4. There is no U.S. harvest limit for the live baitfishery.

5. The domestic annual processing capacity (DAP) is16,000 mt.

6. The amount allocated to joint venture processing(JVP) is zero, because there is no history of, nor are there applications for, joint ventures.

7. Domestic annual harvest capacity (DAH) is 16,000mt. DAH is the sum of DAP and joint venture processing.

8. The TALFF is 45,600 mt.

The fishery will be monitored during the year and evaluated with respect to the OY and the estimated needs of the fishing industry.

## Classification

This action is authorized by 50 CFR 660.509 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. 553(b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because establishing the quota is a ministerial act, determined by applying a formula in the FMP. Accordingly, providing prior notice and an opportunity for public comment would serve no useful purpose.

Because this rule merely establishes a quota and does not require any participants in the fishery to take action or to come into compliance, the AA finds for good cause under 5 U.S.C. 553(d)(3) that delaying the effective date of this rule for 30 days is unnecessary. Accordingly, the AA makes the quota effective upon the date of filing for public inspection with the Office of the Federal Register.

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

Dated: August 27, 1999.

**Gary C. Matlock,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–22816 Filed 8–27–99; 5:03 pm]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register
Vol. 64, No. 170
Thursday, September 2, 1999

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

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Part 246

**RIN 0584–AA80**

### Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Food Delivery Systems

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Proposed rule; Extension of public comment period.

**SUMMARY:** The proposed rule entitled Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Food Delivery Systems was published in the **Federal Register** (64 FR 32308–32343) on June 16, 1999. Public comments were requested to be postmarked on or before September 14, 1999. This action extends the public comment period to October 14, 1999. This extension gives the public additional time to analyze the provisions of the proposed rulemaking and to develop substantive comments which will assist the Department in modifying the requirements regarding WIC Food Delivery Systems.

**DATES:** To be assured of consideration, comments must be submitted or postmarked on or before October 14, 1999.

**ADDRESSES:** Comments may be mailed to: Patricia Daniels, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 540, Alexandria, Virginia 22302. All written submissions will be available for public inspection during regular business hours (8:30 a.m. to 5:00 p.m.), Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Debra R. Whitford, at the above address or by telephone at (703) 305–2730.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Department published the proposed rule addressing WIC Food Delivery Systems in the **Federal Register** (64 FR 32308–32343) on June 16, 1999. The Department provided a 90-day comment period. Commenters have indicated that because this rule is expected to affect a significant number of vendors in the retail food industry, the 90-day comment period is not enough to provide a thorough analysis and to develop detailed comments.

The Department acknowledges the importance of providing commenters with sufficient time to evaluate the proposal and to develop substantive comments. To achieve this end, the Department will continue to accept comments submitted or postmarked on or before October 14, 1999.

Dated: August 25, 1999.

**Samuel Chambers, Jr.,**

*Administrator.*

[FR Doc. 99–22904 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–30–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 928

**[Docket No. FV99–928–1 PR]**

### Papayas Grown in Hawaii; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate from $.0063 to $.008 per pound of assessable papayas established for the Papaya Administrative Committee (Committee) under Marketing Order No. 928 for the 1999–2000 and subsequent fiscal years. The Committee is responsible for local administration of the marketing order which regulates the handling of papayas grown in Hawaii. Authorization to assess papaya handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by October 4, 1999.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 155 and Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, papaya handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable papayas beginning on July 1, 1999, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal years from $0.0063 per pound to $0.008 per pound of assessable papayas.

The papaya marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of papayas. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1998–1999 and subsequent fiscal years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on April 22, 1999, to discuss the crop estimate, the budget, and the assessment rate for the 1999–2000 fiscal year. On July 15, 1999, the Committee completed a mail ballot on the crop estimate and assessment rate, and on an eight to one vote, adopted a crop estimate of 40 million pounds of assessable papayas and an assessment rate of $0.008 per pound for the 1999–2000 and subsequent fiscal years. The person who voted no objected to the higher assessment rate. The Committee unanimously recommended a 1999–2000 fiscal year budget of $522,500.

The assessment rate of $0.008 is $0.0017 higher than the rate currently in effect. The budgeted expenses are $39,000 less than the $561,500 budgeted for last year. The Committee determined that a higher assessment rate was necessary to meet the recommended expenses and maintain a reserve fund for the 1999–2000 fiscal year. For several fiscal years, money from the reserve fund has been used to meet a portion of budgeted expenses in an effort to keep the assessment rate as low as possible. The Committee believes a further reduction of the reserve fund would not be prudent.

The Committee is authorized to maintain reserve funds in an amount not to exceed approximately one fiscal year's operational expenses. Last year, the reserve fund was $25,200. This year it is expected to be $25,000, which is approximately one percent lower than the previous year and considered adequate by the Committee. After consideration of the estimated crop size and anticipated expenses for the 1999–2000 fiscal year, it was determined that increasing the assessment rate by approximately 27 percent would provide sufficient funds to meet anticipated expenses and maintain an adequate reserve fund.

The major expenditures recommended by the Committee for the 1999–2000 year include $230,000 for marketing and promotion, $90,500 for research and development, and $98,000 for salaries. Budgeted expenses for these items in 1998–99 were $183,000 for marketing and promotion, $171,500 for research and development, and $98,000 for salaries, respectively.

The assessment rate recommended by the Committee was derived by dividing assessment income needed by expected shipments of papayas. Papaya shipments for the year are estimated at 40 million pounds which should provide $320,000 in assessment income. Income derived from handler assessments, when combined with income from the Hawaii Department of Agriculture, State of Hawaii (Research), USDA's Foreign Agricultural Service, County of Hawaii, and the Japanese Inspection program, along with interest income of $16,000, would be adequate to cover budgeted expenses. Funds in the reserve (estimated to be $25,000 at the end of the 1999–2000 fiscal year) would be kept within the maximum permitted in § 928.42(a)(2) of the order. The order authorizes approximately one fiscal year's expenses for the reserve.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons are encouraged to express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1999–2000 budget and those for subsequent fiscal years would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 400 producers of papayas in the production area and approximately 60 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the

Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on a reported average f.o.b. price of $1.30 per pound of papayas, a handler would have to ship in excess of 3.85 million pounds of papayas to have annual receipts of $5,000,000. Last year, two handlers each shipped in excess of 3.85 million pounds of papayas, and, therefore, could be considered large businesses. The remaining handlers could be considered small businesses under SBA's definition.

Based on a reported average grower price of $0.45 per pound and industry shipments of 36 million pounds, total grower revenues would be $16.2 million. Average grower revenue would, thus, be $40,500. Based on the foregoing, the majority of handlers and producers of papayas may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal years from $0.0063 per pound to $0.008 per pound of assessable papayas. The Committee recommended 1999–2000 expenditures of $522,500 and the $0.008 per pound assessment rate. The proposed assessment rate of $0.008 is $0.0017 higher than the 1998–99 rate. The quantity of assessable papayas for the 1999–2000 fiscal year is estimated at 40 million pounds. Thus, the $0.008 rate should provide $320,000 in assessment income. Income derived from handler assessments, the Hawaii Department of Agriculture, State of Hawaii (Research), USDA's Foreign Agricultural Service, County of Hawaii, and the Japanese Inspection program, along with interest income of $16,000, would be adequate to cover budgeted expenses. Funds in the reserve (estimated to be about $25,000 at the end of the 1999–2000 fiscal year) would be kept within the maximum permitted in § 928.42(a)(2) of the order. The order authorizes approximately one fiscal year's expenses for the reserve.

The Committee recommended 1999–2000 expenditures of $522,500. The major expenditures recommended by the Committee for the 1999–2000 year include $230,000 for marketing and promotion, $90,500 for research and development, and $98,000 for salaries. Budgeted expenses for these items in 1998–99 were $183,000 for marketing and promotion, $171,500 for research and development, and $98,000 for salaries, respectively.

Regarding alternatives, the Committee discussed decreasing expenditure levels for marketing and promotion, and further reductions in research and development expenditures to avoid increasing the assessment rate, but it determined that the programs should be funded at the recommended levels. The assessment rate of $0.008 per pound of assessable papayas was determined by dividing the assessment income needed by the quantity of assessable papayas, estimated at 40 million pounds for the 1999–2000 fiscal year. This estimate would generate $320,000 in assessment income. When combined with $208,800 in anticipated income from the previously mentioned sources, and $16,000 in interest income, the Committee would have adequate funds to meet its 1999–2000 expenses.

A review of historical information and preliminary information pertaining to the 1999–2000 fiscal year indicates that the grower price for the season could range between $.30 and $0.45 per pound of papayas. Therefore, the estimated assessment revenue for the 1999–2000 fiscal year as a percentage of total grower revenue could range between 1.8 and 2.7 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the papaya industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 22, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large papaya handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1999–2000 fiscal year began on July 1, 1999, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable papayas handled during such fiscal year; and (3) handlers are aware of this action which was discussed by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

**List of Subjects in 7 CFR Part 928**

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is proposed to be amended as follows:

## PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 928.226 is revised to read as follows:

**§ 928.226 Assessment rate.**

On and after July 1, 1999, an assessment rate of $0.008 per pound is established for papayas grown in Hawaii.

Dated: August 26, 1999.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99–22908 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–02–P

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## NUCLEAR REGULATORY COMMISSION

## 10 CFR Part 51

**[Docket No. PRM–51–7]**

## Nuclear Energy Institute; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; Notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Energy Institute (NEI). The petition has been docketed by the Commission and

has been assigned Docket No. PRM–51–7. The petitioner requests that the NRC amend its regulations to delete the requirement for the NRC to evaluate Severe Accident Mitigation Alternatives as part of its National Environmental Policy Act (NEPA) review associated with license renewal. The petitioner requests that the NRC take this action to achieve consistency in the scope of its regulatory requirements associated with NEPA and license renewal.

**DATES:** Submit comments by November 16, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

**ADDRESSES:** Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

For a copy of the petition, write to David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You may also provide comments via the NRC's interactive rulemaking website at http://ruleforum.llnl.gov. This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: CAG@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7162 or Toll-free: 1–800–368–5642 or E-mail: DLM1@NRC.GOV.

**SUPPLEMENTARY INFORMATION:**

## Background

On July 14, 1999, the NRC received a petition for rulemaking submitted by the NEI. The petitioner requests that the NRC amend its regulations to delete the requirement for the NRC to evaluate Severe Accident Mitigation Alternatives (SAMAs) as part of its NEPA review associated with license renewal. The petitioner requests that the NRC take this action to achieve consistency in the scope of its regulatory requirements associated with NEPA and license renewal. The petition has been docketed as PRM–51–7. The NRC is soliciting public comment on the petition for rulemaking.

The NRC's regulations implementing NEPA appear in 10 CFR part 51. Paragraph (c)(3)(ii)(L) of § 51.53 requires that an applicant to evaluate SAMAs as part of its environmental report for license renewal if the NRC staff has not previously considered SAMAs for the plant in an environmental impact statement or a related supplement or in an environmental assessment. The NRC's regulations governing the renewal of operating licenses for nuclear power plants appear in 10 CFR part 54.

## The Petitioner's Request

The petitioner requests that the NRC amend its regulations to remove 10 CFR 51.53 (c)(3)(ii)(L). This would eliminate the requirement that the NRC evaluate SAMAs as part of its review of a nuclear power plants application for renewal of its operating license. The petitioner suggests that the rulemaking also include conforming amendments to 10 CFR part 51, Appendix B and that NUREG–1437 be amended to conform with the suggested change.

The petitioner believes that the suggested action would eliminate a conflict with the technical requirements for license renewal. The petitioner states that 10 CFR part 54 is founded on the principle that each plant's current licensing basis remains adequate and carries forward into the renewal term. The petitioner characterizes the Commission as concluding that the adequacy of plant design and operating procedures is beyond the substantive scope of part 54. Yet, the petitioner states that § 51.53(c)(3)(ii)(L) requires that these subjects be extensively analyzed under the procedural requirements in part 51. The petitioner asserts that its suggested approach resolves the conflict between part 51 and part 54 requirements. The petitioner believes that this approach recognizes that the scope of NRC's proposed actions, license renewal determinations under part 54, defines and bounds the scope of environmental review for these actions. The petitioner goes on to state that the courts have held that there is no significant environmental impact requiring further assessment if a proposed action maintains an equivalent level of safety, *City of Aurora* v. *Hunt*, 749 F.2d 1457 (10th Cir. 1984). The petitioner contends that, because part 54 assures that the current level of safety is maintained, there is no increase in risk required to be considered for mitigation under NEPA. Furthermore, the petitioner states that the court action cited by the NRC as the basis for requiring consideration of SAMAs in NEPA evaluations for license renewal, *Limerick Ecology Action* v. *U.S. Nuclear Regulatory Commission*, 869 F. 2d 719 (3rd Cir. 1989), does not preclude the suggested rulemaking. The petitioner also believes that, under established precedent, an EIS does not have to include beyond-design-basis accidents as long as the Commission considers them highly improbable events, *San Luis Obispo Mothers for Peace* v. *NRC*, 751 F2 1287, 1301 (D.C. Cir 1984).

## The Petitioner

The NEI characterizes itself as an organization of the nuclear industry responsible for coordinating the efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear organizations, in all matters involving generic regulatory policy issues and regulatory aspects of generic operating and technical issues affecting the nuclear power industry. Its members include every utility responsible for constructing or operating a commercial nuclear power plant in the United States, as well as major architect/engineering firms and all major nuclear steam supply system vendors.

## The Petitioner's Interest in the Requested Action

The petitioner states that 45 commercial nuclear power plants will reach the end of their original 40-year operating license term by 2015. These plants represent billions of dollars in capital investment and generate electricity for 17 million households. Two NRC licensees have submitted license renewal applications; Baltimore Gas and Electric for its two-unit Calvert Cliffs plant and Duke Power for its three-unit Oconee plant. The NEI anticipates that many of the licensees whose licenses will expire in the near future will apply for renewed licenses.

The petitioner characterizes continued plant operation as primarily an economic decision. When considering license renewal, the utility must evaluate future electricity demand, the cost of other electricity supply options versus the cost of continued plant operation, and the efficiency of the NRC license renewal process. The commercial power industry is interested in promoting a license renewal process that focuses on those items the NRC has determined could have a potential effect on the ability of structures and components to function during the extended period of operation. The industry also is interested in ensuring that the NRC properly defines its NEPA review obligations for license renewal so that an efficient, effective process can

be achieved. The petitioner believes that retaining the requirement that the NRC evaluate SAMAs as part of its review of a nuclear power plant's application for renewal of its operating license unnecessarily increases the cost of a license application, and potentially increases the review time for an application by introducing issues that conflict with the fundamental principles underlying part 54.

**Discussion**

*Part 54 Requirements*

The NRC adopted regulations governing the renewal of nuclear power plant operating licenses in a final rule adding part 54 to 10 CFR chapter I (56 FR 64943; December 13, 1991). The NRC subsequently revised part 54 in a final rule published May 8, 1995 (60 FR 22461). The petitioner describes this revision as an attempt to make license renewal a more focused, stable, and predictable regulatory process.

The petitioner states that the Statement of Considerations for each rule carefully explained the scope of license renewal for the rule. The petitioner cites NRC's commitment to two critical principles. First, with the exception of the detrimental effects of aging during the period of extended operation, the regulatory process is adequate to ensure that the licensing bases of all currently operating plants provide and maintain an acceptable level of safety so that operation will not be inimical to public health and safety or common defense and security. Second, the current licensing basis continues during the renewal term. The petitioner states that the NRC specifically rejected a requirement for a general demonstration of compliance with the current licensing basis as a prerequisite for issuing a renewed license by narrowing the findings required to be made for issuing a renewed license under 10 CFR 54.29. The petitioner contends that the scope of part 54 focuses license renewal only on those matters that relate to the detrimental effects of aging and that are not currently managed and on certain issues analyzed for a period covering the original term and the renewal term. The petitioner believes that the scope of part 54 is directly relevant to industry's view, as characterized by the petitioner, that SAMAs should not be part of the NEPA review for license renewal.

**Part 51 Requirements**

As indicated, part 51 contains NRC's regulations implementing NEPA. Section 102(2) of NEPA requires the preparation of an environmental impact statement for every major Federal action significantly affecting the quality of the human environment. Section 51.53 defines the environmental impacts that are to be addressed in the NEPA review for license renewal. The petitioner indicates that many of the environmental issues found to be relevant to license renewal were addressed in a generic environmental impact statement (GEIS) issued as NUREG–1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, in December 1995. The findings of the GEIS are summarized in Appendix B to part 51, which was issued through formal rulemaking in a final rule published December 18, 1996 (61 FR 66543). The GEIS identified and evaluated the potential environmental impacts that the NRC staff determined could be evaluated generically. The GEIS also identified 22 environmental impacts that the NRC staff concluded were not susceptible to generic evaluation and must be evaluated for each plant as part of the license renewal review process.

The petitioner points out that SAMAs are among the items the NRC has designated for plant-specific review. The petitioner describes SAMAs as plant modifications or procedure changes that do not necessarily prevent severe accidents but reduce the offsite consequences or severity of the impact should a severe accident occur. The petitioner indicates that the NRC has defined severe accidents as those that would cause substantial damage to the reactor core, regardless of whether there are severe offsite consequences. The petitioner believes that in codifying the determination to consider SAMAs in conjunction with license renewal at § 51.53(c)(3)(ii)(L), the NRC interpreted the *Limerick Ecology Action* v. *U.S. Nuclear Regulatory Commission* decision to require this action.

**Evaluation and Addressing of SAMAs Under the Current Licensing Basis**

The petitioner describes actions preformed by licensees to analyze severe accident vulnerabilities and ways to mitigate these vulnerabilities. These actions include conducting Individual Plant Examinations, employing Probabilistic Safety Assessment methodology to evaluate possibly significant, plant-specific risk contributors to severe accidents, and Individual Plant Examination for External Events that focus on external event risks involving fires and seismic events. The petitioner indicates that the results of these examinations indicate that generic upgrades beyond current levels of safety are not justified on a cost-beneficial basis and that the relatively limited risk from external events does not require additional licensee action. However, the petitioner indicates that these actions and any resulting modifications will carry forward into the renewal term.

**Bases for Eliminating SAMAs**

*Scope of License Renewal*

The petitioner classifies NEPA as a procedural statute that was enacted to ensure that Federal agency decisionmaking evaluates environmental consequences that may result from a proposed action and informs the public of this decisionmaking process. The petitioner contends that NEPA is not intended to force a particular result. It does not require that any particular environmental issue be considered or that potential environmental impacts control the decision regarding a proposed action. The petitioner describes NEPA case law as providing that the adequacy of an environmental impact statement is dependent on the facts and circumstances related to the proposed action and that a court will apply the ''rule of reason'' in reviewing the adequacy of an environmental impact statement. The petitioner contends that the ''rule of reason'' analysis has not been interpreted to require an exhaustive, detailed discussion of all environmental impacts and that an environmental impact statement will be considered adequate if it provides information reasonably necessary to evaluate the project.

The petitioner states that the NRC must evaluate those impacts resulting from the requested license renewal that have not been evaluated generically in a plant-specific environmental impact statement for license renewal. The petitioner indicates that the NRC specifically determined that extending a license to operate a nuclear power plant does not require the NRC to review all aspects of plant operation or administration, and that the NRC deliberately limited its license renewal process to items related to the extension of the license term or for which aging management does not exist or would be insufficient. Therefore, the petitioner concludes that the impacts appropriately considered under NEPA would be those that reasonably flow from the license renewal decision under part 54. The petitioner references and describes court analyses and decisions in the *City of Aurora* v. *Hunt*, 749 F.2d 1457 (10th Cir. 1984), and *Upper Snake River Chapter of Trout Unlimited* v. *Hodel*, 921 F.2d 232 (9th Cir. 1990),

cases. The petitioner contends that these court actions support industry's contention that because the current licensing basis (of which severe accident management is a part) carries forward to the license renewal term, the status quo will be maintained and because an equivalent level of safety is maintained, SAMAs may be properly excluded from NRC consideration in an environmental impact statement for license renewal.

The petitioner asserts that individual licensee and generic industry actions to address severe accidents demonstrate that this issue is part of the license in the current term and that the increase of the license term does not limit or diminish the value of these actions. The petitioner contends that because items in the current licensing basis are not subject to evaluation as part of the license renewal review, the license renewal rule also eliminates the need to consider the impact of their alternatives under NEPA. The petitioner concludes that there can be no NEPA inquiry of the environmental impacts and the mitigation alternatives of severe accidents if there is no change in the risk of a severe accident generated by license renewal.

*The Limerick Decision*

The petitioner examines the decision *Limerick Ecology Action* v. *U.S. Nuclear Regulatory Commission* and concludes that the holding in this decision is appropriately limited to the facts based on the context in which the decision was made.

First, the NRC relied on a Policy Statement to conclude that it could exclude consideration of severe accident mitigation design alternatives (SAMDAs) from individual licensing proceedings. Although the court found that the policy statement had the effect of a substantive rule, it was unwilling to treat it as a rule and allowed the policy statement to be challenged in an individual proceeding.

Second, the court was influenced by its perception that the NRC failed to give sufficiently careful consideration to SAMDAs before determining that they should not be subject to review in individual proceedings. The court highlighted the differences between the facts in *Limerick* and those in *Baltimore Gas & Electric Co.* v *Natural Resources Defense Council,* 462 U.S. 87 (1985), where the Supreme Court held that it was permissible under NEPA to treat the environmental effects of nuclear fuel storage generically. The court indicated that under the facts of BG&E, the NRC had proceeded under the basis of an extensive formal rulemaking. In *Limerick,* the NRC failed to permit consideration of SAMDAs without an explanation for doing so that was satisfactory to the court. The court concluded that this failure to evaluate SAMDAs in individual licensing proceedings meant that the NRC had concluded inappropriately that no design mitigation alternative would be worthwhile.

Third, the court was not persuaded by the NRC argument on judicial review that the risks of a severe accident are ''remote and speculative.'' The court held that the NRC had not based its decision on this determination and refused to substitute this argument for the reasons NRC articulated in the policy statement. Based on the facts presented, the court was unwilling to read into the policy statement and find that the risk is remote and speculative.

The petitioner contends that the courts articulated bases for deciding that SAMDAs should not have been excluded from consideration in an individual licensing proceeding support limiting the holding of *Limerick* to its facts. The petitioner further contends that *Limerick* does not affect the proposition that the ''rule of reason'' defines whether the environmental impact statement has addressed the significant aspects of probable environmental consequences for the proposed action. Finally, the petitioner contends that the limited nature of license renewal limits NEPA evaluation only to those environmental consequences that may reasonably flow from the proposed action, renewing a plant's license as that plant is currently designed and operated.

**Finding That Severe Accidents Are Highly Unlikely**

The petitioner contends that, because a ''rule of reason'' applies to all NEPA reviews and because a court has described it as a ''probabilistic rule of reason'' with respect to SAMAs, the NRC is not required to consider beyond design-basis accidents if the Commission reasonably believes that this type of accident is highly unlikely to occur. The petitioner states that the court, in *Limerick,* recognized that NEPA does not require consideration of remote and speculative risks. However, because the NRC's decision to exclude SAMAs in the *Limerick* licensing proceeding had not been based on such a determination, the court declined to uphold the NRC's action on grounds that had not been invoked by the NRC. Therefore, the petitioner contends that the *Limerick* decision did not and cannot preclude the NRC from elimination SAMAs from NEPA consideration based on an NRC finding that these accidents are highly unlikely to occur. As a result, the petitioner believes that the NRC has an ample basis to proceed with a rulemaking to delete § 51.53(c)(3)(ii)(L). The petitioner states that, based on the assessment of severe accident risk in the GEIS and the results of Individual Plant Examinations and Individual Plant Examinations for External Events, the NRC has concluded that the risk of a severe accident significantly affecting the environment is extremely small. Therefore, the petitioner believes that considering further mitigation is not worthwhile and SAMAs should be excluded from part 51 review for license renewal.

**The Petitioner's Conclusion**

The petitioner believes that the NRC should conduct a rulemaking to exclude the consideration of SAMAs from the NRC's NEPA review for license renewal. The petitioner contends that the requirement to include SAMAs was based on an overly broad application of language in the *Limerick* case. The petitioner states that under NEPA the NRC is responsible for reviewing those impacts that directly and indirectly relate to license renewal. The petitioner contends that this evaluation is bounded by the fact that an applicant's current licensing basis continues in the renewal term and the impacts associated with the current license are not subject to license renewal evaluation unless they can be shown to be potentially greater in the renewal term. The petitioner contends that such a demonstration has not been made for severe accidents and, therefore, cannot be demonstrated for SAMAs.

Dated at Rockville, Maryland, this 27th day of August, 1999.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 99–22915 Filed 9–1–99; 8:45 am]

BILLING CODE 7590–01–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NM–56–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 747 Series Airplanes

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

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require repetitive inspections or checks to detect broken H–11 steel bolts at the wing rear spar side-of-body on the lower chord splice plate and kick fitting; and corrective actions, if necessary. This proposal also would require eventual replacement of the existing bolts with new inconel bolts, which would constitute terminating action for the repetitive inspections. This proposal is prompted by a report of broken bolts at the wing rear spar side-of-body on the lower chord splice plate. The actions specified by the proposed AD are intended to prevent cracking of the bolts due to stress corrosion, which could result in reduced structural integrity of the wing-to-body joint structure.

**DATES:** Comments must be received by October 18, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–56–AD.'' The postcard will be date stamped and returned to the commenter.

## Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

## Discussion

The FAA has received a report indicating that an operator found four broken high strength H–11 steel bolts on a Boeing Model 747 series airplane. The broken bolts were on one side of the wing rear spar side-of-body on the lower chord splice plate. The broken bolts were attributed to stress corrosion cracking. This condition, if not detected, could result in reduced structural integrity of the wing-to-body joint structure.

## Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999. The service bulletin describes procedures for repetitive detailed visual inspections, or alternatively, ultrasonic inspections or torque checks, to detect broken H–11 steel bolts common to the rear spar lower chord splice plate and H–11 steel bolts on the wing rear spar lower kick fitting; and corrective actions, if necessary. The corrective actions involve performing either an ultrasonic inspection or torque check for broken bolts, if necessary; an open hole high frequency eddy current (HFEC) inspection to detect cracks at the broken bolt hole location; and installing an inconel bolt, which would eliminate the need for the repetitive inspections at this bolt location, as applicable. The service bulletin also describes procedures for an optional terminating action for the repetitive inspections. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

## Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

## Differences Between Proposed Rule and Service Bulletin

Operators should note that, although incorporation of the terminating action specified in the referenced service bulletin is optional, this AD proposes to mandate, within 48 months after the effective date of this AD, the open hole inspection and replacement specified in the referenced service bulletin as terminating action for the repetitive inspections.

The FAA has determined that long-term continued operational safety would be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed replacement requirement is in consonance with these conditions.

In addition, operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved, the approval letter must specifically reference this AD.

## Cost Impact

There are approximately 523 airplanes of the affected design in the worldwide fleet. The FAA estimates that

115 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection of the wing rear spar side-of-body lower chord splice plate and kick fitting high strength H–11 steel bolts proposed by this AD on U.S. operators is estimated to be $6,900, or $60 per airplane, per inspection cycle.

It would take approximately 13 (Groups 1, 3, 4, and 5 airplanes) and 10 (Group 2 airplanes) work hours per airplane to accomplish the proposed open hole HFEC inspection and replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $4,500 per airplane. Based on these figures, the cost impact of the open hole HFEC inspection and replacement proposed by this AD on U.S. operators is estimated to be $5,280 (Groups 1, 3, 4, and 5 airplanes) and $5,100 (Group 2 airplanes) per airplane.

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

## Regulatory Impact

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

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

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Boeing:** Docket 99–NM–56–AD.

*Applicability:* Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999, certificated in any category.

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

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

To detect and prevent cracking of the high strength H–11 steel bolts on the wing rear spar side-of-body on the lower chord splice plate and kick fitting due to stress corrosion, which could result in reduced structural integrity of the wing-to-body joint structure, accomplish the following:

**Repetitive Inspections**

(a) Within 12 months after the effective date of this AD, perform a detailed visual inspection, or alternatively, an ultrasonic inspection or torque check, to detect broken H–11 steel bolts common to the rear spar lower chord splice plate and the H–11 steel bolts common to the wing rear spar lower chord kick fitting, in accordance with Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999. Thereafter, repeat the applicable inspection or torque check at intervals not to exceed 18 months, until accomplishment of the actions specified in paragraph (d) of this AD.

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

**Corrective Actions**

(b) If there is any detection or indication that any bolt is broken during the inspection required by paragraph (a) of this AD, prior to further flight, perform the applicable corrective action [i.e., ultrasonic inspection, torque check, high frequency eddy current (HFEC) inspection, repair, and replacement] in accordance with Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999; except as provided in paragraph (c) of this AD. Replacement of a broken bolt with a new inconel bolt in accordance with the service bulletin constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD for that bolt only.

(c) If any crack is detected during any corrective action required by paragraph (b) of this AD; and the service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

**Terminating Action**

(d) Within 48 months after the effective date of this AD, accomplish the actions required by paragraphs (d)(1) and (d)(2) of this AD in accordance with Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999. Accomplishment of the actions specified in this paragraph constitutes terminating action for the repetitive inspection requirements of this AD.

(1) Prior to accomplishing the replacement required by paragraph (d)(2) of this AD, perform an open hole HFEC inspection to detect cracks at the bolt hole location for the eight high strength H–11 steel bolts common to the rear spar lower chord splice plate and the four high strength H–11 steel bolts common to the wing rear spar lower chord kick fitting. If any crack is detected, prior to further flight, perform applicable corrective actions in accordance with paragraph (c) of this AD.

(2) Replace all eight high strength H–11 steel bolts common to the rear spar lower chord splice plate and all four high strength H–11 steel bolts common to the wing rear spar lower chord kick fitting with new inconel bolts.

**Spares**

(e) As of the effective date of this AD, no person shall install an H–11 steel bolt having part number (P/N) BACB30MT ( ) * ( ) or BACB30TR ( ) * ( ), or any other H–11 steel bolt in the locations specified in this AD, on any airplane.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

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

Issued in Renton, Washington, on August 27, 1999.

**Vi L. Lipski,**

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

[FR Doc. 99–22921 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–AAL–15]**

## Proposed Establishment of Class E Airspace; Koliganek, AK

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to establish Class E airspace at Koliganek, AK. The establishment of Global Positioning System (GPS) instrument approach procedures at Koliganek Airport have made this action necessary. The Koliganek Airport status will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). Adoption of this proposal would result in adequate controlled airspace for aircraft flying IFR procedures at Koliganek, AK.

**DATES:** Comments must be received on or before October 18, 1999.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 99–AAL–15, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

**FOR FURTHER INFORMATION CONTACT:** Bob Durand, Operations Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at.

**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–AAL–15.'' 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 Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, 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

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su—docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the individual(s) identified in the **FOR FURTHER INFORMATION CONTACT** section.

### The Proposal

The FAA proposes to amend 14 CFR part 71 by establishing Class E airspace at Koliganek, AK, due to the development of two GPS instrument approach procedures. The intended effect of this proposal is to provide controlled airspace for IFR operations at Koliganek, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

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

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

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

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

**§ 71.1 [Amended]**

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

* * * * *

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

* * * * *

**AAL AK E5 Koliganek, AK [New]**

Koliganek Airport
(Lat. 61° 32′ 11″ N., long. 160° 20′ 29″ W.)

That airspace extending upward from 700 feet above the surface within 6.3-mile radius of the Koliganek Airport, and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 59° 08′ 00″ N. long. 158° 30′ 00″ W., to lat. 59° 55′ 00″ N. long. 158° 30′ 00″ W., to lat. 59° 55′ 00″ N. long. 155° 00′ 00″ W., to 59° 08′ 00″ N. long. 155° 00′ 00″ W., the point of beginning.

* * * * *

Issued in Anchorage, AK, on August 25, 1999.

**Willis C. Nelson,**

*Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 99–22895 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–P

## POSTAL SERVICE

## 39 CFR Part 776

## Floodplain and Wetland Procedures

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** This proposal would revise existing procedures for the acquisition and management of real property and construction of facilities in floodplains and wetlands. These proposed changes would simplify and clarify the responsibilities of the Postal Service with regard to public notification and procedures to be followed when evaluating postal facility actions that may involve construction projects in floodplains or wetlands.

**DATES:** Comments must be submitted on or before October 4, 1999.

**ADDRESSES:** Written comments should be directed to the Manager, Real Estate, Facilities, 4301 Wilson Blvd, Suite 300, Arlington, VA 22203–1861.

**FOR FURTHER INFORMATION CONTACT:** Technical information: Hank Burmeister, (201) 714–5431. Legal information: Jeff Meadows, (202) 268–3009.

**SUPPLEMENTARY INFORMATION:** The Postal Service is proposing to clarify and simplify its regulations concerning its internal evaluation and decision-making processes for constructing facilities in floodplain and wetland areas, while ensuring public input and notice of these decisions. Experience over the years has demonstrated that the current regulations in many cases do not address the needs of local communities.

The Postal Service must balance local needs with its national mandate to provide universal, prompt, and efficient mail service while complying with environmental protection policies. Often the only suitable and available property requires construction in a floodplain or wetland. In these situations, an analysis which presumes that the Postal Service has an unlimited number of options available to provide community postal services is inefficient.

The proposed floodplain regulations would apply to construction of new postal facilities in floodplains. They would also apply to other construction projects, including the expansion or renovation of existing facilities, which would increase the amount of impervious area in a floodplain, such as paving over a dirt and gravel parking lot. However, the procedural requirement to conduct a no practicable alternatives analysis will not apply to every construction project located in a floodplain. For example, it would not apply to construction or improvements to facilities such as boat docks and piers, which necessarily have to be placed in the floodplain, or to new construction of facilities where all contending sites are located in the floodplain. The no practicable alternatives analysis also would not apply where the entire preferred area for the location of a postal facility, whether expanded, renovated, or replaced, is in the floodplain.

These regulations attempt to balance the need to limit development in floodplains while addressing community inputs and needs. The Postal Service will continue to review the potential environmental impacts and effects of facility actions and to incorporate appropriate mitigation measures into facilities projects.

The wetland regulations, based on Executive Order (EO) 11990, are being simplified and clarified to separate them from the floodplain requirements, based on EO 11988. EO 11990 directs all federal agencies to avoid destruction or modification of wetlands whenever a practicable alternative can be found. The proposed regulations separate the requirements and procedures for floodplains and wetlands. These proposed regulations do not alter the basic procedure the Postal Service follows pursuant to EO 11990. For example, if the construction is proposed in a wetland, the Postal Service must still issue a written determination that there is no practicable alternative to such construction and that the proposed action includes all practicable mitigation measures. The Postal Service will continue to review the potential environmental impacts and effects of facility actions in wetlands and incorporate appropriate mitigation measures.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c) regarding proposed rulemaking) by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed amendments to part 776 of subchapter K of title 39, Code of Federal Regulations.

**List of Subjects in 39 CFR Part 776**

Floodplains, Postal Service.

For the reasons discussed in the preamble, the Postal Service proposes to revise title 39 CFR part 776 to read as follows:

## PART 776—FLOODPLAIN AND WETLAND PROCEDURES

### Subpart A—General Provisions

Sec.
776.1 Purpose and policy.
776.2 Responsibility.
776.3 Definitions.

### Subpart B—Floodplain Management

776.4 Scope.
776.5 Review procedures.
776.6 Design requirements for construction.
776.7 Lease, easement, right-of-way, or disposal of property to non-federal parties.

### Subpart C—Wetlands Protection

776.8 Scope.
776.9 Review procedures.
776.10 Lease, easement, right-of-way, or disposal of property to non-federal parties.

**Authority:** 39 U.S.C. 401.

### § 776.1 Purpose and policy.

(a) The regulations in this part implement the goals of Executive Orders 11990, Protection of Wetlands, and 11988, Floodplain Management, and are adopted pursuant to the Postal Reorganization Act, as the Postal Service does not meet the definition of the term ''agency'' used in the Executive Orders.

(b) The Postal Service intends to exercise leadership in the acquisition and management of real property, construction of facilities, and disposal of real property, located in floodplains and wetlands. Consistent with the goals of the Executive Orders, the regulations in this part are not intended to prohibit floodplain and wetland development in all circumstances, but rather to create a consistent policy to minimize adverse impacts.

### § 776.2 Responsibility.

The appropriate Manager, Facilities Service Office, or functional equivalent within the Postal Service's facilities organization, in conjunction with the appropriate Vice President, Area Operations, or functional equivalent within the Postal Service's operations organization, are responsible for overall compliance with the regulations in this part pertaining to facilities projects. The Vice President, Area Operations, is responsible for compliance with these regulations for those projects within the Vice President's delegated authority.

### § 776.3 Definitions.

*Construction* means construction, alterations, renovations, and expansions of buildings, structures, and improvements.

*Contending site* means a site or existing building for a proposed postal facility action, which meets the requirements of the Postal Service as determined by the operations organization.

*Facility* means any building, appurtenant structures, or associated infrastructure.

*Floodplain* means the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including, at a minimum, those areas subject to a one percent or greater chance of flooding in any given year (also known as a 100-year floodplain).

*Practicable* means capable of being accomplished within existing constraints. The test of what is practicable depends on the situation and includes consideration of many factors, such as environment, cost, technology, implementation time, and postal operational needs.

*Preferred area* means the specific geographical area proposed for a new postal facility, as developed by the operations organization within the Postal Service. A preferred area's boundaries are unique for each proposed facility based on the operational and customer service needs of the Postal Service.

*Preferred site* means the most advantageous site for a proposed facility, taking into consideration postal operational and customer service needs, cost, and availability, as determined by the operations organization within the Postal Service.

*Wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

## Subpart B—Floodplain management

### § 776.4 Scope.

(a) The regulations in this subpart are applicable to the following proposed postal facility actions located in a floodplain:

(1) New construction, owned or leased; or

(2) Construction projects at an existing facility that would increase the amount of impervious surface at the site.

(b) These procedures are not applicable to the following postal facility actions:

(1) Those actions identified in paragraphs (a)(1) and (a)(2) of this section, when the entire preferred area, or all contending sites, for such actions lies within a floodplain;

(2) Incidental construction, such as construction of athletic fields, recreational facilities, sidewalks, and other minor alteration projects;

(3) Construction at existing postal facilities pursuant to the Architectural Barriers Act or postal accessibility standards;

(4) Any facility construction project deemed necessary to comply with federal, state, or local health, sanitary, or safety code standards to ensure safe working conditions;

(5) Construction of facilities that are functionally dependent on water, such as piers, docks, or boat ramps;

(6) Maintenance, repair, or renovation of existing facilities; or

(7) Leasing or other use of space for not more than one year.

### § 776.5 Review procedures.

Officials shall follow the decision-making process outlined in paragraphs (a) through (f) of this section, when a facility action may involve floodplain issues. Under certain circumstances, this process may be carried out with fewer steps if all objectives of the decision-making process can be achieved. A general principle underlying this process is that a postal facility action requiring construction in a floodplain may be considered only when there is no practicable alternative.

(a) *Analysis of alternatives.* If a postal facility action would involve construction in a floodplain, alternative actions shall be considered.

(b) *Early public notice.* If a facility action at the contending site(s) could require construction in a floodplain, public notice must be provided.

(c) *Floodplain location and information.* (1) Personnel shall determine whether construction would occur within a floodplain. The determination shall be made by reference to appropriate Department of Housing and Urban Development (HUD) floodplain maps (sometimes referred to as Floodplain Insurance Rate Maps (FIRM)), or Federal Emergency Management Agency (FEMA) maps, or more detailed maps if available. If such maps are not available, floodplain location must be determined on the basis of the best available information.

(2) Once the preferred site has been identified, potential floodplain impacts must be determined. As part of this determination process, specific floodplain information should be developed, which is to consider:

(i) Whether the proposed action will directly or indirectly support floodplain development;

(ii) Flood hazard and risk to lives and property;

(iii) Effects on natural and beneficial floodplain values, such as water quality maintenance, groundwater recharge, and agriculture; and

(iv) Possible measures to minimize harm to, or impact on, the floodplain.

(d) *Reevaluation.* After the above steps have been followed, if the determination is that there appears to be no practicable alternative to constructing in a floodplain, a further review of alternatives must be conducted by the facilities organization in conjunction with the operations organization requesting the construction of the facility. The further review of alternatives must be conducted by the operations organization for projects within the delegated authority of the Vice President, Area Operations.

(e) *Final public notice.* As a result of the reevaluation, if it is determined that there is no practicable alternative to constructing in a floodplain, public notice shall be provided as soon as possible for the proposed action. The notice should be publicized and should include:

(1) Identification of the project's location;

(2) Provision for a 30-day public comment period before irrevocable action is taken by the Postal Service; and

(3) Name and complete address of a postal contact person responsible for providing further information on the decision to proceed with a facility action or construction project in a floodplain. Upon request, that person shall provide further information as follows:

(i) A description of why the proposed action must be located in a floodplain;

(ii) A listing of alternative actions considered in making the determination; and

(iii) A statement indicating whether the action conforms to applicable state and local floodplain protection standards.

(f) *Distribution.* The above public notice will be sent to appropriate officials, local newspaper reporters, and other parties who express interest in the project.

(g) *NEPA coordination.* If either an Environmental Impact Statement or an Environmental Assessment is required under the Postal Service's National Environmental Policy Act (NEPA) regulations, the above review procedures must be incorporated into and evaluated in that document.

**§ 776.6 Design requirements for construction.**

If structures impact, are located in, or support development in a floodplain, construction must conform, at a minimum, to the standards and criteria of the National Flood Insurance Program (NFIP), except where those standards are demonstrably inappropriate for postal purposes.

**§ 776.7 Lease, easement, right-of-way, or disposal of property to non-federal parties.**

When postal property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-federal public or private parties, the Postal Service shall:

(a) Reference in the conveyance document that the parcel is located in a floodplain and may be restricted in use pursuant to federal, state, or local floodplain regulations; or

(b) Withhold the property from conveyance.

## Subpart C—Wetlands Protection

**§ 776.8 Scope.**

(a) The regulations in this subpart are applicable to the following proposed postal facility actions located in a wetland:

(1) New construction, owned or leased; or

(2) Construction projects at an existing facility that would alter the external configuration of the facility.

(b) These procedures are not applicable to the following postal facility actions:

(1) Construction of foot and bike trails or boardwalks, including signs, the primary purposes of which are public education, interpretation, or enjoyment of wetland resources;

(2) Construction at existing postal facilities pursuant to the Architectural Barriers Act or postal accessibility standards;

(3) Any facility construction project deemed necessary to comply with federal, state, or local health, sanitary, or safety code standards to ensure safe working conditions;

(4) Construction of facilities that are functionally dependent on water, such as piers, docks, or boat ramps; or

(5) Maintenance, repair, or renovation of existing facilities.

**§ 776.9 Review procedures.**

(a) *Early public notice.* If a facility action at the contending site(s) could require construction in a wetland, public notice must be provided.

(b) *Finding of no practicable alternative.* The Postal Service shall avoid construction located in a wetland unless it issues a finding of no practicable alternative. The facilities organization, in conjunction with the operations organization, or, for projects within the delegated authority of the Vice President, Area Operations, the operations organization, shall make a written determination that:

(1) There is no practicable alternative to such construction; and

(2) The proposed action includes all practicable measures to minimize harm to wetlands.

(c) *NEPA coordination.* If either an Environmental Impact Statement or an Environmental Assessment is required under the Postal Service's National Environmental Policy Act (NEPA) regulations, the above review procedures must be incorporated into and evaluated in that document.

**§ 776.10 Lease, easement, right-of-way, or disposal of property to non-federal parties.**

When postal-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way, or disposal to non-federal public or private parties, the Postal Service shall:

(a) Reference in the conveyance document that the parcel contains wetlands and may be restricted in use pursuant to federal, state, or local wetlands regulations; or

(b) Withhold the property from conveyance.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 99–22823 Filed 9–1–99; 8:45 am]

BILLING CODE 7710–12–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[MA–35–1–6659b; A–1–FRL–6425–3]**

## Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides and Nitrogen Oxide Requirements at Municipal Waste Combustors

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Massachusetts. These revisions establish and require the implementation of reasonably available control technology (RACT) for major stationary sources of nitrogen oxides (NOx). Additionally, Massachusetts has requested SIP approval of NOx emission limits, monitoring, recordkeeping, and

reporting requirements at municipal waste combustors. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before October 4, 1999.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Steven A. Rapp, at (617) 918–1048, or by e-mail at: Rapp.Steve@EPAMAIL.EPA.GOV.

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: August 10, 1999.

**John P. DeVillars,**

*Regional Administrator, Region I.*

[FR Doc. 99–22186 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CO–001–0031; FRL–6432–7]**

## Approval and Promulgation of State Implementation Plans; Colorado; Revisions to Opacity and Sulfur Dioxide Requirements

**AGENCY:** Environmental Protection Agency (EPA).2

**ACTION:** Proposed rule.

**SUMMARY:** On May 27, 1998, the Governor of Colorado submitted revisions to the State Implementation Plan (SIP). Specifically, the State submitted revisions to Colorado Regulation No. 1 to provide coal-fired electric utility boilers with certain exemptions from the State's pre-existing limitations on opacity and sulfur dioxide ($SO_2$) emissions during periods of startup, shutdown, and upset. The EPA is proposing to disapprove these revisions to the Colorado SIP because the revisions are not consistent with the Clean Air Act (Act) and applicable Federal requirements. The effect of this disapproval will be that the previous version of Colorado Regulation No. 1 (which did not contain any exemptions from the $SO_2$ emission limitations and which generally provided for a 30% opacity limit during periods of startup, as well as fire building, cleaning of fire boxes, soot blowing, process modification, or adjustment of control equipment) will remain part of the Federally enforceable SIP.2

**DATES:** Written comments must be received on or before October 4, 1999.2

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80222–1530.2

**FOR FURTHER INFORMATION CONTACT:** Vicki Stamper, EPA Region VIII, (303) 312–6445.2

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### I. Background of State Submittal

On May 27, 1998, the Governor of Colorado submitted revisions to the Colorado SIP. The SIP submittal consisted of revisions to Colorado Regulation No. 1 to provide exemptions from the existing limitations on opacity and $SO_2$ emissions for coal-fired electric utility boilers during periods of startup, shutdown, and upset.

These revisions were adopted by the Colorado Air Quality Control Commission (AQCC) on December 23, 1996. The revisions became effective at the State level on March 2, 1997 for most sources. However, for coal-fired electric utility boilers located within the Denver Metro PM–10 non-attainment area, the AQCC specified that the provisions will not become State-effective until EPA issues a final rule adopting the revisions to Regulation No. 1 as a permanent part of the SIP.

The following explains in detail the revisions to Regulation No. 1 that the Governor submitted on May 27, 1998:

#### *A. Revisions to Opacity Standards*

Prior to these revisions to Regulation No. 1, sections II.A.1. and 4. of Regulation No. 1 generally required all sources to meet a 20% opacity limit, except during periods of fire building, cleaning of fire boxes, soot blowing, startup, process modification, or adjustment of control equipment. During these periods, a 30% opacity limit applied, except the regulation allowed one 6-minute period in excess of 30% opacity in any sixty consecutive minutes. (In both the revised Regulation No. 1 and the pre-existing Regulation No. 1, compliance with the opacity limits is based on a six-minute average.) The revisions to Regulation No. 1 that the Governor submitted on May 27, 1998 amended these opacity requirements for coal-fired electric utility boilers. Specifically, the State

added a provision in section II.A.10. of Regulation No. 1 governing opacity at coal-fired electric utility boilers during startup, shutdown, and upset. (Colorado defines ''upset conditions'' in its Common Provisions Regulation as ''an unpredictable failure of air pollution control or process equipment which results in the violation of emission control regulations and which is not due to poor maintenance, improper or careless operations, or is otherwise preventable through exercise of reasonable care.'') Section II.A.10. provides that, during periods of startup, shutdown, and upset, owners and operators of coal-fired electric utility boilers must, to the extent practicable, maintain and operate each such source including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. This provision also states that determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the State, including monitoring results, opacity observations, review of operating and maintenance procedures, operator training, and inspection of the source.

Another provision in section II.A.10.c. of Regulation No. 1 states that a source is not being maintained and operated in accordance with good air pollution control practice for minimizing emissions if the source's exceedance time (excluding exceedance time related to (1) significant planned maintenance outage (PMO) startups, and (2) emissions associated with periods that the unit is not ''on line,'' where ''on line'' is defined as fuel being fed to the boilers and the fans are on) expressed as a percentage of total operating time, calculated on a quarterly basis, exceeds the following ''exceedance percentage time allowance:'' (1) for sources using baghouses for the control of particulate matter, 0.8%; and (2) for sources using electrostatic precipitators (ESPs) for the control of particulate matter, 2% through March 31, 2000 and 1.5% beginning April 1, 2000. In enforcing this exceedance percentage time allowance, section II.A.10.e. of Regulation No. 1 provides that the State may consider each day on which one or more excess emission periods occur during the remainder of a given quarter, following the day on which the exceedance percentage time allowance is exceeded in that quarter, to be a separate day of violation for the purposes of assessing any penalties that may be allowed.

Last, a provision was added in section II.A.10.d. of Regulation No. 3 stating that no specific opacity limits shall be in effect for coal-fired electric utility boilers for the startup period following a significant PMO, provided the following conditions are met:

1. Written notification is provided to the State no less than 30 days prior to shutting the unit down for the PMO. The notification must include a plan for minimizing emissions during the startup and an estimation of the period that the control equipment will not be operated while the boiler is started up;

2. Throughout the startup following the PMO, the operator shall, to the extent practicable, maintain and operate each source including the associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions; and

3. During any PMO startup, the source shall place any air pollution control equipment in service no later than the manufacturer's specifications allow.

Section II.A.10.d. also provides that significant PMO startups shall not exceed one event in any two consecutive years, and that a PMO startup shall ''not normally exceed 14 days in duration,'' although the State may extend this time period for good cause. Last, this provision defines startup for the purposes of significant PMOs to be the period of time beginning with the point of setting the unit into operation and ending with the points when: (1) the generator is synchronized and is operating at or greater than a specific unit's minimum load; (2) primary fuel is being burned and the burners are in service without stabilizing fuel being burned in the boiler; and (3) any air pollution control equipment has reached minimum normal operating design conditions consistent with manufacturer's specifications (as defined by temperature, on a unit-by-unit basis).

*B. Revisions to SO2 Emission Limitations*

Section VI. of Regulation No. 1 contains SO2 emission limitations for various source categories which vary depending on whether the source was issued an emission permit before August 1, 1977 (i.e., defined as an ''existing source'') or issued an emissions permit on or after August 1, 1977 (i.e., defined as a ''new source''). Before the revisions to Regulation No. 1 that the Governor submitted on May 27, 1998, section VI.B.4.a. of Regulation No. 1 required new coal-fired operations, including coal-fired steam generators, to meet the following SO2 emission limits:

(1) 1.2 pounds (lbs) SO2 per million British Thermal Units (BTU) of coal heat input for units converted from other fuels to coal and for units with a coal heat input of less than 250 million BTU per hour; and

(2) 0.4 lbs SO2 per million BTU coal heat input for units with a coal heat input of 250 million BTU per hour or greater.

There were no exemptions from these SO2 emission limits.

In the May 27, 1998 submittal, the State revised section VI.B.4.a. to add a new subsection (iv), which states that, during periods of startup, shutdown, and upset, owners and operators of coal-fired electric utility boilers must, to the extent practicable, maintain and operate each such source including associated air pollution control equipment in a manner consistent with good air pollution practice for minimizing emissions. This provision also states that determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the State, including monitoring results, opacity observations, review of operating and maintenance procedures, operator training and inspection of the source. The State also added a provision stating that, for those coal-fired electric utility boilers subject to 40 CFR part 60, subpart Da (i.e., those coal-fired electric utility boilers for which construction or modification commenced after September 18, 1978), the source is not being maintained and operated in accordance with good air pollution control practice for minimizing emissions if the source's exceedance time expressed as a percentage of total operating time, calculated on a quarterly basis, exceeds 1%.

Last, the State revised section VI.B.2. of Regulation No. 1. Section VI.B.2. of Regulation No. 1 previously specified a 3-hour averaging time for all new source emission standards for SO2. This section further stated that any 3-hour rolling average of emission rates which exceeded the emission standards in section VI.B. of Regulation No. 1 would be a violation of the State's regulation. The State added the phrase ''unless specified in a permit'' to the beginning of this section, in order to allow the State to use the permit process to specify an averaging time other than 3 hours for a specific source.

## II. EPA's Analysis of State's Submittal

*A. Procedural Background*

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Sections 110(a)(2) and 110(l) of the Act

provides that each revision to an implementation plan submitted by a State must be adopted after reasonable notice and public hearing. The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565, April 16, 1992). The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) if a completeness determination is not made by EPA within six months after receipt of the submission.

To entertain public comment on the revisions to Regulation No. 1 regarding coal-fired electric utility boilers, the Colorado AQCC held public hearings on December 19, 20, and 23, 1996. Following the public hearings, the regulation revisions were adopted by the AQCC. The Governor initially submitted the revisions to EPA for approval on October 31, 1997.

EPA found the initial SIP submittal incomplete and notified the State of such finding in a January 12, 1998 letter. EPA requested further information from the State pertaining to the AQCC's adoption of the Regulation No. 1 revisions, due to the fact that the Sierra Club and other plaintiffs had challenged the revisions in State court on the grounds that the AQCC had failed to follow applicable State law procedures in adopting the revisions. (See *Cunningham* v. *Colorado Air Quality Control Commission*, Denver District Court, Case No. 97 CV 1808).

On May 27, 1998, the Governor of Colorado resubmitted the revisions to Regulation No. 1 to EPA for approval. The resubmittal included a letter from the Colorado Attorney General's Office opining that the AQCC had followed applicable procedures in adopting the revisions. On August 7, 1998, the Denver District Court issued an Order Affirming Administrative Action that affirmed the AQCC's adoption of the revisions.

EPA did not issue a completeness or an incompleteness finding for the May 27, 1998 SIP submittal. Thus, pursuant to section 110(k)(1)(B), the May 27, 1998 submittal was deemed complete by operation of law on November 29, 1998 (i.e., six months from the date of receipt).

*B. Analysis of State's Submittal*

EPA has reviewed the State's May 1998 SIP submittal against the relevant requirements of the Act, Federal regulations, and EPA policy and guidance. EPA has identified several issues with the State's SIP revision, as follows:

1. It Does Not Appear the State Has Adequately Addressed the Requirements of Section 193 of the Act

For SIP provisions which EPA approved before November 15, 1990, section 193 prohibits SIP modifications applicable within a nonattainment area unless the modification insures equivalent or greater emissions reductions of the pollutant for which the area is nonattainment.

EPA approved the existing opacity and SO2 provisions in Regulation No. 1 as part of the SIP prior to the enactment of the 1990 amendments to the Act (i.e., prior to November 15, 1990). There are four coal-fired power plants in the Denver metro PM–10 nonattainment area that are affected by the State's revisions. The State's SIP revisions do not impact any other nonattainment area in Colorado because there are no affected coal-fired power plants in any of the State's other PM–10 nonattainment areas, and because the State does not have any SO2 nonattainment areas.

In the Denver metro PM–10 nonattainment area, SO2 emissions have been determined to contribute significantly to PM–10 exceedances (see section 189(e) of the Act and 58 FR 66331, December 20, 1993). However, the revisions to the SO2 requirements in Regulation No. 1 only impact coal-fired electric utility boilers which are subject to 40 CFR part 60, subpart Da, and there are no such coal-fired electric utility boilers located within the Denver metro PM–10 nonattainment area. Thus, the requirements of section 193 of the Act apply only to the State's changes to the opacity requirements in Regulation No. 1, as they impact the four coal-fired power plants in the Denver metro PM–10 nonattainment area.

The AQCC concluded that the revisions to Regulation No. 1 would result in at least equivalent emissions reductions as the pre-existing Regulation No. 1 provisions. In other words, the AQCC believed that the revisions did not represent a relaxation of the existing rule. Specifically, the AQCC's Statement of Basis states the following:

The regulatory change removing application of the 30% opacity limit appears on first impression to relax requirements for these units. However, by limiting the overall time during which the units may exceed the 20% opacity limit, the Commission believes this approach will result in at least the same levels of compliance with the opacity standard and will likely result in lower overall emissions.[1]

EPA does not believe the AQCC's conclusion is adequately supported. The Statement of Basis explains that the State's enforcement discretion has been exercised to effectively allow 5% noncompliance by electric power plants. It also states that ''substantial regulatory ambiguity'' in the opacity limitations that previously applied during startup and other periods led to lower compliance levels. Thus, the AQCC concluded that the revisions to Regulation No. 1 are substantially equivalent or better in their impact on emissions because a higher rate of compliance is expected under the revised Regulation No. 1.[2]

EPA does not agree that the State's enforcement practices under the previous version of Regulation No. 1 should be taken into account in determining the stringency of the previous version of the rule or in determining whether a SIP modification meets the requirements of section 193 of the Act. The language of Regulation No. 1, on its face, did not permit sources to exceed the applicable opacity limitations up to 5% of the time. Thus, the fact that the State used enforcement discretion in determining which types of violations to spend resources and time pursuing has no impact on whether EPA or citizens could enforce the requirements of Regulation No. 1 or whether sources were obligated to comply with those requirements on a continuous basis. In fact, a citizens group successfully enforced the opacity provisions of Regulation No. 1 for violations at a coal-fired power plant that complied with the opacity limitations of Regulation No. 1 more than 95% of the time. See *Sierra Club*

[1] The State's Statement of Basis is somewhat unclear regarding the reduced application of the 30% opacity standard and the baseline for analyzing whether the rule change represents a relaxation. The language of the revised Regulation No. 1 appears to be clear that the 30% opacity limit continues to apply to fire building, cleaning of fire boxes, soot blowing, process modification, or adjustment of control equipment (unless these activities occur during a significant PMO startup or a period when fuel is not being fed to the boiler). In its discussion of section 193 of the Act, the State does not draw this distinction. The State also fails to mention that, under the provisions of Regulation No. 1, sources were required to meet a 20% opacity limit during shutdown.

[2] In another part of the Statement of Basis, the AQCC concluded that ''the changes made in this rulemaking will not lead to increased emissions in amounts substantial enough to interfere with the State's programs to attain and maintain the National Ambient Air Quality Standards (NAAQS) or other federal requirements.'' Here, the AQCC appears to concede that increased emissions will result from the rule change.

v. *Public Service Company of Colorado*, 894 F. Supp. 1455 (D. Colo. 1995).

Application of the AQCC's rationale regarding enforcement discretion would lead to an odd result: States with the least robust enforcement programs could most easily meet section 193's equivalency requirements. EPA does not believe Congress intended such a result when it enacted section 193 of the Act.

Further, even though the revisions to Regulation No. 1 define when a coal-fired electric utility boiler is not complying with good air pollution control practices for minimizing emissions by specifying an exceedance percentage time allowance, there is nothing in the revisions that prevents the State from continuing to use enforcement discretion in implementing the new provisions. Thus, there is no guarantee that this new provision will be enforced any more stringently than the previous version of Regulation No. 1. In fact, section II.A.10.e. of Regulation No. 1 merely states that the State *may* assess penalties on a violation-per-day basis.

EPA also disagrees with the AQCC's assertion that the prior version of Regulation No. 1 was ambiguous. The AQCC does not explain what was ambiguous about the prior version of the regulation. EPA believes the previous version of Regulation No. 1 was clear in requiring a 20% opacity limit to be met at all times, except for periods of fire building, cleaning of fire boxes, soot blowing, startup, process modification, or adjustment of control equipment. During those periods, a 30% opacity limit applied, with one 6-minute period in excess of 30% opacity allowed in any sixty consecutive minutes. The only provision in the State's rules that explained when an exceedance would not be considered to be a violation of the rules was the State's upset provision in section II.E. of the Common Provisions Regulation, which provided that upset conditions (as defined in the Common Provisions Regulation) would not be considered to be a violation if certain notification requirements were met (and, presumably, if the upset met the State's definition—i.e., it was not due to poor maintenance, improper or careless operation, or was otherwise preventable through exercise of reasonable care).

EPA also believes the AQCC's analysis ignores critical features of the proposed revisions to Regulation No. 1. Specifically, the AQCC ignores the fact that, under the revisions to Regulation No. 1, exceedances of the exceedance percentage time allowance during startup, shutdown, or upset conditions would not be considered violations of the opacity limitation and would not be penalized for each 6-minute exceedance. Instead, exceedances of the exceedance percentage time allowance during startup, shutdown, or upset conditions would only be considered violations of the requirement for good air pollution control practice for minimizing emissions and would only be penalized on a one-violation-per-day basis. The prospect of fewer violations and lower penalties would reduce sources' incentive to keep their emissions low during startup, shutdown, and upset, and would likely lead to higher emissions of PM–10 under the revised rule than under the Federally approved rule.

Also, under the State's revisions, instead of being subject to a 20% opacity limit during shutdowns and a 30% opacity limit during startups, sources may emit up to 100% opacity during startup, shutdown, and upset conditions if, to the extent practicable, they exercised good air pollution control practice for minimizing emissions. These sources are potentially allowed up to 43.2 hours of 100% opacity in one calendar quarter, if equipped with ESPs, and up to 17.3 hours of 100% opacity in one calendar quarter, if equipped with baghouses, without being considered in violation of the good air pollution control practice standard.

In addition, the AQCC's analysis ignores the provision in the revised regulation that exempts significant PMO startups from the opacity limits. Under the revised Regulation No. 1, sources engaged in a significant PMO startup could potentially emit at 100% opacity for fourteen days or longer. Under the previous version of Regulation No. 1, emissions during a significant PMO startup would have been subject to a 30%, and sometimes to a 20%, opacity limit. It appears that the State's analysis fails to consider equivalency on a short-term basis, such as 24 hours, that is directly relevant to the National Ambient Air Quality Standards (NAAQS).

For the reasons stated, EPA does not believe the revisions to Regulation No. 1 will insure equivalent or greater reductions of PM–10 as required by section 193 of the Act. Thus, EPA does not believe it can approve the revisions.

2. It Does Not Appear the State Has Adequately Addressed the Requirements of Section 110(l) of the Act

Section 110(l) of the Act provides that EPA cannot approve a revision to a SIP if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Section 110(l) applies to SIP revisions affecting both attainment or unclassifiable areas, as well as nonattainment areas. For attainment or unclassifiable areas, analysis of proposed changes under this provision should, among other things, focus on the 110(a)(1) requirement for maintenance of the NAAQS.

As discussed above, the State does not consider the revisions to Regulation No. 1 regarding coal-fired electric utility boilers to be a relaxation of the SIP, a conclusion with which EPA disagrees. However, the State's submittal did include a study commissioned by the Colorado Utilities Coalition for Clean Air regarding the ambient impacts during startup and shutdown at electric utility units, which the AQCC relied upon in its rulemaking.[3]

EPA has reviewed the study included in the SIP submittal and has found many flaws in the analysis. The study was based on startup and shutdown data from four coal-fired electric utility boilers (out of twenty-five in the entire State), but there was no information provided to explain why these four units were chosen or how they were representative of the potential ambient air issues from all of the twenty-five coal-fired electric utility boilers in the State. The modeling analysis projected ambient particulate matter impacts from each of the four units, in addition to background PM concentrations, that were less than the 24-hour PM–10 NAAQS. However, based on the information submitted, it is apparent that the modeling analysis did not follow the requirements contained in the EPA Guideline on Air Quality Models. (See 40 CFR part 51, appendix W).

The emissions used in the modeling demonstration did not capture the potentially most adverse emissions scenarios associated with startup and shutdown. For example, it appears that the modeling analysis was based on actual emissions from a sample start-up/shutdown sequence that was simply repeated in the model throughout the year. The EPA's Guideline on Air

[3] The study analyzed impacts on PM–10 and PM–2.5. The recent U.S. Court of Appeals decision in *American Trucking Associations, Inc.* v. *USEPA*, Nos. 97–1440 and 97–1441 (D.C. Cir., May 14, 1999) did not vacate the PM–2.5 standard promulgated on July 18, 1997. In any event, EPA is not relying on potential adverse impacts on PM–2.5 as a basis to disapprove the revisions to Regulation No. 1. The D.C. Circuit's decision had no impact on the pre-July 18, 1997 PM–10 standard. That standard remains in place in Colorado, and EPA has an ongoing responsibility under the Act to ensure the standard is attained and maintained.

Quality Models requires that, in testing for compliance with 24-hour standards, worst case hourly emission rates (from the test sequence) must be used in the model for every hour of the year. Also, the meteorological data and selection of modeling input options was problematic. It appears that only one year of National Weather Service meteorology data was used in the modeling analysis, while the EPA Modeling Guideline requires that five years of such data be used. If the additional four years of meteorology data had been used in the modeling, it is likely that more adverse dispersion situations and higher ambient impacts would have been predicted. Further, the modeling only analyzed whether emissions from one unit, considering background concentrations, would cause a violation of the NAAQS. The modeling did not analyze whether the emissions from one unit during startup or shutdown would contribute to a violation, considering emissions from other nearby sources in the area. (Each of the units modeled in the study is collocated with two to four other coal-fired electric utility boilers.)

In addition, the study only looked at particulate matter impacts, and it did not address the revisions to the SO2 limits whatsoever.

Thus, EPA believes the modeling analysis included in the SIP submittal cannot be relied upon because of its overall noncompliance with the EPA Guideline on Air Quality Models, nor can the Agency rely on it to conclude that the SIP revision will not interfere with attainment or maintenance of the NAAQS.

3. It Does Not Appear the State Has Addressed the Requirements of 40 CFR 51.166(a)(2)

40 CFR 51.166(a)(2) requires that, if a SIP revision would result in increased air quality deterioration over any baseline concentration, the SIP revision must include a demonstration that it will not cause or contribute to a violation of the applicable increment(s). The demonstration does not need to be done for those section 107 attainment/unclassifiable areas (as identified in 40 CFR part 81) where the minor source baseline date has not been triggered prior to submittal of the SIP revision, although the State is still required under 40 CFR 51.166(a)(4) to periodically review the adequacy of its plan to prevent significant deterioration of air quality.

According to EPA's prevention of significant deterioration (PSD) regulations, the ''baseline concentration'' represents the ambient concentration that exists in the baseline area at the time of the applicable minor source baseline date. The baseline concentration includes the actual emissions of sources in existence on the minor source baseline date, excluding (1) the actual emissions from any major stationary source on which construction occurred after the ''major source baseline date''—January 6, 1975 for sources of particulate matter and SO2; and (2) the actual emissions increases and decreases at any stationary source occurring after the minor source baseline date. (See 40 CFR 51.166(b)(13).) Thus, once the minor source baseline date is triggered for an area, any changes in emissions at any stationary source impact the available maximum increase allowed over the baseline concentration (i.e., the increment). In Colorado, the SO2 minor source baseline date was triggered Statewide as of October 12, 1977 and the particulate matter minor source baseline dates have been triggered for a large part of the State (each ''air quality control region'' in the State has a different minor source baseline date for particulate matter).

As discussed above, EPA believes the changes to the opacity provisions in Regulation No. 1 represent a relaxation from existing requirements that will allow increased emissions into the air. EPA also believes the revisions to the SO2 provisions are a relaxation that would allow more SO2 emissions into the air. Thus, in those parts of Colorado where the minor source baseline date has been triggered, this SIP revision would potentially allow increased deterioration over baseline concentration. As discussed above, the State did not consider the revised Regulation No. 1 to be a relaxation of existing emission limits. Thus, the State did not address the requirements of 40 CFR 51.166(a)(2). However, EPA believes this SIP revision would allow increased deterioration of air quality over the baseline concentration in some parts of the State and, therefore, a demonstration is required to show that the SIP revision will not cause or contribute to a violation of the applicable increment(s).

4. The SIP Revision Does Not Appear To Meet the Act's Requirements That SIP Measures Be Enforceable

Section 110(a)(2)(A) of the Act requires the SIP to include, among other things, ''*enforceable* emission limitations'' [emphasis added]. 40 CFR 51.281 further requires that SIPs must be ''adopted as rules and regulations enforceable by the State agency.'' On September 23, 1987, EPA issued a memorandum entitled ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency.'' This memo provided guidance on how to determine whether a rule or regulation was enforceable. This memo also directed the EPA Regional Offices to not approve SIPs or SIP revisions which fail to satisfy the enforceability criteria detailed in the September 23, 1987, memo. EPA has reviewed the revised Regulation No. 1 and believes that the revised rule does not meet the Act's requirement that SIP measures be enforceable as EPA has interpreted that requirement. EPA's reasoning is as follows:

(a) EPA reads the revisions to Regulation No. 1 as substituting the good air pollution control practice standard in section II.A.10. for the opacity limits specified in sections II.A.1. and 4. during startups, shutdowns, and upsets. In defining the ''exceedance percentage time allowance'' in section II.A.10., the State does not specify whether exceedances will be measured against the 20% opacity limit of section II.A.1., the 30% opacity limit of section II.A.4., or both. This lack of clarity undermines the enforceability of the regulation.

(b) The State's Regulation No. 1 revisions either fail to specify a test method for evaluating a source's performance against its exceedance percentage time allowance, or specify an inadequate test method. Section II.A.1. of Regulation No. 1 states that visible emissions shall be measured by EPA Method 9 (40 CFR part 60, appendix A) in all subsections of section II.A. and B. of Regulation No. 1, unless otherwise specified. Section II.A.10. does not specify any other method for measuring visible emissions for the purposes of determining whether a source has exceeded the exceedance allowance. If, as EPA suspects, the State intended continuous opacity monitoring (COM) data to be used to evaluate a source's performance against the exceedance percentage time allowance, the State needed to make this explicit in the regulation to ensure enforceability. In the alternative, EPA believes EPA Method 9 is inadequate to evaluate a source's performance against the exceedance percentage time allowance because Method 9 observations cannot be made on a continuous basis. The revised SO2 provisions in section VI.A.2. also do not specify any test method for determining whether or not a source has exceeded the SO2 exceedance allowance.

(c) Regulation No. 1 specifies that section II.A.10. governs opacity during startup, shutdown, and upset, but the

AQCC's Statement of Basis states that excess emissions due to fire building, process modification, and adjustment of control equipment will also be counted in determining compliance with the exceedance allowance. It is not clear from the actual language of the rule whether exceedances due to fire building, process modification, and adjustment of control equipment are to be counted in determining the number of exceedances in a given quarter. Thus, there is a potential inconsistency between the language of the rule and the State's intent. The enforceability of the State's intent, without clear rule language, is questionable.

(d) EPA's September 23, 1987, guidance memo states that there must be a clear, enforceable requirement that records be kept. While there is no specific provision requiring recordkeeping and reporting in section II.A.10. of Regulation No. 1, section IV.G. of Regulation No. 1 requires recordkeeping and reporting on a quarterly basis of periods of excess emissions for sources required to operate continuous emission monitoring systems for opacity and/or SO2 (which applies to most of the coal-fired electric utility boilers). However, Regulation No. 1 does not appear to require recordkeeping and reporting of total operating time on a quarterly basis. Without such information, it is not clear how the State could implement the exceedance percentage time allowance. Further, section IV.G. of Regulation No. 1 does not require the recordkeeping and reporting of the type of information that might be needed to determine (1) whether a source is being maintained and operated in accordance with good air pollution control practices for minimizing emissions, or (2) whether or not a source is engaged in a significant PMO startup.

(e) Significant PMO startups are not subject to an enforceable time limit. Specifically, section II.A.10.d.iii. states that a significant PMO startup ''shall not normally exceed 14 days in duration, but the (Colorado Air Pollution Control) Division may extend this period for good cause shown.'' This language constitutes a ''director's discretion'' provision that undermines the enforceability of the time limit and undercuts any benefit the time limit would have for protecting the NAAQS.

(f) For significant PMO startups, section II.A.10.d.i requires the source to submit to the Division a plan for minimizing emissions during the startup, but the revisions do not require the source to follow the plan. Thus, the plan is unenforceable.

(g) Section II.A.10.d.iii. describes the duration of significant PMO startups. The duration is defined according to various events that occur during the course of a startup, but it is not clear from the language of the regulation that these events are adequately defined or that the information needed to adequately define these events for enforcement purposes is or will be available. For example, this section of the regulation refers to a specific unit's minimum load. It is not clear what this means or whether it is a constant and well-understood value.

(h) In the Statement of Basis for the revisions to Regulation No. 1, the Commission states that the significant PMO startup exception ''is not intended to allow exclusion of excess emissions resulting from routine maintenance outages, such as annual replacement of standard equipment * * *.'' Instead, ''the Commission restricts the application of the planned maintenance outage exception to events requiring significant changes at the facility, such as replacement of major facility components or installation of new processes * * *.'' However, the language of the regulation does not restrict significant PMOs in this way: Section II.A.10.d describes a significant PMO as ''a scheduled, infrequent yet extended maintenance shutdown * * *.'' Thus, it does not appear that the restriction the AQCC intended is enforceable.

(i) The State revised section VI.B.2. of Regulation No. 1 to allow a permit to specify a different averaging time for SO2 limits than the 3-hour averaging time contained in the regulation. This revision would allow the State to change the Federally enforceable averaging time in the SIP without EPA approval or Federal notice and comment rulemaking. EPA is unwilling to approve such a director's discretion provision, because it undermines the enforceability of the regulatory limit and allows the State to change the SIP without meeting the Act's requirements for SIP revisions. EPA believes it is impossible to judge in advance whether the State's potential changes to averaging times under such an open-ended provision would be consistent with maintenance of the NAAQS. In addition, EPA generally cannot approve a SIP provision that would be inconsistent with the averaging time of the NAAQS the SIP provision is designed to protect. Thus, to ensure protection of the secondary SO2 NAAQS, EPA believes the averaging time must not be longer than three hours, and EPA cannot approve a discretionary provision in the SIP that might allow averaging times longer than three hours.

(j) Section VI.B.4.a.(iv) of Regulation No. 1 states that, during periods of startup, shutdown, and upset, owners and operators of coal-fired electric utility boilers shall maintain and operate such sources in accordance with good air pollution control practice for minimizing emissions. However, the regulation does not state that such sources are exempt from the SO2 emission limit during startup, shutdown, and upset. Thus, the regulation reads as if both the SO2 emission limit and the good air pollution control practice standard apply during startup, shutdown, and upset at coal-fired electric utility boilers. However, the AQCC's Statement of Basis strongly implies that the good air pollution control practice standard applies in place of the SO2 emission limitation. This discrepancy between the Statement of Basis and the regulation creates confusion and undermines the enforceability of the regulation.

In addition to the above issues, section II.A.10.e. of Regulation No. 1 states that, in enforcing the exceedance percentage time allowance for opacity, the State may consider each day on which one or more excess emission periods occur following the day on which the exceedance percentage time allowance is exceeded for that quarter to be a separate day of violation for the purposes of assessing any penalties that may be allowed. This is much less stringent than considering each six-minute average of excess emissions a separate violation, as was previously required under the State's Regulation No. 1. Thus, the compliance incentive during startup, shutdown, and upset will be substantially reduced. This will, in turn, reduce the effectiveness of the rule in controlling particulate emissions.

In summary, EPA does not believe that the revisions to Regulation No. 1 meet the Act's requirements that SIP measures be enforceable.

5. The SIP Revision Appears To Be Inconsistent With the Requirements of the Act Regarding Continuous Compliance

The Act requires continuous compliance with emission limitations to ensure continuous protection of public health and the environment. The exemptions the State has written into Regulation No. 1 eliminate the requirement in the SIP that coal-fired electric utility boilers comply with Regulation No. 1's opacity and SO2 limits on a continuous basis. Under the

State's revisions to Regulation No. 1, emissions during startup, shutdown, upset, significant PMO startups and certain other conditions are automatically exempted from the otherwise applicable opacity and SO2 limits, and are subject to no emission limit. Consistent with its interpretation that emission limits must be met continuously, EPA has interpreted the Act to not permit SIP revisions that automatically exempt sources from emission limits.

More specifically, section 110(a)(1) of the Act requires SIPs to provide for attainment and maintenance of the NAAQS. Because the NAAQS are health and welfare-based standards, Congress intended that they must be met continuously, not just intermittently. Accordingly, section 110(a)(2) of the Act requires SIPs to contain enforceable emission limitations, and section 302(k) of the Act defines ''emission limitations'' as a requirement ''which limits the quantity, rate, or concentration of emissions of air pollutants on a *continuous basis*'' [emphasis added].

EPA explained its interpretation of the term ''continuous compliance'' in a June 21, 1982 memorandum from Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation, to the Regional Air Division Directors. That guidance states that ''continuous compliance is essentially the avoidance of preventable excess emissions over time as a result of the proper design, operation, and maintenance of an air pollution source.'' The guidance also emphasizes that excess emissions resulting from malfunctions or other emergency situations must be minimized and terminated quickly.

On September 28, 1982 and February 15, 1983, EPA issued policy statements regarding exemptions from emission limitations during startup, shutdown, and malfunction, based on EPA's interpretation of the Act's requirements for continuous compliance and attainment and maintenance of the NAAQS.[4] For most situations, these policies indicate that all excess emissions must be considered violations, which may or may not be enforced based on the exercise of enforcement discretion. These policies also indicate that events like startup, shutdown, and maintenance are part of the normal operation of a source and should be accounted for in the planning, design, and implementation of operating procedures for the process and control equipment.

EPA realizes that a few sources cannot avoid short periods of excess emissions during startup and shutdown, despite careful and prudent planning and design. For these few sources, the February 15, 1983 policy states that excess emissions during these infrequent, short periods need not be treated as violations provided that the source adequately shows that the excess could not have been prevented through careful planning and design and that bypassing of control equipment was unavoidable to prevent loss of life, personal injury, or severe property damage. Similarly, excess emissions during periods of scheduled maintenance should be treated as a violation, unless a source can demonstrate that such emissions could not have been avoided through better scheduling for maintenance or through better operation and maintenance practices.

These policy statements are consistent with EPA's view that SIP limits must be met continuously because they are intended to protect the NAAQS; any exceptions should be narrowly drawn and clearly place the burden on the source to demonstrate that an exceedance was unavoidable. EPA believes the revisions to Regulation No. 1 are inconsistent with the Act's requirement for continuous compliance and attainment and maintenance of the NAAQS, and believes the revisions must be disapproved.

The revisions eliminate the requirement for coal-fired electric utility boilers to meet any opacity limit during periods of startup, shutdown, and upset. It appears the State intended to provide the same exemption for SO2 limits. Instead, during these periods, coal-fired electric utility boilers are only obligated to exercise good air pollution control practice for minimizing emissions.

As noted in the Background section, above, the revisions establish an ''exceedance percentage time allowance.'' The exceedance of this exceedance percentage time allowance in a quarter is considered a violation of the duty to exercise good air pollution control practice for minimizing emissions. However, it is not considered a violation of the underlying emission limit, and violations may only be penalized on a per-day basis.

With respect to SO2 limits, Regulation No. 1 does not specify how the State will treat exceedances of the exceedance allowance described in section VI.B.4.a.(iv)(B) of Regulation No. 1, but it appears the State intends to approach such exceedances in the same manner as exceedances of the opacity exceedance percentage time allowance.

In order to ensure continuous compliance with the SIP's opacity and SO2 limits, EPA believes it is essential that exceedances during startup, shutdown, and upsets be considered violations of such limits, that may only be excused in an enforcement action if the source properly demonstrates that the exceedances were unavoidable.

EPA has the same objection to the SIP revision's exemption of emissions during significant PMO startups and periods when fuel is not being fed to the boiler. For significant PMO startups, revised Regulation No. 1 requires sources to exercise good air pollution control practices for minimizing emissions but states that no opacity limit applies during these periods. As noted above, significant PMO startups may last 14 days or longer. For emissions during periods when fuel is not being fed to the boiler, the revisions do not appear to impose any emission limit or requirement on sources. These exemptions from the opacity limits are inconsistent with the Act's requirement for continuous compliance and attainment and maintenance of the NAAQS.

EPA does not believe the requirement for the use of good air pollution control practice for minimizing emissions during startups, shutdowns, malfunctions, and significant PMO startups is an adequate substitute for the opacity and SO2 limits. This provision in the revisions to Regulation No. 1 is not adequate to ensure continuous compliance as required by the Act.

First, the revisions to Regulation No. 1 do not require a source to show that the exceedance during startup, shutdown, or upset was unavoidable. In fact, the revisions do not even require a source to demonstrate that it has exercised good air pollution control practice for minimizing emissions. Instead, section II.A.10.b and section VI.B.4.a.(iv) provide that a determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Division. This appears to put no burden on the source to justify an exceedance and does not appear calculated to determine whether or not the exceedance could have been prevented through careful planning and design or whether bypassing of the control equipment was unavoidable to prevent loss of life, personal injury, or severe property damage.

[4] See September 28, 1982 and February 15, 1983 Memorandums, both entitled ''Policy on Excess Emissions During Startup, Shutdown, and Malfunctions'', from Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation, to the Regional Administrators.

Second, the State's requirement that the source exercise good air pollution control practice only appears to apply during startup, shutdown, and malfunction. Clearly, a problem could arise during startup, shutdown, and malfunction that could have been prevented by careful planning, design, or implementation before the startup, shutdown or malfunction. Also, the Bennett memoranda describe good air pollution control practice for minimizing emissions as only one criterion to examine in evaluating exceedances, and indicate that good air pollution control practice for minimizing emissions should be exercised to the ''maximum extent practicable,'' not just to the ''extent practicable'' as the State provides.

Furthermore, according to the AQCC's Statement of Basis for this Regulation No. 1 revision, the exceedance percentage time allowance was adopted to provide more certainty for the State and for sources in enforcing the good air pollution control practice standard. Thus, the Statement of Basis and the language of the regulation itself (''exceedance percentage time *allowance*'') strongly imply that excess emissions during startup, shutdown, and upset will only be considered to be violations if the exceedance percentage time allowance is exceeded (although the Statement of Basis also states that the State is not precluded from taking enforcement action when the exceedance percentage time allowance has not been exceeded).

The State's rationale, in part, for revising the existing opacity and SO2 provisions in Regulation No. 1 during periods of startup, shutdown, and upset appears to have been to make the revised Regulation No. 1 more consistent with the requirements in EPA's New Source Performance Standards (NSPS) regarding startup, shutdown, and malfunction (see 40 CFR part 60, subparts D and Da). However, emission limitations and other control requirements of the NSPS were not designed to ensure compliance with the NAAQS or to meet other SIP requirements. Rather, the NSPS were designed to reflect best demonstrated technology (taking into account costs) for the affected sources. Further, because NSPS are based on the best system of emission reduction which ''the Administrator determines has been adequately demonstrated,'' EPA generally views the NSPS as the ''floor'' in determining the emissions control technology that is feasible for a source. Thus, the NSPS are intended to complement the SIP program, but do not necessarily satisfy the requirements of section 110(a)(1) of the Act, which requires control measures to provide for attainment and maintenance of the NAAQS, or of other sections of the Act related to SIP content.

In summary, EPA believes the revisions to Regulation No. 1 are not consistent with the Act because the revisions allow less than continuous compliance with SIP emission limits that are designed to attain and maintain the NAAQS without requiring sources to demonstrate that excess emissions could not have been prevented or avoided. The revisions to Regulation No. 1 significantly reduce the incentive for continuous compliance by sources.

6. EPA Invites Comment on Whether the SIP Revision Conflicts With EPA's Any Credible Evidence Rule

On February 24, 1997, EPA promulgated changes to Federal Regulations to clarify that any credible evidence can be used to demonstrate compliance or noncompliance with emission standards (see 62 FR 8314–8328). In that rulemaking, EPA revised the SIP requirements in 40 CFR 51.212 to state that the SIP ''must not preclude the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.''

As discussed above, section II.A.1. of Regulation No. 1 states that visible emissions shall be measured by EPA Method 9 (40 CFR part 60, appendix A) ''in all subsections of section II.A and B of this regulation, unless otherwise specified.'' It is EPA's belief that this language does not preclude the use of other credible evidence or information to determine compliance with the opacity limits contained in Regulation No. 1, or to determine whether a source has exceeded the exceedance allowance specified in section II.A.10. of Regulation No. 1.

Recently, the United States District Court for the District of Colorado held that the language of Regulation No. 1 does not preclude the use of other credible evidence to show opacity violations, at least in citizens suits. *See Sierra Club* v. *Tri-State Generation and Transmission Association, Inc., et al.,* Order and Memorandum of Decision, Civil Action No. 96 N 2368, March 8, 1999, at 19, 20. However, it is not clear from the Court's opinion whether the Court was examining the language of the Regulation No. 1 revision or the Federally-approved version of Regulation No. 1. The revision to Regulation No. 1 adds the language ''unless otherwise specified'' to the end of the language that specifies Method 9 for measuring opacity. Also, it is not clear whether the Court would reach the same conclusion in an enforcement action brought by EPA or the State.

Thus, EPA invites comment on whether the language of section II.A.1. of Regulation No. 1 is consistent with the requirements of 40 CFR 51.212(c), and whether failure to comport with EPA's any credible evidence rule should be an additional basis for disapproving the revisions to Regulation No. 1.

For the reasons discussed above, EPA is proposing to disapprove Colorado's May 27, 1998 SIP submittal of revisions to Regulation No. 1. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

## III. Proposed Action

EPA is proposing to disapprove the revision to the Colorado SIP pertaining to the opacity and SO2 provisions in Regulation No. 1, which was submitted by the Governor of Colorado on May 27, 1998. The effect of this action, once final, will be that the pre-existing version of Regulation No. 1 will remain in effect as part of the Federally enforceable SIP and will continue to apply to opacity and SO2 emissions from coal-fired electric utility boilers.

## IV. Administrative Requirements

### *A. Executive Order 12866*

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

### *B. Executive Order 12875*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the 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 written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's proposed rule would not create a mandate on State, local or tribal governments. The rule would not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

*C. Executive Order 13045*

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that 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 proposed rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

*D. Executive Order 13084*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide 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 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 proposed rule would not significantly or uniquely affect the communities of Indian tribal governments. EPA is proposing disapproval of a State rule revision, which will have no impact on the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 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 proposed rule would not have a significant impact on a substantial number of small entities because EPA's proposed disapproval of the State request under section 110 and subchapter I, part D of the Clean Air Act, would not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements would remain in place after this disapproval. Federal disapproval of the State submittal would not affect State-enforceability. Moreover, EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

*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 costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the disapproval action being proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. The proposed disapproval would not change existing requirements and would include no Federal mandate. If EPA were to disapprove the State's SIP submittal, pre-existing requirements would remain in place and State enforceability of the submittal would be unaffected. The action would impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, would result from this proposed action.

*G. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this proposed action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, and Sulfur oxides.

Dated: August 19, 1999.

**Jack W. McGraw,**

*Acting Regional Administrator, Region VIII.*

[FR Doc. 99–22937 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 271

**[FRL–6431–3]**

## Hazardous Waste Management Program: Final Authorization of State Hazardous Waste Management Program Revisions for State of Louisiana

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

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** The EPA (also, ''the Agency'' in this preamble) is proposing to grant final authorization to the hazardous waste program revisions submitted by the State of Louisiana Department of Environmental Quality (LDEQ) for its hazardous waste program revisions, specifically, revisions needed to meet the Resource Conservation and Recovery Act (RCRA) Cluster VII, which contains Federal rules promulgated between July 1, 1996 to June 30, 1997. In the ''Rules and Regulations'' section of this **Federal Register** (FR), EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. If the EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If the EPA receives adverse written comments, a second **Federal Register** document will be published before the time the immediate final rule takes effect. The second document may withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before October 4, 1999.

**ADDRESSES:** Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Louisiana during normal business hours at the following locations: EPA Region 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444; or Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge Louisiana 70810, (225) 765–0617.

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

**SUPPLEMENTARY INFORMATION:** For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: June 15, 1999.

**Jerry Clifford,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 99–22628 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 46 CFR Parts 10, 15, 90, 98, 125–134, 170, 174, and 175

**[USCG–1999–5951]**

## Offshore Supply Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Correction to Notice of meeting; request for comments.

**SUMMARY:** This document contains corrections to the notice of meeting and request for comments [USCG–1999–5951], which was published on July 22, 1999 (64 FR 39455). The meeting was held on August 26, 1999. The purpose of the public meeting was to discuss potential revisions to the Offshore Supply Vessel (OSV) regulations. The meeting focused on the possible establishment of International Tonnage Convention (ITC) tonnage values for OSVs; additional standards for larger OSVs including licensing and manning; and standards for crewboats as a new category of OSVs. Because the Coast Guard also requests written comments from interested public on this issue, this document clarifies the docket number for this project where interested persons can submit their comments. The proper docket number is ''USCG–1999–5951.''

**FOR FURTHER INFORMATION CONTACT:** For information concerning this notice or public meeting, contact Mr. James Magill, Project Manager, Office of Operating and Environmental Standards (G–MSO), U.S. Coast Guard Headquarters, telephone 202–267–1082 or LT Charles Srioudom, Office of Operating and Environmental Standards (G–MSO), U.S. Coast Guard Headquarters, telephone 202–267–2498. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329.

**SUPPLEMENTARY INFORMATION:**

### Need for Correction

As published, the notice of meeting and request for comments used three separate docket numbers that may prove to be confusing and misleading, and is in need of correction.

### Correction of Publication

Accordingly, the publication on July 22, 1999, of the notice of meeting; request for comments (64 FR 39455) is corrected as follows:

1. On page 39455, in the third column, under **ADDRESSES:** section, third paragraph, remove the docket number ''(USCG–1999–4974)'', and add in its place, the docket number ''(USCG–1999–5951)''.

2. On page 39456, in the first column, under ''Request for comments'' section, remove the docket number ''(USCG–1999–XXXX)'', and add in its place, the docket number ''(USCG–1999–5951)''.

Dated: August 27, 1999.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 99–22940 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–15–P

# Notices

Federal Register
Vol. 64, No. 170
Thursday, September 2, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Agency Information Collection Activities: Proposed Collection; Comment Request—Study of the Implementation of the School Meals Initiative for Healthy Children

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's intention to request Office of Management and Budget approval of the Study of the Implementation of the School Meals Initiative for Healthy Children.

**DATES:** Written comments on this notice must be received by November 1, 1999.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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. Comments may be sent to: Alberta C. Frost, Director, Office of Analysis and Evaluation, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information collection forms should be directed to Alberta C. Frost, (703) 305–2117.

**SUPPLEMENTARY INFORMATION:**

*Title:* The Study of the Implementation of the School Meals Initiative for Healthy Children.

*OMB Number:* 0584–0485.

*Expiration Date:* 03/31/2002.

*Type of Request:* New collection of information for third year of study.

*Abstract:* The Study of the Implementation of the School Meals Initiative (SMI) for Healthy Children is a three-year study designed to collect information needed to address current policy issues including those associated with the School Meals Initiative for Healthy Children and Team Nutrition. A major part of this study is intended to provide the Food and Nutrition Service (FNS) with descriptive data on the status of School Food Authorities' (SFAs) implementation of the School Meals Initiative for Healthy Children and the changes that have occurred in the food service operations as a result of implementing this new regulation. FNS will examine trends in SMI implementation and characteristics of SFAs implementing certain elements of SMI and Team Nutrition.

A nationally representative sample of approximately 2,250 public school districts was selected in 1997 to participate in a three-year longitudinal survey which began in School Year 1997–98. Data is being collected from the SFA directors using a mixed mode approach of mail/telephone surveys. The study combines elements of longitudinal research and cross-sectional surveys. A brief self-administered mail survey of all State Child Nutrition Directors will be included each year. This request for OMB approval is for the third year data collection instrumentation only. Estimates of burden shown below are based upon field experience from the first two years of data collection.

*Estimate of Burden:* Public reporting burden is estimated to range between 45 and 60 minutes for School Food Service Authority directors; and range between 20 and 30 minutes for State Child Nutrition directors;

*Respondents:* State Child Nutrition directors and SFA directors will be asked to respond to a self-administered mail survey with telephone follow-up.

*Estimated Number of Respondents:* 50 State Child Nutrition directors, 2,250 SFA directors.

*Estimated Number of Responses per Respondent:* One.

*Estimated Total Annual Burden on Respondents:* 1,850 hours.

Dated: August 26, 1999.

**Samuel Chambers, Jr.,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 99–22871 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–30–P

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. 99–043N]**

### Codex Alimentarius Commission (Codex): Conference on International Food Trade Beyond 2000

**AGENCY:** Office of Food Safety, USDA.

**ACTION:** Notice of public meeting, request for comments.

**SUMMARY:** The Office of the Under Secretary for Food Safety, and the Agricultural Marketing Service, United States Department of Agriculture; the Food and Drug Administration, and the Centers for Disease Control, U.S. Department of Health and Human Services; the National Marine Fisheries Service, United States Department of Commerce; and the Environmental Protection Agency, are sponsoring a public meeting on September 16, 1999, to provide information and receive public comments on agenda items for the Conference on International Food Trade Beyond 2000, which will be held in Melbourne, Australia, October 11–15, 1999. The co-sponsors of the September 16, 1999, public meeting recognize the importance of providing interested parties the opportunity to obtain background information on this session and to address items on the agenda.

**DATES:** The public meeting is scheduled for Thursday, September 16, 1999, from 2:30 p.m. to 4:30 p.m.

The Uruguay Round Agreements have been in effect for five years now and a further round of multilateral trade negotiations—under the World Trade Organization (WTO)—will be starting in

the near future. In light of this new round, FAO believes it is opportune to hold an intergovernmental conference on the implementation of Codex work. The aim is to achieve the full involvement of member Governments in existing and proposed activities related to Codex and WTO.

One objective of the Conference on International Food Trade Beyond 2000 will be to enhance the capacity of developing countries both to enjoy the benefits they accrued on signing the Uruguay Round Agreements and to fulfill their commitments. The conference will address how food quality and safety issues affect trade, health, and development at both domestic and international levels. Pointing the way from 2000 onward, it will take into account recommendations of the 1991 conference, current needs in the field of food trade, the Uruguay Round Agreements and the forthcoming round of WTO negotiations.

The Conference will review the response to the earlier FAO/WHO conference and the action taken by these two organizations, with WTO, to assist Member Governments in meeting their SPS and TBT obligations. This will necessarily entail a full analysis of current Codex, SPS and TBT the upcoming Conference on International Food Trade Beyond 2000:

The Uruguay Round of Multilateral Trade Negotiations, which began in 1985 under the General Agreement on Tariffs and Trade (GATT), for the first time included discussions on agriculture and agricultural products. The negotiations also covered sanitary and phytosanitary measures as well as other standards and activities that could cause unjustified non-tariff barriers to trade in food and agricultural products. When the Uruguay Round was concluded in 1994, among the final Agreements were those on the Application of Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT).

In 1991, FAO and the World Health Organization (WHO) jointly convened the Conference on Food Standards, Chemicals in Food and Food Trade, in cooperation with GATT. The occasion provided a forum for member Governments to discuss, among other things, the probable impact of the proposed SPS and TBT Agreements on international and domestic food trade. The conference was highly successful and the subsequent implementation of its recommendations on strategies and priorities allowed all parties concerned—FAO, WHO, Codex, GATT, national governments, industries, and consumers—to be better prepared for the food quality and safety obligations of the two Agreements in question.

**ADDRESSES:** The public meeting will be held in Room 104A, Jamie L. Whitten Building, U.S. Department of Agriculture, Washington, DC 20250. The document website of the Food and Agriculture Organization (FAO) of the United Nations is *http://www.fao.org/es/esn/austral/alicom99/alicom-e.htm*. Send an original and two copies of comments to: FSIS Docket Clerk, Docket *#99–043N*, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. Please state that your comments relate to Docket *#99–043N*, and specify which issues your comments address. All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** F. Edward Scarbrough, Ph.D., U.S. Manager for Codex Alimentarius, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, telephone: (202) 205–7760, FAX: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Yolande Mitchell, telephone (202) 205–7760, FAX: (202) 720–3157.

**SUPPLEMENTARY INFORMATION:**

## Background

The Food and Agriculture Organization (FAO) of the United Nations has developed the following objectives for procedures and of the prospects for further change. Carried out within the context of an international conference, such a review should generate coherent recommendations on scientifically based approaches to promoting better-quality and safer foods in domestic and international trade.

## Issues To Be Discussed at the Public Meeting

The following specific issues are included on the published agenda for the Conference on International Food Trade Beyond 2000. Prior to the conference FAO will make papers available which will include recommendations on each of the issues listed. These papers will be available through the FAO documents website (see **ADDRESSES**). As the papers become available from FAO they will be placed on file in the FSIS Docket Clerk's office. These issues will be discussed during the public meeting:

1. Response to the 1991 Joint FAO/WHO Conference on Food Standards, Chemicals in Food and Food Trade
2. The Codex Alimentarius Commission
3. Current Status of Food Trade, Including Food Quality and Safety Problems
4. Review of the Implementation of the SPS/TBT Agreements
5. Challenges for Developing Countries in Meeting the Obligations of the SPS/TBT/Codex
6. Basic Approaches to Consumer Protection—FAO/WHO Model Food Act; Control Procedures
7. Harmonization of Food Regulations and Food Quality/Safety Measures Based on Codex Standards, Guidelines and Recommendations
8. Assuring Food Quality and Safety: Back to the Basics—Quality Control Throughout the Food Chain; the role of industry, governments, consumers and academia
9. Prospects for the future:
   a. Emerging Technologies—Ensuring the Quality and Safety of Food
   b. Emerging Problems: Chemical/Biological
   c. Emerging Problems: Allergens
   d. Nutritional, Environmental and Sustainable Food Production Considerations
   (i) Changes in cultural and consumer habits
   (ii) Promoting science-based dialogue on emerging technologies and problems
   (iii) Nutrition, environment and sustainable food production
10. Assuring Science-based Decisions
   a. Expert Advice and Risk Analysis—Validity of the Process and Dealing with Uncertainty
   b. Determining the Appropriate Level of Protection; Threshold of Regulations—Implementation
11. Harmonization, Mutual Recognition and Equivalence
   a. How and what is attainable?
   b. Labelling and Nutritional Aspects—How much information is necessary?
12. Technical Assistance Needs of Developing Countries and Mechanisms to Provide Technical Assistance

## Public Meeting

Those attending the public meeting on September 16, 1999, will hear brief descriptions of the issues, and will have the opportunity to pose questions and offer comments.

## Additional Public Notification

Pursuant to Departmental Regulation 4300–4, ''Civil Rights Impact Analysis,'' dated September 22, 1993, FSIS has considered the potential civil rights impact of this notice on minorities,

women, and persons with disabilities. Therefore, to better ensure that these groups and others are made aware of this meeting, FSIS will announce it and provide copies of the **Federal Register** publication in the FSIS Constituent Update.

The Agency provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding Agency policies, procedures, regulations, **Federal Register** Notices, FSIS public meetings, recalls and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals and other individuals that have requested to be included. Through these various channels, the Agency is able to provide information with a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

Done at Washington, DC.

**F. Edward Scarbrough,**

*U.S. Manager for Codex Alimentarius.*

[FR Doc. 99–22901 Filed 9–1–99; 8:45 am]

BILLING CODE 3410–DM–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Arizona Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Arizona Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on Friday, September 24, 1999, at the Clarion Hotel, Tucson Airport, 6801 South Tucson Boulevard, Tucson, Arizona 85706. The purpose of the meeting is to discuss civil rights issues in Arizona and a draft report.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 27, 1999.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 99–22855 Filed 9–1–99; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Michigan Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Michigan Advisory Committee to the Commission will convene a community forum at 10:00 a.m. and adjourn at 6:00 p.m. on Monday, September 27, 1999, at the Holiday Inn, Fairlane-Dearborn Conference Center, 5801 Southfield Service Drive, Detroit, Michigan. The purpose of the community forum is to receive information regarding ''Civil Rights Issues Facing Arab Americans.''

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Roland Hwang, 517–373–1480, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 25, 1999.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 99–22853 Filed 9–1–99; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the U.S. Commission on Civil Rights will convene at 4:00 p.m. and adjourn at 8:30 p.m. on September 29, 1999, at the Providence Marriott, One Orms Street, Providence, Rhode Island 02904. The purpose of the meeting is to receive information on police-community relations in Providence from invited presenters. The Committee will also discuss and plan for future events.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Olga Noguera, 401–464–1876, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 27, 1999.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 99–22856 Filed 9–1–99; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Wisconsin Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Wisconsin Advisory Committee to the Commission will convene a community forum at 9:30 a.m. and recess at 4:30 p.m. on Tuesday, September 21, 1999, at the Radisson Inn Harbourwalk, 223 Gaslight Circle, Racine, Wisconsin. The Committee will reconvene at 6:30 p.m. and adjourn at 8:30 p.m. at the Parks, Recreation and Cultural Services Department-Community Center, 601 21st Street, Racine, Wisconsin. The purpose of the community forum is to gather information on ''Race Relations in Racine County, Wisconsin.''

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Geraldine McFadden, 414–444–1952, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 25, 1999.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 99–22854 Filed 9–1–99; 8:45 am]

BILLING CODE 6335–01–P

## DEPARTMENT OF COMMERCE

## Foreign Trade Zones Board

**[FTZ Dockets (41(1)–99 to 41(58)–99)]**

## Requests for Extension of Authority (Crude Oil Refineries/Petrochemical Complexes)

Requests have been submitted to the Foreign-Trade Zones Board (the Board) by the following grantees, pursuant to § 400.32(b)(1) of the Board's regulations, for a time extension of their authority to elect non-privileged foreign status (NPF) on crude oil used in the production of certain petrochemical feedstocks and refinery by-products at the crude oil refineries/petrochemical complexes of the companies listed below. The requests were formally filed on August 23, 1999.

The FTZ Board has authorized 62 refineries/petrochemical complexes to conduct crude oil/petrochemical product refining activity under FTZ procedures, subject to certain standard restrictions listed below:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000–#2710.00.1050, #2710.00.2500 and #2710.00.4510 which are used in the production of:

—-certain petrochemical feedstocks and refinery by-products; -products for export;

—and, products eligible for entry under HTSUS #9808.00.30 and #9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

The zone grantees on behalf of the refining facilities listed below are now requesting that the authority for the NPF option be extended.

The refineries/petrochemical complexes produce fuels and petrochemical feedstocks from crude oil and other inputs, such as naphtha and natural gas condensate. Fuel products include gasoline, jet fuel, distillates, residual fuels, and motor fuel blendstocks. Petrochemical feedstocks and refinery by-products produced under zone procedures (NPF option) have included: benzene, toluene, xylene, naphthalene, natural gas—liquified & gaseous, ethane, propane, butane, ethylene, propylene, butylene, butadiene, paraffin waxes & petroleum jelly, carbon black oil, petroleum coke, asphalt, sulfur, sulfuric acid, cumene, pseudocumene, other aromatic hydrocarbon mixtures, and mixtures of hydrocarbons not elsewhere specified. The requests seek to expand the scope of NPF authority to include additional petrochemical feedstocks that have recently become duty-free under staged tariff reductions of the Uruguay Round of GATT. These product categories include: calcined petroleum coke, n-pentane and isopentane, isoprene, dicyclopentadiene, styrene, and certain other saturated and unsaturated acyclic and cyclic hydrocarbons. (Although the refineries vary in their product mix, the review would generally include the full range of products listed above for all refineries.)

Zone procedures exempt the refineries from Customs duty payments on the foreign products used in exports. On domestic sales, the NPF option allows the companies to choose the Customs duty rates that apply to certain petrochemical feedstocks and refinery by-products (HTSUS duty rates for most of these products are zero) by admitting incoming foreign crude oil and natural gas condensate in non-privileged foreign status. Such petrochemicals and by-products account for about 25 to 30 percent of refinery activity, on average. The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. Duties on inputs used to make fuel products (motor gasoline, jet fuel, blendstocks), which constitute some 70 to 75 percent of production, will continue to be dutiable at the crude oil rate. The applications indicate that the continuation of authority to elect non-privileged foreign status will contribute to the refineries' international competitiveness.

| Board order | Subzone | Company | Location | Docket No. |
|---|---|---|---|---|
| Grantee: Board of Commissioners of the Port of New Orleans: | | | | |
| 791 | 2H | Chalmette Refinery LC | Chalmette, LA | Doc. 41(1)–99 |
| 821 | 2I | BP Amoco, plc | Belle Chasse, LA | Doc. 41(2)–99 |
| 895 | 2J | Murphy Oil USA, Inc | St. Bernard Parish, LA | Doc. 41(3)–99 |
| Grantee: Port of San Francisco: 974 | 3B | Chevron U.S.A. Inc | Richmond, CA | Doc. 41(4)–99 |
| Grantee: Toledo-Lucas County Port Authority: | | | | |
| 822 | 8F | BP Amoco, plc | Toledo, OH | Doc. 41(5)–99 |
| 822 | 8G | Clark Refining and Marketing, Inc | Lima, OH | Doc. 41(6)–99 |
| Grantee: State of Hawaii: 415 | 9E | Chevron Products Co | Oahu, HI | Doc. 41(7)–99 |
| Grantee: Virginia Port Authority: 761 | 20C | BP Amoco plc | Yorktown, VA | Doc. 41(8)–99 |
| Grantee: Illinois International Port District: | | | | |
| 779 | 22I | PDV Midwest Refining | Will County, IL | Doc. 41(9)–99 |
| 960 | 22J | Mobil Oil Corporation | Chicago, IL | Doc. 41(10)–99 |
| Grantee: Tri-City Regional Port District: 878. | 31B | Motiva Enterprises LLC | Madison Co., IL | Doc. 41(11)–99 |
| Grantee: Philadelphia Regional Port Authority: | | | | |
| 838 | 35C | Sun Company, Inc | Philadelphia, PA | Doc. 41(12)–99 |
| 891 | 35D | Tosco Corporation | Delaware Co., PA | Doc. 41(13)–99 |
| Grantee: Greater Cincinnati FTZ, Inc.: 865. | 47B | Marathon Ashland Petroleum LLC | Boone Co., KY | Doc. 41(14)–99 |

| Board order | Subzone | Company | Location | Docket No. |
|---|---|---|---|---|
| Grantee: The Port Authority of New York and New Jersey: | | | | |
| 792 | 49E | Tosco Corp. | Linden, NJ | Doc. 41(15)–99 |
| 880 | 49F | Chevron Products Co | Perth Amboy, NJ | Doc. 41(16)–99 |
| Grantee: Greater Detroit Foreign-Trade Zone, Inc.: 879. | 70T | Marathon Ashland Petroleum LLC | Detroit, MI | Doc. 41(17)–99 |
| Grantee: City of Mobile: | | | | |
| 921 | 82F | Coastal Mobile Refining | Mobile, AL | Doc. 41(18)–99 |
| 962 | 82G | Shell Oil Company | Mobile, AL | Doc. 41(19)–99 |
| Grantee: The Port of Houston Authority: | | | | |
| 552 | 84F | Valero Refining Co | Houston, TX | Doc. 41(20)–99 |
| 669 | 84J | Shell Oil Company | Harris County, TX | Doc. 41(21)–99 |
| 793 | 84N | Crown Central Petroleum | Houston, TX | Doc. 41(22)–99 |
| 837 | 84O | Exxon Corporation | Baytown, TX | Doc. 41(23)–99 |
| 961 | 84P | LYONDELL-CITGO Refining LP | Houston, TX | Doc. 41(24)–99 |
| 975 | 84Q | Equistar Chemicals LP | Houston, TX | Doc. 41(25)–99 |
| Grantee: Lake Charles Harbor and Terminal District: | | | | |
| 808 | 87A | Conoco, Inc | Lake Charles, LA | Doc. 41(26)–99 |
| 760 | 87B | Citgo Petroleum Corp | Lake Charles, LA | Doc. 41(27)–99 |
| Grantee: Greater Gulfport/Biloxi Foreign Trade Zone, Inc.: 747. | 92D | Chevron U.S.A. Products Company | Pascagoula, MS | Doc. 41(28)–99 |
| Grantee: Delaware Economic Development Office: 831. | 99E | Motiva Enterprises, LLC | Delaware City, DE | Doc. 41(29)–99 |
| Grantee: Savannah Airport Commission: 805. | 104C | Citgo Asphalt Refining Co | Savannah, GA | Doc. 41(30)–99 |
| Grantee: Foreign Trade Zone of Southeast Texas, Inc.: | | | | |
| 780 | 115B | Mobil Corporation | Beaumont, TX | Doc. 41(31)–99 |
| 740 | 116A | Motiva Enterprises, LLC | Port Arthur, TX | Doc. 41(32)–99 |
| 772 | 116B | Fina Oil Company | Port Arthur, TX | Doc. 41(33)–99 |
| 848 | 116C | Clark Refining & Marketing Inc | Port Arthur, TX | Doc. 41(34)–99 |
| Grantee: Port of Corpus Christi Authority: | | | | |
| 782 | 122A | Coastal Refining & Marketing, Inc | Corpus Christi, TX | Doc. 41(35)–99 |
| 765 | 122C | Trifinery Petroleum | Corpus Christi, TX | Doc. 41(36)–99 |
| 407 | 122I | Citgo Refining & Chemicals Co., LP | Corpus Christi, TX | Doc. 41(37)–99 |
| 414 | 122J | Valero Refining Company | Corpus Christi, TX | Doc. 41(38)–99 |
| 535 | 122L | Koch Petroleum Group | Corpus Christi, TX | Doc. 41(39)–99 |
| 1031 | 122M | Diamond Shamrock Refining Co., LP. | Three Rivers, TX | Doc. 41(40)–99 |
| Grantee: South Louisiana Port Commission: | | | | |
| 379 | 124A | Orion Refining Corp | Destrehan, LA | Doc. 41(41)–99 |
| 739 | 124C | Motiva Enterprises, LLC | Convent, LA | Doc. 41(42)–99 |
| 773 | 124E | Marathon Ashland Petroleum, LP | Garyville, LA | Doc. 41(43)–99 |
| 839 | 124F | Motiva Enterprises, LLC | Norco, LA | Doc. 41(44)–99 |
| Grantee: Port of Philadelphia and Camden, Inc.: | | | | |
| 790 | 142A | Valero Refining Co | Paulsboro, NJ | Doc. 41(45)–99 |
| 806 | 142B | Citgo Asphalt Refinery | Paulsboro, NJ | Doc. 41(46)–99 |
| 894 | 142C | Coastal Eagle Point Oil | Eagle Point, NJ | Doc. 41(47)–99 |
| Grantee: Bi-State Authority: 781 | 146D | Marathon Ashland Petroleum, LLC | Robinson, Il | Doc. 41(48)–99 |
| Grantee: Port Freeport Brazos River Harbor Navigation District: | | | | |
| 920 | 149C | Phillips Petroleum Co | Sweeney, TX | Doc. 41(49)–99 |
| 999 | 149E | BP Amoco Chemical, plc | Brazoria Co., TX | Doc. 41(50)–99 |
| Grantee: Indiana Port Commission: 762. | 152B | BP Amoco, plc | Whiting, IN | Doc. 41(51)–99 |
| Grantee: Greater Baton Rouge Port Commission: 847. | 154A | Exxon Corporation | Baton Rouge, LA | Doc. 41(52)–99 |
| Grantee: Board of County Commissioners of Sedgwick County, Kansas: 862. | 161B | Equilon Enterprises, LLC | El Dorado, KS | Doc. 41(53)–99 |
| Grantee: Northeast Ohio Trade and Economic Consortium: 864. | 181A | Marathon Ashland Petroleum, LLC | Canton, OH | Doc. 41(54)–99 |
| Grantee: Texas City Foreign Trade Zone Corporation: | | | | |
| 731 | 199A | BP Amoco, plc | Texas City, TX | Doc. 41(55)–99 |
| 830 | 199B | Marathon Ashland Petroleum, LLC | Texas City, TX | Doc. 41(56)–99 |
| 863 | 199C | Valero Refining Co | Texas City, TX | Doc. 41(57)–99 |
| Grantee: Port Of Los Angeles: 959 | 202B | Chevron U.S.A. Inc | El Segundo, CA | Doc. 41(58)–99 |

Public comment on the proposals is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 1, 1999.

Copies of the requests will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: August 24, 1999.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 99–22925 Filed 9–1–99; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## International Trade Administration

## Export Trade Certificate of Review

**ACTION:** Notice of application.

**SUMMARY:** The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:** Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 99–00003.'' A summary of the application follows.

### Summary of the Application

*Applicant:* JV Export Trading Company, Inc., 16468 SW 95th Lane, Miami, Florida 33196.

*Contact:* Kevin M. Dyer, Attorney at Law.

*Telephone:* (212) 599–2396.

*Application No.:* 99–00003.

*Date Deemed Submitted:* August 27, 1999.

*Members (in addition to applicant):* None.

JV Export Trading Company, Inc. seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

### Export Trade

*1. Products*

All products.

*2. Services*

All services.

*3. Technology Rights*

Technology Rights, including, but not limited to, patents, trademarks, copyrights and trade secrets that relate to Products and Services.

*4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)*

Export Trade Facilitation Services, including, but not limited to: Professional services in the areas of government relations and assistance with state and federal export programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; bonding; warehousing; export trade promotion; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation; and facilitating the formation of shippers' associations.

### Export Markets

The Export Markets include all parts of Latin America.

### Export Trade Activities and Methods of Operation

JV Export Trading Company, Inc. seeks to have the following conduct certified:

1. Entering into exclusive export distribution agreements with U.S. manufacturers for export to the Latin American markets or sub-markets within Latin America;
2. Entering into agreements, exclusive and otherwise, with U.S. manufacturers regarding the prices for which subject products will be sold in Latin American market;
3. Entering into agreements with other exporters to Latin America regarding products, price and territories; and
4. Entering into agreements with U.S. manufacturers and exporters, including those in competition with one another regarding the sharing of price, technical know-how, marketing, research and related information.

Dated: August 30, 1999.

**Morton Schnabel,**

*Director, Office of Export Trading Company Affairs.*

[FR Doc. 99–22888 Filed 9–1–99; 8:45 am]

BILLING CODE 3510–DR–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## Notice of Designation of the Grand Bay National Estuarine Research Reserve, Mississippi

**AGENCY:** Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

**ACTION:** Notice of Designation.

**SUMMARY:** Notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, has designated certain lands and waters of Grand Bay in Mississippi as the Grand Bay National Estuarine Research Reserve.

On June 16, 1999, D. James Baker, Under Secretary for Oceans and Atmosphere, signed findings of designation for the Grand Bay National Estuarine Research Reserve in Mississippi pursuant to section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461, and its implementing regulations at 15 CFR part 921. The Reserve duly received certification from the State of Mississippi Coastal Zone Management Program that Reserve designation is consistent to the maximum extent practicable with its program. A copy of the official Record of Decision is available for public review from NOAA's Office of Ocean and Coastal Resource Management at the address below.

**FOR FURTHER INFORMATION CONTACT:** Nathalie Peter at (301) 713–3132, Extension 119, Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1305 East West Highway, N/ORM5, Silver Spring, Maryland 20910. A copy of the Record of Decision for the Grand Bay Reserve is available upon request.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves

Dated: August 23, 1999.

**Captain Ted Lillestolen,**

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 99–22841 Filed 9–1–99; 8:45 am]

BILLING CODE 3510–08–P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Membership of the National Oceanic and Atmospheric Administration Performance Review Board

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of membership of NOAA performance review board.

**SUMMARY:** In accordance with 5 USC 4314(c)(4), NOAA announces the appointment of persons to serve as members of the NOAA Performance Review Board (PRB). The NOAA PRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and reviewing recommendations for potential Presidential Rank Award nominees. The appointment of members to the NOAA PRB will be for periods of 24 months.

**EFFECTIVE DATE:** The effective date of service of appointees to the NOAA Performance Review Board is September 3, 1999.

**FOR FURTHER INFORMATION CONTACT:** Monica M.P. Matthews, Executive Resources Program Manager, Human Resources Management Office, Office of Finance and Administration, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–0530 (ext. 204).

**SUPPLEMENTARY INFORMATION:** The names and position titles of the members of the NOAA PRB (*NOAA officials unless otherwise identified*) are set forth below:

Daniel J. Basta: Chief, Strategic Environmental Assessment Division, National Ocean Service

James D. Belville: Director, NEXRAD Operational Support Facility, National Weather Service

Eddie N. Bernard: Director, Pacific Marine Environmental Laboratory, Office of Oceanic and Atmospheric Research

Steven F. Clifford: Director, Environmental Technology Laboratory, Office of Oceanic and Atmospheric Research

Irwin T. David: Chief Financial Officer/ Chief Administrative Officer, National Weather Service

Gary K. Davis: Director, Office of Satellite Operations, National Environmental Satellite, Data and Information Service

Rudolph J. Dominic: Director, Finance Office/Comptroller, Office of Finance and Administration

John T. Forsing: Director, Eastern Region, National Weather Service

William W. Fox, Jr.: Director, Office of Science and Technology, National Marine Fisheries Service

Susan B. Fruchter: Counselor to the Under Secretary, Office of Policy and Strategic Planning

Margaret F. Hayes: Assistant General Counsel for Fisheries, Office of the General Counsel

Jay S. Johnson: Deputy General Counsel for Fisheries, Enforcement and Regions, Office of the General Counsel

John E. Jones, Jr.: Deputy Assistant Administrator for Weather Services, National Weather Service

Kristina B. Katsaros: Director, Atlantic Oceanographic and Meteorological Laboratories, Office of Oceanic and Atmospheric Research

Andrew J. Kemmerer: Director, Office of Habitat Conservation, National Marine Fisheries Service

David M. Kennedy: Chief, Hazardous Materials Response and Assessment Division, National Ocean Service

Gerald R. Lucas: Director, Eastern Administrative Support Center, Office of Finance and Administration

Gary C. Matlock: Director, Office of Sustainable Fisheries, National Marine Fisheries Service

Willie E. May: Chief, Analytical Chemistry Division, Chemical Science and Technology Laboratory, (National Institute for Standards and Technology)

Martha R. McBroome: Director, Central Administrative Support Center, Office of Finance and Administration

Craig R. O'Connor: Deputy General Counsel for Atmospheric and Ocean Research and Services, Office of the General Counsel

John E. Oliver, Jr.: Chief Financial Officer/Chief Administrative Officer, National Ocean Service

James F.W. Purdom: Director, Office of Research and Applications, National Environmental Satellite, Data and Information Service

Stewart S. Remer: Chief, Human Resources Division, (U.S. Census Bureau)

Donald Scavia: Director, National Centers for Coastal Ocean Science and Senior Scientist for the National Ocean Service

Rolland A. Schmitten: Deputy Assistant Secretary for International Interests, Office of International Affairs

James K. White: Executive Director for the Economics and Statistics Administration (Economics and Statistics Administration)

W. Stan Wilson: Deputy Chief Scientist, Office of the Chief Scientist

Helen M. Wood: Director, Office of Satellite Data Processing and Distribution, National Environmental Satellite, Data and Information Service

Sally J. Yozell: Deputy Assistant Secretary, Office of the Assistant Secretary

Dated: August 27, 1999.

**D. James Baker,**

*Under Secretary for Oceans and Atmosphere.*

[FR Doc. 99–22870 Filed 9–1–99; 8:45 am]

BILLING CODE 3510–12–P

## COMMISSION OF FINE ARTS

### Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 16 September 1999 at 10:00 AM in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, NW, Washington, DC, 20001. Items of discussion will include designs for projects affecting the appearance of Washington, DC, including buildings and parks.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, August 26, 1999.

**Charles H. Atherton,**

*Secretary.*

[FR Doc. 99–22840 Filed 9–1–99 8:45 am]

BILLING CODE 6330–01–M

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Information Collection; Submission for OMB Review; Comment Request

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

**ACTION:** Notice.

The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Office of Evaluation, Wade Gatling, (202) 606–5000, extension 451. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Mr. Danny Werfel, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information to 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.

*Type of Review:* Existing collection in use without an OMB control number.

*Agency:* Corporation for National and Community Service.

*Title:* Program Development Assistance and Training (PDAT) Budget Form.

*OMB Number:* None.

*Agency Number:* None.

*Affected Public:* Sixty-eight entities (49 state commissions, 15 tribes and 4 territories).

*Frequency:* Annually.

*Total Respondents:* Sixty-eight respondents.

*Average Time Per Response:* Two Minutes.

*Estimated Total Burden Hours:* 2.25 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

*Description:* In the past, Program Development Assistance and Training (PDAT) Budget Information was requested informally without the form being proposed in this notice. As a result, the PDAT financial information submitted to the Corporation by applicants did not consistently provide the information that was requested. The Corporation anticipates that the use of the one-page budget form being proposed here will result in the submission of more complete PDAT-related financial information by the applicants.

Each year the Corporation seeks to collect PDAT budget information from the 49 state commissions, 15 tribes, and four territories. The information that will be collected on the proposed one-page PDAT budget form will be used during the Corporation's annual review of PDAT applications. The proposed PDAT budget form will be useful to the Corporation in the PDAT application review process that leads to the allocation of PDAT funds to the 49 state commissions, 15 tribes, and four territories.

The **Federal Register** Notice dated May 1, 1998, incorrectly listed the Total Respondents as 48 rather than 68. Further, the Notice indicated that the average time per response as two hours rather than two minutes. These two errors have been corrected in this Notice.

Dated: August 27, 1999.

**Thomas L. Bryant,**

*Associate General Counsel.*

[FR Doc. 99–22944 Filed 9–1–99; 8:45 am]

BILLING CODE 6050–28–U

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### AmeriCorps*National Civilian Community Corps (NCCC)

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

**ACTION:** Notice of availability of AmeriCorps*NCCC teams for collaboration.

**SUMMARY:** The AmeriCorps*NCCC seeks community partners in the performance of service projects in the areas of the environment, education, public safety, other unmet human needs, and disaster relief.

**DATES:** Proposals are accepted and reviewed on an on-going basis.

**FOR FURTHER INFORMATION CONTACT:** See AmeriCorps*National Civilian Community Corps' projects brochure on the World-wide Web at http://www.nationalservice.org.

**SUPPLEMENTARY INFORMATION:** The National Civilian Community Corps is an AmeriCorps program of the Corporation for National and Community Service. The AmeriCorps*NCCC manages teams of young adults to conduct service projects across the nation. Teams include approximately twelve 18–24 year old men and women of diverse social, economic, and educational backgrounds, and a trained team leader. Projects are typically 6 to 8 weeks in duration; the period of service for larger, more complex projects can be extended.

**ELIGIBILITY:** Private nonprofit organizations; governmental entities at

the federal, state, and local levels; educational institutions; community-based organizations; and Native American Tribal Councils are eligible to submit proposals. Proposals are accepted, reviewed, and approved with consideration for compelling needs, geographical distribution, availability of teams, and AmeriCorps*NCCC costs related to team deployment.

**COST:** There is no charge for the services of an AmeriCorps*NCCC team or its transportation; however, collaborating organizations are expected to provide the necessary materials, equipment, and technical supervision for projects, as well as assist with food and lodging if the project site is beyond a reasonable commuting distance from the AmeriCorps*NCCC campus. AmeriCorps*NCCC does not provide financial grants of any kind in association with this program.

**ADDRESSES:** For interested organizations in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, contact: AmeriCorps*NCCC Northeast Region Campus, Attn: Ms. LaQuine Roberson, Director of Projects and Training, P.O. Box 27, Perry Point, MD 21902–0027, (410) 642–2411, ext. 6264.

For interested organizations in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and the Virgin Islands, contact: AmeriCorps*NCCC Southeast Region Campus, Attn: Mr. Mikel Herrington, Director of Projects and Training, 2231 South Hobson Avenue, Charleston, SC 29405–2438, (843) 743–8600, ext. 3008.

For interested organizations in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, contact: AmeriCorps*NCCC Central Region Campus, Attn: Ms. Karen LaBat, Director of Projects and Training, 1059 Yosemite Street, Building 758, Room 213, Aurora, CO 80010–6062, (303) 340–7305.

For interested organizations in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, Washington, and the Pacific U.S. territories, contact: AmeriCorps*NCCC Western Region Campus, Attn: Mr. Charles Davenport, Director of Projects and Training, 2650 Truxtun Road, San Diego, CA 92106–6001, (619) 524–0749.

For interested organizations in the District of Columbia, Ohio, Pennsylvania, Virginia, and West Virginia, contact: AmeriCorps*NCCC Capital Region Campus, Attn: Mr. Walt Auburn, Assistant Project Director, Two D.C. Village Lane, S.W., Washington, D.C. 20032, (202) 561–1382.

Dated: August 27, 1999.

**Thomas L. Bryant,**

*Associate General Counsel.*

[FR Doc. 99–22943 Filed 9–1–99; 8:45 am]

BILLING CODE 6050–28–U

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Meeting To Discuss Gulf War Illness Research

**AGENCY:** Special Oversight Board for Department of Defense Investigations of Gulf War Chemical and Biological Incidents, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Board will conduct a three-hour public meeting to receive a presentation by the Special Assistant for Gulf War Illnesses on the recommended disposition of case narratives and environmental exposure reports that his office are currently investigating.

**DATES:** September 16, 1999.

**ADDRESSES:** Conference Room, 1401 Wilson Boulevard, Suite 400, Arlington, VA 22209.

**FOR FURTHER INFORMATION CONTACT:** Contact Sandra Robinson, Administrative Assistant, Special Oversight Board, 1401 Wilson Blvd, Suite 401, Arlington, VA 22209, phone (703) 696–9477, fax (703) 696–4062, or via Email at *Gulfsyn@osd.pentagon.mil.*

**SUPPLEMENTARY INFORMATION:** The hearing is scheduled from 2:00 p.m. until no later than 5:00 p.m. EDT. Seating is limited and will be available on a first-come, first-served basis beginning at 1:45 p.m. EDT.

Dated: August 27, 1999.

**L.M. Bynum,**

*Alternate OSD Federal Liaison Officer, DoD.*

[FR Doc. 99–22832 Filed 9–1–99; 8:45 am]

BILLING CODE 5001–10–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Meeting of the Historical Records Declassification Advisory Panel

**AGENCY:** Department of Defense, Historical Advisory Committee.

**ACTION:** Notice of closed meeting.

**SUMMARY:** The Historical Records Declassification Advisory Panel will meet in closed session on September 16–17, 1999. The Panel was originally chartered by the Secretary of Defense on November 29, 1995 to make recommendations to the Department of Defense on topical areas of interest that, from a historical perspective, would be of the greatest benefit if declassified. This is the second session held in 1999.

The Panel will meet in closed session on September 16–17, 1999 to receive briefings and participate in discussions of national security matters, and is projected to include classified and sensitive, unclassified information. The afternoon of September 16, 1999, the Panel will be touring the Army Declassification Facility, which is a secure facility. The Panel also plans to meet with the Deputy Secretary of Defense for part of the afternoon of September 17, 1999.

In accordances with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C., Appendix II], it is anticipated that matters affecting national security, as covered by 5 U.S.C. 522b(c)(1)(1988), will be presented throughout the meeting, and that, accordingly, the meeting will be closed to the public.

**DATES:** Thursday, September 16, 8:30 a.m.–4:00 p.m.; Friday, September 17, 8:30 a.m.–2:30 p.m.

**ADDRESSES:** The Pentagon, 6000 Defense Pentagon, Washington, DC 20301.

**FOR FURTHER INFORMATION CONTACT:** Contact Mr. Jeffrey Ross, Room 1D760B, Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), 6000 Defense Pentagon, Washington, DC 20301–6000. Telephone 703–614–5995 .

Dated: August 27, 1999.

**L.M. Bynum,**

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

[FR Doc. 99–22830 Filed 9–1–99; 8:45 am]

BILLING CODE 5001–10–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Meeting of the President's Security Policy Advisory Board; Action Notice

**SUMMARY:** The President's Security Policy Advisory Board has been established pursuant to Presidential Decision Directive/NSC–29, which was signed by the President on September 16, 1994

The Board will advise the President on proposed legislative initiatives and executive orders pertaining to U.S. security policy, procedures and

practices as developed by the U.S. Security Policy Board, and will function as a federal advisory committee in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act.''

The President has appointed from the private sector, three of five Board members each with a prominent background and expertise related to security policy matters. General Larry Welch, USAF (Ret.) will chair the Board. Other members include: Rear Admiral Thomas Brooks, USN (Ret.) and Ms. Nina Stewart.

The next meeting of the Advisory Board will be held on 27 September 1999 at 1,330 hours at the Las Vegas Convention Center, Las Vegas, Nevada. The meeting will be held coincident with the American Society for Industrial Security Annual Seminar and Exhibits. The meeting will be open to the public.

For further information, please contact Mr. Bill Isaacs telephone: 703–602–0815.

Dated: August 23, 1999.

**L.M. Bynum,**

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

[FR Doc. 99–22831 Filed 9–1–99; 8:45 am]

BILLING CODE 5001–10–M

## DEPARTMENT OF DEFENSE

### Office of the Inspector General, DoD

### Privacy Act of 1974; System of Records

**AGENCY:** Office of the Inspector General, DoD.

**ACTION:** Notice to delete a record systems.

**SUMMARY:** The Office of the Inspector General, DoD proposes to delete two systems of records from its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** The action will be effective on October 4, 1999, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to the Chief, Administrative Service, Assistant Inspector General for Administration, Information Management, 400 Army Navy Drive, Room 405, Arlington, VA 22202-2884.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Allison at telephone (703) 604-9785.

**SUPPLEMENTARY INFORMATION:** The Office of the Inspector General'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 deletions 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.

Dated: August 27, 1999.

**L. M. Bynum,**

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

#### CIG–03

**SYSTEM NAME:**

Personnel Locator Cards *(February 22, 1993, 58 FR 10213).*

Reason: This program was never initiated within the Office of the Inspector General, therefore, the notice is being deleted.

#### CIG–05

**SYSTEM NAME:**

DoD Motions for Discovery of Electronic Surveillance Files *(February 22, 1993, 58 FR 10213).*

Reason: This program was never initiated within the Office of the Inspector General, therefore, the notice is being deleted.

[FR Doc. 99–22834 Filed 9–1–99; 8:45 am]

BILLING CODE 5001–10–F

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Active Duty Service Determinations for Civilian or Contractual Groups

On August 11, 1999, the Secretary of the Air Force, acting as Executive Agent of the Secretary of Defense, determined that the service of the group known as ''American Merchant Marine Mariners Who Were in Active Ocean-Going Service'' during the period of August 15, 1945 to December 31, 1946, shall not be considered ''active duty'' under the provisions of Public Law 95–202 for the purposes of all laws administered by the Department of Veterans Affairs (VA).

For further information contact Mr. James D. Johnston at the Secretary of the Air Force Personnel Council (SAFPC), DoD Civilian/Military Service Review Board, 1535 Command Drive, 3rd Floor–EE Wing, Andrews AFB, MD 20762–7002.

**Janet A. Long,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 99–22842 Filed 9–1–99; 8:45 am]

BILLING CODE 5005–05–P

## 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 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 action will be effective on october 4, 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 22060–6221.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Salus at (703) 767–6183.

**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 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. 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 record system being amended is set forth below, as amended, published in its entirety.

Dated: August 27, 1999.

**L. M. Bynum,**

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

#### S600.30 CAAE

**SYSTEM NAME:**

Safety and Health Accident Case Files *(September 19, 1994, 59 FR 47845).*

**CHANGES:**

* * * * *

**SYSTEM LOCATION:**

Add to beginning of entry 'Environment and Safety Policy,'.

* * * * *

**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.'

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with '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, 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:

Delete entry and replace with 'Individuals seeking access to records about themselves contained in this system of records should address 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.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Record subject, supervisors, medical units, security offices, police, fire departments, investigating officers, or witnesses to accident.'

* * * * *

## S600.30 CAAE

SYSTEM NAME:

Safety and Health Accident Case Files.

SYSTEM LOCATION:

Environment and Safety Policy, Headquarters Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the DLA Primary Level Field Activity Safety and Health offices. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who are injured, made ill, or suffer property damage resulting from DLA operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, age, home address and telephone number, accident reports, witness statements, photographs, and proposed or actual corrective action, where appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 29 U.S.C. 651 et seq., The Occupational Safety and Health Act of 1970 (OSHA); E.O. 9397 (SSN); E.O. 12196, Occupational Safety and Health Programs for Federal Employees; 29 CFR part 1960, Subpart I, Recordkeeping and Reporting Requirements for Federal Occupational Safety and Health Programs.

PURPOSE(S):

Information is maintained to comply with regulatory reporting requirements; to identify cause of accident; to formulate accident prevention programs; to identify individuals involved in repeated accidents; and to prepare statistical reports as required.

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:

To the Department of Labor to comply with the requirement to report Federal civilian employee on-the-job accidents (29 CFR 1960).

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 stored in paper and electronic formats.

RETRIEVABILITY:

Retrieved by name, Social Security Number, or mishap report number.

SAFEGUARDS:

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:

Cases involving reportable mishaps are destroyed five years after case is closed. Cases involving non-reportable mishaps are destroyed three years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Environment and Safety Policy, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221; and the Safety and Health Offices of the Defense Logistics Agency Primary Level Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

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, 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 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 22060–6221.

RECORD SOURCE CATEGORIES:

Record subject, supervisors, medical units, security offices, police, fire departments, investigating officers, or witnesses to accident.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–22833 Filed 9–1–99; 8:45 am]

BILLING CODE 5001–10–F

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Navy, DoD.
**ACTION:** Notice to amend record system.

**SUMMARY:** The Department of the Navy proposes to amend three 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 amendments will be effective on October 4, 1999, unless comments are received that would result in a contrary determination.
**ADDRESSES:** Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.
**FOR FURTHER INFORMATION CONTACT:** Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.
**SUPPLEMENTARY INFORMATION:** The Department of the Navy'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 Department of the Navy proposes to amend three 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 systems 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 reports. The records systems being amended are set forth below, as amended, published in their entirety.

Dated: August 27, 1999.

**L. M. Bynum,**

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

**N01070–3**

**SYSTEM NAME:**

Navy Personnel Records System *(December 17, 1997, 62 FR 66066).*

**CHANGES:**

* * * * *

**SYSTEM LOCATION:**

Delete first paragraph and replace with 'Primary locations: Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055-3130; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800; and local activity to which individual is assigned. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.'

* * * * *

**RETENTION AND DISPOSAL:**

Delete entry and replace with 'Transfer to Naval Reserve Personnel Center, New Orleans, LA 70149 six months after discharge, retirement, or death of service member. Naval Reserve Personnel Center will forward to the National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5000. Transfer to the National Archives and Records Administration 75 years after separation of service member. [Note: An exception is made for copies of officer fitness reports, enlisted evaluations, and officer and enlisted counseling forms which may be maintained by the member's commanding officer or command for a period not to exceed five years.]'

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with 'Commander, Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055-3130; Commanding Officers, Officers in Charge, and Heads of Department of the Navy activities. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.'

* * * * *

**N01070–3**

**SYSTEM NAME:**

Navy Personnel Records System.

**SYSTEM LOCATION:**

Primary locations: Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055-3130; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800; and local activity to which individual is assigned. Official mailing addresses are published as an appendix to the Navy's compilationof system of record notices.

Secondary locations: Department of the Navy Activities in the chain of command between the local activity and the headquarters level; Federal Records Storage Centers; National Archives. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All Navy military personnel: officers, enlisted, active, inactive, reserve, fleet reserve, retired, midshipmen, officer candidates, and Naval Reserve Officer Training Corps personnel.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personnel service jackets and service records, correspondence and records in both automated and non-automated form concerning classification, assignment, distribution, promotion, advancement, performance, recruiting, retention, reenlistment, separation, training, education, morale, personal affairs, benefits, entitlements, discipline and administration of naval personnel.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations and E.O. 9397 (SSN).

**PURPOSE(S):**

To assist officials and employees of the Navy in the management, supervision and administration of Navy personnel (officer and enlisted) and the operations of related personnel affairs and functions.

**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:

To officials and employees of the National Research Council in Cooperative Studies of the National History of Disease, of Prognosis and of Epidemiology. Each study in which the records of members and former members of the naval service are used must be approved by the Chief of Naval Personnel.

To officials and employees of the Department of Health and Human Services, Department of Veteran Affairs, and Selective Service Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy.

To officials and employees of the Department of Veteran Affairs in the performance of their duties relating to approved research projects.

To officials and employees of Navy Relief and the American Red Cross in the performance of their duties relating to the assistance of the members and their dependents and relatives, or related to assistance previously furnished such individuals, without regard to whether the individual assisted or his/her sponsor continues to be a member of the Navy.

To duly appointed Family Ombudsmen in the performance of their duties related to the assistance of the members and their families.

To state and local agencies in the performance of their official duties related to verification of status for determination of eligibility for Veterans Bonuses and other benefits and entitlements, including Department of Labor and state unemployment agencies for unemployment compensation for ex-service members.

To officials and employees of the Office of the Sergeant at Arms of the United States House of Representatives in the performance of their official duties related to the verification of the active duty naval service of Members of Congress.

Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual the United States Government will be liable for the losses the facility may incur.

To federal, state, local, and foreign (within Status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

Information relating to professional qualifications of chaplains may be provided to civilian certification boards and committees, including, but not limited to, state and federal licensing authorities and ecclesiastical endorsing organizations.

To governmental entities or private organizations under government contract to perform random analytical research into specific aspects of military personnel management and administrative procedures.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of system of record notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Automated records may be stored on magnetic tapes, disc, and drums. Manual records may be stored in paper file folders, microfiche or microfilm.

**RETRIEVABILITY:**

Automated records may be retrieved by name and Social Security Number. Manual records may be retrieved by name, Social Security Number, enlisted service number, or officer file number.

**SAFEGUARDS:**

Computer facilities and terminals are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained. Manual records and computer printouts are available only to authorized personnel having a need-to-know.

**RETENTION AND DISPOSAL:**

Transfer to Naval Reserve Personnel Center, New Orleans, LA 70149 six months after discharge, retirement, or death of service member. Naval Reserve Personnel Center will forward to the National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5000. Transfer to the National Archives and Records Administration 75 years after separation of service member.

**Note:** An exception is made for copies of officer fitness reports, enlisted evaluations, and officer and enlisted counseling forms which may be maintained by the member's commanding officer or command for a period not to exceed five years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055-3130; Commanding Officers, Officers in Charge, and Heads of Department of the Navy activities. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055-3130; or contact the personnel officer where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

The letter should contain full name, Social Security Number (and/or enlisted service number/officer file number), rank/rate, designator, military status, address, and signature of the requester.

The individual may visit the Navy Personnel Command, Records Review Room, Building 769, Room K615, Millington, TN for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055-3130, or contact the personnel officer where assigned. Official mailing addresses arepublished as an appendix to the Navy's compilation of system of records notices.

The letter should contain full name, Social Security Number (and/or enlisted service number/officer file number), rank/rate, designator, military status, address, and signature of the requester.

The individual may visit the Navy Personnel Command, Records Review Room, Building 769, Room K615, Millington, TN for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

**CONTESTING RECORD PROCEDURES:**

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Correspondence; educational institutions; federal, state, and local court documents; civilian and military investigatory reports; general correspondence concerning the individual; official records of professional qualifications; Navy Relief and American Red Cross requests for verification of status.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**N05520–1**

**SYSTEM NAME:**

Personnel Security Eligibility Information System *(November 10, 1993, 58 FR 59710).*

**CHANGES:**

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**SYSTEM LOCATION:**

Delete entry and replace with 'Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055-0600.'

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with 'Commander, Navy Personnel Command (NPC-831), 5720 Integrity Drive, Millington, TN 38055-0600.'

* * * * *

**RECORD SOURCE CATEGORIES:**

Delete entry and replace with 'Department of the Navy Central Adjudication Facility; Chief of Naval Operations (N09N2) and other officials and employees of the Department of the Navy; and military investigative reports.'

* * * * *

**N05520–1**

**SYSTEM NAME:**

Personnel Security Eligibility Information System.

**SYSTEM LOCATION:**

Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055-0600.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Members of the U.S. Navy and Naval Reserve, former members, and applicants for enlistment or commissioning.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Reports of correspondence and information pertinent to an individual's eligibility for personnel security clearance, assignment to the Nuclear Weapons Personnel Reliability Program, or other 'high risk' program requiring personnel quality control.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; and E.O. 9397 (SSN).

**PURPOSE(S):**

To determine service member's eligibility for assignment to duties requiring personnel security clearances, assignment to the Nuclear Weapons Personnel Reliability Program, or other 'high risk' programs requiring quality control.

**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' that appear at the beginning of the Navy'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:**

Paper records in file folders and index cards. Some information from the paper records is contained in an automated file.

**RETRIEVABILITY:**

Paper records are filed alphabetically by last name of individual. Automated files are filed by Social Security Number.

**SAFEGUARDS:**

Stored in locked safes and cabinets. File areas are accessible only to authorized persons who are properly screened, cleared, and trained.

**RETENTION AND DISPOSAL:**

Files are destroyed two years after individual separates from the Navy.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, Navy Personnel Command (NPC-831), 5720 Integrity Drive, Millington, TN 38055-0600.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Navy Personnel Command (NPC-831), 5720 Integrity Drive, Millington, TN 38055-0600.

The letter should contain full name, Social Security Number, rank/rate/civilian status, and address of the requester.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Navy Personnel Command (NPC-831), 5720 Integrity Drive, Millington, TN 38055-0600.

The letter should contain full name, Social Security Number, rank/rate/civilian status, and address of the requester.

**CONTESTING RECORD PROCEDURES:**

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Department of the Navy Central Adjudication Facility; Chief of Naval Operations (N09N2) and other officials and employees of the Department of the Navy; and military investigative reports.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1-R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

**N12290–1**

**SYSTEM NAME:**

Personnel Action Reporting System *(August 11, 1994, 59 FR 41284).*

**CHANGES:**

* * * * *

**SYSTEM LOCATION:**

Delete entry and replace with 'Navy Personnel Command (NPC-653), 5720

Integrity Drive, Millington, TN 38055-6530, and local activity to which individual is assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.'

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Non-appropriated Fund (NAF) civilian employees attached to NAF activities under the Commander, Navy Personnel Command.'

CATEGORIES OF RECORDS IN THE SYSTEM:

In line 6, after the word 'education' insert 'training, labor management relations, worker compensation, performance based actions, business based actions,'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry 'E.O. 12107.'

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Navy Personnel Command (NPC-653), 5720 Integrity Drive, Millington, TN 38055-6530.'

* * * * *

**N12290–1**

SYSTEM NAME:

Personnel Action Reporting System.

SYSTEM LOCATION:

Navy Personnel Command (NPC-653), 5720 Integrity Drive, Millington, TN 38055-6530, and local activity to which individual is assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-appropriated Fund (NAF) civilian employees attached to NAF activities under the Commander, Navy Personnel Command.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and records pertaining to performance, employment, pay, classification, security clearance, personnel actions, medical, insurance, retirement, tax withholdinginformation, exemptions, unemployment compensation, employee profile, education, training, labor management relations, worker compensation, performance based actions, business based actions, benefits, discipline and administration of nonappropriated fund civilian personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; Pub. L. 92–392; Fair Labor Standards Act, as amended; E.O. 9397 (SSN); and E.O. 12107.

PURPOSE(S):

To manage, supervise, and administer the nonappropriated fund civilian personnel program for employees attached to Nonappropriated Fund Activities under the Commander, Navy Personnel Command.

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:

To insurance carriers and other third parties who administer benefits coverage to NAF employees.

To Department of Labor for unemployment compensation purposes.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic tapes or discs. Manual records may be stored in paper file folders, microfiche, or microfilm.

RETRIEVABILITY:

Name, Social Security Number, and/or activity number.

SAFEGUARDS:

Computer processing facilities are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained. Manual records and computer printouts are available only to authorized personnel having a need-to-know.

RETENTION AND DISPOSAL:

Records are transferred to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118, one year after the individual terminates employment.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Navy Personnel Command (NPC-653), 5720 Integrity Drive, Millington, TN 38055-6530.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Navy Personnel Command (NPC-653), 5720 Integrity Drive, Millington, TN 38055-6530, or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain full name, Social Security Number, activity at which employed, and signature of the requester.

The individual may visit the Commander, Navy Personnel Command (NPC-653), 5720 Integrity Drive, Millington, TN 38055-6530, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Navy Personnel Command (NPC-653), 5720 Integrity Drive, Millington, TN 38055-6530, or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain full name, Social Security Number, activity at which employed, and signature of the requester.

The individual may visit the Commander, Navy Personnel Command (NPC-653), 5720 Integrity Drive, Millington, TN 38055-6530, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; local activity where assigned; Defense Investigative Service; previous employers; educational institutions; employment agencies; civilian and military investigative reports; general correspondence concerning individual.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 99–22835 Filed 9–1–99; 8:45 am]

BILLING CODE 5001–10–F

## DEPARTMENT OF ENERGY

### Environmental Management Advisory Board

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Advisory Board. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Wednesday, September 22, 1999 and Thursday, September 23, 1999.

**ADDRESSES:** U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW (Room 1E–245), Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** James T. Melillo, Special Assistant to the Assistant Secretary for Environmental Management and Executive Director of the Environmental Management Advisory Board (EM–1), 1000 Independence Avenue SW (Room 5B–171), Washington, DC 20585. The telephone number is 202–586–4400. The Internet address is james.melillo@em.doe.gov.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* To provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management Advisory Program from the perspective of affected groups, as well as state, local, and tribal governments. The Board will contribute to the effective operation of the Environmental Management Program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing the Office of Environmental Management and by helping to secure consensus recommendations on those issues.

### Preliminary Agenda

*Wednesday, September 22, 1999*

1 p.m. Public Meeting Opens
—Approve Minutes of April 22, 1999 Meeting
Opening Remarks
—Technology Development & Transfer Committee Report
—Technology Deployment*
—EM Science & Technology Performance Measures*
Joint Science Committee & Technology Development & Transfer Committee Report
—Environmental Quality Research and Development Portfolio*
—Management of EM Laboratories*
—EM Science Program
Worker Health & Safety Committee Report*
Long-Term Stewardship Committee Report*
Privatization Committee Report
Board Structure
Public Comment Period
5:15 p.m. Wrap up—Adjourn

*Thursday, September 23, 1999*

8:30 a.m. Opening Remarks
Accelerating Closure Committee Report
—Programmatic Planning and Implementation Subcommittee
—Transportation Subcommittee
—Integration & Public Participation Subcommittee
EM Web Page Developments
Board Discussions
Public Comment Period
Board Business
—Votes on EMAB Findings & Resolutions
—Conflict of Interest Refresher
—New Business and Set Date for Next Board Meeting (April 2000)
Public Comment Period
12:05 p.m. Meeting Adjourns

* The Board anticipates recommendations to be presented.

*Public Participation:* This meeting is open to the public. If you would like to file a written statement with the Board, you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, please contact Mr. Melillo at the address or telephone number listed above, or call the Environmental Management Advisory Board office at 202–586–4400, and we will reserve time for you on the agenda. You may also register to speak at the meeting on September 22–23, or ask to speak during the public comment period. Those who call in and or register in advance will be given the opportunity to speak first. Others will be accommodated as time permits. The Board Chair will conduct the meeting in an orderly manner.

*Transcript and Minutes:* We will make the minutes of this meeting available for public review and copying by October 23, 1999. The minutes and transcript of the meeting will be available for viewing at the Freedom of Information Public Reading Room (Room 1E–190) in the Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW Washington, DC 20585. The Room is open Monday through Friday from 9:00 a.m.–4:00 p.m. except on Federal holidays.

Issued in Washington, DC on August 26, 1999.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 99–22875 Filed 9–1–99; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Paducah

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, September 16, 1999: 6:00 p.m.–8:30 p.m.

**ADDRESSES:** DOE Site Office Conference Room, 5600 Hobbs Road, West Paducah, KY.

**FOR FURTHER INFORMATION CONTACT:** John D. Sheppard, Site Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6804.

**SUPPLEMENTARY INFORMATION:**

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

*Tentative Agenda*

4:00 p.m. Tour Surface Water Operable Unit*
6:00 p.m. Call to Order/Discussion
6:05 p.m. Approve Meeting Minutes
6:30 p.m. Public Comment/Questions
7:15 p.m. Presentations
8:15 p.m. Sub Committee Reports
8:25 p.m. Administrative Issues
8:30 p.m. Adjourn

* Contact John Sheppard at (270) 441–6804 regarding a reservation for the tour.

Final copies of the agenda will be available at the meeting.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements

pertaining to agenda items should contact John D. Sheppard 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 Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday thru Friday or by writing to John D. Sheppard, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (502) 441–6804.

Issued at Washington, DC on August 26, 1999.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 99–22876 Filed 9–1–99; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Office of Nonproliferation and National Security; Nonproliferation and National Security Advisory Committee

**AGENCY:** Department of Energy.

**ACTION:** Notice of closed meeting.

**SUMMARY:** This notice announces a meeting of the Nonproliferation and National Security Advisory Committee. The Federal Advisory Committee Act, 5 U.S.C. App. 2 § 10(a)(2) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Tuesday, September 14, 1999, 9:00 a.m. to 5:00 p.m.; Wednesday, September 15, 1999, 9:00 a.m. to 5:00 p.m.; and Thursday, September 16, 1999, 9:00 a.m. to 12:00 noon.

**ADDRESSES:** Lawrence Livermore National Laboratory Livermore, California.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Waldron (202–586–2400), Designated Federal Officer, Office of Research and Development (NN–20), Office of Nonproliferation and National Security, 1000 Independence Avenue, SW, Washington, D.C. 20585.

**SUPPLEMENTARY INFORMATION:** *Purpose of the Meeting:* To discuss the nonproliferation and national security research and development program.

**Tentative Agenda**

*Tuesday, September 14, 1999*

09:00–09:15 NNAC Welcome
09:15–12:00 NNAC Executive Session
12:00–1:00 Working Lunch
1:00–5:00 R&D Program Briefings, Lawrence Livermore National Laboratory (LLNL)/Pacific Northwest National Laboratory (PNNL)

*Wednesday, September 15, 1999*

09:00–12:00 R&D Program Briefings LLNL/PNNL
12:00–1:00 Working Lunch
1:00–5:00 R&D Program Briefings LLNL/PNNL

*Thursday, September 16, 1999*

09:00–12:00 R&D Program Briefings LLNL/PNNL

*Closed Meeting:* In the interest of national security, the meeting will be closed to the public pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 section 10 (d), and the Federal Advisory Committee Management regulation, 41 C.F.R. 101–6.1023, ''Procedures for Closing an Advisory Committee Meeting'', which incorporate by reference the Government in Sunshine Act, 5 U.S.C. 552b, which, at sections 552b (c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters are discussed.

*Minutes:* Minutes of the meeting will be recorded and classified accordingly.

Issued at Washington, D.C. on August 26, 1999.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 99–22873 Filed 9–1–99; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Secretary of Energy Advisory Board; Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Secretary of Energy Advisory Board's Laboratory Operations Board. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation.

**DATES:** Tuesday, September 14, 1999, 8:30 A.M.–3:00 P.M.

**ADDRESSES:** Hilton Washington Embassy Row Hotel, Ambassador Room, 2015 Massachusetts Avenue, NW, Washington, D.C. 20036.

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

**SUPPLEMENTARY INFORMATION:** The purpose of the Laboratory Operations Board is to provide advice to the Secretary of Energy Advisory Board regarding the strategic direction of the Department's laboratories, the coordination of budget and policy issues affecting laboratory operations, and the reduction of unnecessary and counterproductive management burdens on the laboratories. The Laboratory Operations Board's goal is to facilitate the productive and cost-effective utilization of the Department's laboratory system and the application of best business practices.

**Tentative Agenda**

*Tuesday, September 14, 1999*

8:30–8:45 A.M. Opening Remarks—Co-Chairs: E. Moniz & J. McTague
8:45–10:00 A.M. Briefings & Discussion: Security Reform
10:00–10:15 A.M. Break
10:15–10:45 A.M. Briefings & Discussion: Legislative Action & Policy Issues
10:45–11:45 A.M. Briefings & Discussion: Performance-Based Management and Performance-Based Contracting
11:45–1:15 P.M. Lunch Break
1:15–2:00 P.M. Briefings & Discussion: Enhancing Federal Work Force Capabilities
2:00–2:30 P.M. Briefing & Discussion: New Management Structure
2:30–2:45 P.M. Discussion: Laboratory Operations Board Work Plan Issues
2:45–3:00 P.M. Public Comment Period
3:00 P.M. Adjourn

This tentative agenda may change. We will have a final agenda available at the meeting.

*Public Participation:* The Chairman of the Laboratory Operations Board is empowered to conduct the meeting in a way which will, in the Chairman's judgment, facilitate the orderly conduct

of business. During its meeting in Washington, D.C. the Laboratory Operations Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Laboratory Operations Board will make every effort to hear the views of all interested parties. You may submit written comments to Betsy Mullins, Executive Director, Secretary of Energy Advisory Board, AB–1, US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date due to programmatic issues that needed to be resolved prior to publication.

*Minutes:* We will make minutes and a transcript of the meeting available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 A.M. and 4:00 P.M., Monday through Friday except Federal holidays. You can find more information on the Laboratory Operations Board at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on August 26, 1999.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 99–22874 Filed 9–1–99; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP99–479–000]**

## Colorado Interstate Gas Co.; Notice of Tariff Filing

August 27, 1999.

Take notice that on August 23, 1999, Colorado Interstate Gas Company (CIG), P. O. Box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A of the filing to be effective October 1, 1999.

CIG states that in an order that issued February 24, 1999 in Docket No. RP99–211. the Federal Energy Regulatory Commission (''Commission'') accepted tariff sheets filed by CIG on January 29, 1999, that revised CIG's First Revised Volume No. 1, Rate Schedules TF–1, TI–1, NNT–1, NNT–2, TF–4, FS–1, IS–1 and PAL–1. CIG further states it revised the pro forma service agreements to provide for specific examples of volume related discounts and by including this additional information in its tariff, it was seeking to avoid the need for filing individual discount agreements on the grounds that they contain ''material deviations'' from the pro forma service agreements.

CIG states that consistent with filings that have been made recently by other pipelines, it proposes to revise its pro forma service agreements again to reflect one additional example of volume-related discount as follows: Transporter and shipper may agree that a specified discount rate will apply in a specified relationship to the quantities actually delivered (*i.e.*, that the rates shall adjusted in a specified relationship to quantities actually delivered).

CIG further states that copies of this compliance filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–22883 Filed 9–1–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP99–603–000]**

## Midcoast Interstate Transmission, Inc.; Notice of Application

August 27, 1999.

Take notice that on August 18, 1999, Midcoast Interstate Transmission, Inc. (MIT), formerly Alabama-Tennessee Natural Gas Company, 3230 Second Street, Muscle Shoals, Alabama 35661, filed an application pursuant to section 7(c) of the Natural Gas Act and part 157 of the Commission's Regulations, requesting a certificate of public convenience and necessity authorizing to continue to operate certain existing compressor and related facilities at the Sheffield Compressor Station, in order to ensure its ability to satisfy its firm service requirements, all as more fully set forth in the application which is on file with the Commission and open to the public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance.

On October 2, 1997, the Commission issued in Docket No. CP 97–699–000 a limited-term certificate, authorizing MIT to operate for a one-year period ending November 1, 1998, two standby 350 horsepower Clark compressor units and related facilities, located at its Sheffield Compressor Station in Colbert County, Alabama. The utilization of the two standby compressor units would allow MIT time to determine whether a more permanent service arrangement would be required based on the outcome of the North Alabama Pipeline project of Southern Natural Gas Company (Southern) in Docket No. CP96–153–000 and the service decisions of the customers, the Cities of Decatur and Huntsville (Decatur and Huntsville), that the project was designed to serve. On October 28, 1998, the Commission issued an Order Amending Limited Term Certificate for a one-year extension, from November 1, 1998, until November 1, 1999.

Currently, MIT is seeking certificate authority to continue to operate the two existing compressor units, and related facilities, at the Sheffield Compressor Station. MIT's new firm service contracts that Decatur and Huntsville have executed extend to November 1, 2002, for Decatur, and to April 1, 2003, for Huntsville. According to MIT, the continued operation of the two compressors is essential to MIT fulfilling all of its firm service obligation, including those contracted by the Decatur and Huntsville. During the past two years, MIT asserts that it has used the units intermittently, during short, peak periods, in order to fulfill its firm service obligations. The compressor units are longstanding units that are already in place, and according to MIT would avoid the need for any new construction.

Any questions regarding this application should be directed to Bernard A. Foster, III, Attorney for MIT, 2001 L Street, NW, Suite 400, Washington, DC 20036 at (202) 822–8888, or Jan Rogers, Vice President

Regulatory Affairs, 1100 Louisiana, Suite 2950, Houston, Texas 77002 at (713) 650–8900.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for MIT to appear or be represented at the hearing.

**David P. Boergers**

*Secretary.*

[FR Doc. 99–22877 Filed 9–1–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. GT99–30–002]**

### Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1999.

Take notice that on August 20, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective June 6, 1999:

First Revised Sheet No. 8C

REGT states that the purpose of this filing is to reflect the correction of an administrative oversight which occurred in its filing to change the name of its tariff from NorAm Gas Transmission Company to REGT.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–22878 Filed 9–1–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–480–000]**

### Texas Eastern Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1999.

Take notice that on August 23, 1999, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to be effective September 23, 1999:

Fourth Revised Sheet No. 430
Sixth Revised Sheet No. 434
Second Revised Sheet No. 456
Second Revised Sheet No. 469
Original Sheet No. 683
Sheet Nos. 684–699

Texas Eastern states that the purpose of this filing is to set forth in its tariff a negotiated rates provision pursuant to the Alternative Rates Policy Statement [74 FERC 61,076 (1996)].

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–22884 Filed 9–1–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–481–000]**

### Transwestern Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1999.

Take notice that on August 23, 1999, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1 the tariff sheets attached to the filing, to be effective September 23, 1999.

Transwestern is submitting these tariff sheets to establish an Enhanced Firm Backhaul Service (EFBH) under Rate Schedule EFBH. Forward haul capacity resulting from firm backhauls will provide Transwestern with the opportunity to offer service to other shippers. To ensure that Transwestern can provide firm service on such forward haul capacity, the tariff sheets contain a minimum transportation obligation, with a provision allowing Transwestern to issue operational flow orders if a shipper fails to nominate, confirm, schedule, tender to Transporter and take delivery of the full amount of the MAXDTQ on every day during the term of the EFBH Service Agreement. Failure to comply with an operational flow order will subject the shipper to a financial penalty. Firm backhaul service

without the minimum transportation obligation will remain available under the existing provisions of Transwestern's tariff.

Copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Referenced Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–22885 Filed 9–1–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. GT99–65–000]**

### Wyoming Interstate Company, Ltd.; Notice of Cancellation of Tariff

August 27, 1999.

Pursuant to Section 154.602 of the Commission's Regulations, Wyoming Interstate Company, Ltd. (WIC) filed on August 23, 1999, a Notice of Cancellation of its FERC Gas Tariff, First Revised Volume No. 1. WIC proposes that effective October 1, 1999, First Revised Volume No. 1 of the FERC Gas Tariff of Wyoming Interstate Company, Ltd. is to be canceled.

WIC states that as an open-access pipeline operating under Order No. 636, it has two tariffs: First Revised Volume No. 1 and Second Revised Volume No. 2. First Revised Volume No. 1 provides a tariff for individually-certificated service for WIC's original shippers. Second Revised Volume No. 2 is a tariff that satisfies the requirements of open-access transportation and Order No. 636.

WIC states that when the Commission originally certificated the WIC transmission facilities, the Commission also certificated the transportation service agreements supporting the project. Because WIC is a project-financed pipeline, the Commission took into consideration WIC's loan obligations pursuant to project-financing. These obligations required that the original shippers receive individually-certificated service pursuant to WIC's Volume No. 1 Tariff. WIC states that it has received authorization to abandon its original Volume No. 1 obligations. WIC states that it has executed Volume No. 2 agreements effective August 1, 1999, to replace the Volume No. 1 obligations.

WIC states that cancellation of WIC's Volume No. 1 tariff will reduce the administrative burden on WIC and shippers associated with maintaining and monitoring multiple tariffs, that it has received lender approval to cancel its Volume No. 1 Tariff, and that all agreements were converted to ''open access'' service effective August 1, 1999, pursuant to 18 CFR 157.217. Therefore, effective August 1, 1999, WIC has no transportation service under its Volume No. 1 Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–22879 Filed 9–1–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–478–000]**

### Wyoming Interstate Company, Ltd.; Notice of Tariff Filing

August 27, 1999.

Take notice that on August 23, 1999, Wyoming Interstate Company, Ltd. (WIC) PO box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 2, the tariff sheets listed in Appendix A of the filing to be effective October 1, 1999.

WIC states that in an order that issued February 25, 1999 in Docket No. RP99–215, the Federal Energy Regulatory Commission (Commission) accepted tariff sheets filed by WIC on January 29, 1999, that revised WIC's Second Revised Volume No. 2, Rate Schedules FT and IT. WIC further states it revised the pro forma service agreements to provide for specific examples of volume related discounts and by including this additional information in its tariff, it was seeking to avoid the need for filing individual discount agreements on the grounds that they contain ''material deviations'' from the pro forma service agreements.

WIC states that consistent with filings that have been made recently by other pipelines, it proposes to revise its pro forma service agreements again to reflect one additional example of volume-related discount as follows: Transporter and shipper may agree that a specified discount rate will apply in a specified relationship to the quantities actually delivered (*i.e.*, that the rates shall be adjusted in a specified relationship to quantities actually delivered).

WIC further states that copies of this compliance filing have been served on WIC's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with §§ 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–22882 Filed 9–1–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 2620–005; South Carolina]**

## Lockhart Power Company; Notice of Availability of Final Environmental Assessment

August 27, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Lockhart Hydroelectric Project. The project is located on the Broad River, near the town of Lockhart, in Union, Chester, York, and Cherokee counties, South Carolina. No federal lands or facilities are occupied or used by the project.

On June 25, 1999, the Commission staff issued a draft environmental assessment (DEA) for the project and requested that comments be filed with the Commission within 30 days. Comments on the DEA were filed and are addressed in the final environmental assessment (FEA) for the project.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the FEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426. This filing may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–22880 Filed 9–1–99; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6432–4]**

## Agency Information Collection Activities: Proposed Collection; Comment Request; Spill Prevention, Control, and Countermeasure (SPCC) Plans

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Spill Prevention, Control, and Countermeasure (SPCC) Plans, EPA ICR No. 0328.08, OMB Control No. 2050–0021, expiring December 31, 1999. 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 November 1, 1999.

**ADDRESSES:** Interested persons may obtain a copy of the ICR without charge from the U.S. EPA, Oil Program Center, 401 M Street, SW (5203G), Washington, D.C. 20460. Materials relevant to this ICR may be inspected from 9 a.m. to 4 p.m., Monday through Friday (except holidays), by visiting the Public Docket, located at 1235 Jefferson Davis Highway (ground floor), Arlington, Virginia 22202. The docket number for this notice is SPCC–11. The telephone number for the Public Docket is (703) 603–9232. A reasonable fee may be charged for copying docket material. Comments on specific aspects of the proposed information collection notice should be addressed to the Public Docket.

**FOR FURTHER INFORMATION CONTACT:** Hugo Paul Fleischman, (703) 603–8769. Facsimile number: (703) 603–9116. Electronic address: fleischman.hugo@epa.gov. Note that questions concerning the notice, but not comments will be accepted electronically. As noted above, comments should be sent to the Public Docket.

**SUPPLEMENTARY INFORMATION:**

### Affected Entities

The Spill Prevention, Control, and Countermeasure (SPCC) regulation applies only to non-transportation-related facilities that could reasonably be expected to discharge oil into or upon the navigable waters of the U.S., or adjoining shorelines, and that have: (1) A total underground buried oil storage capacity of more than 42,000 gallons; or (2) a total aboveground oil storage capacity of more than 660 gallons in a single container.

The specific private industry sectors expected to be affected by this action include: (1) Petroleum and coal products manufacturing (NAICS 324); (2) petroleum bulk stations and terminals (NAICS 42271); (3) crude petroleum and natural gas extraction (NAICS 211111); (4) transportation (including pipelines), warehousing, and marinas (NAICS 482–486/488112–48819/4883/4889/492–493/71393); (5) electric power generation, transmission, and distribution (NAICS 2211); (6) other manufacturing (NAICS 31–33); (7) gasoline stations/automotive rental and leasing (NAICS 4471/5321); (8) heating oil dealers (NAICS 454311); (9) coal mining, non-metallic mineral mining and quarrying (NAICS 2121/2123/213114/213116); (10) heavy construction (NAICS 234); (11) elementary and secondary schools, colleges (NAICS 6111–6113); (12) hospitals/nursing and residential care facilities (NAICS 622–623); and (13) crop and animal production (NAICS 111–112).

Title: ''Spill Prevention, Control, and Countermeasure (SPCC) Plans,'' OMB Control Number 2050–0021. EPA Control Number 328.08. Expiration date: December 31, 1999.

### Abstract

Under section 311 of the Clean Water Act, EPA's SPCC regulation requires facilities to prepare and implement SPCC Plans to help ''minimize the potential for oil discharges.'' This regulation is codified at 40 CFR part 112. The SPCC Plan must be ''a carefully thought-out plan, prepared in accordance with good engineering practices.'' Preparation of the SPCC Plan requires that a facility's staff analyze how the facility will prevent oil discharges, thereby encouraging appropriate facility design and operations. The information in the SPCC Plan also promotes efficient response in the event of a discharge. Finally, proper maintenance of the SPCC Plan will promote important spill-reducing measures, facilitate leak detection, and generally ensure that the facility is at peak capability for deterring discharges. The specific activities and reasons for the information collection are described below.

**New Plan**

Preparation of the Plan, required under § 112.3, involves several tasks, mostly conducted by the facility's technical personnel. These tasks include: field investigations to understand facility design and possible failures and to predict the flow paths of spilled oil and the potential harm that the spilled oil would have on navigable waters; a regulatory review to ensure that personnel are fully aware of all requirements and limitations imposed in the rule; an evaluation of current spill prevention and control practices the facility employs; preparation of the Plan according to the specification of § 112.7, and certification by a Registered Professional Engineer (P.E.)

**Modification of Plan**

Under § 112.5(a) the SPCC Plan must be amended whenever there is a change in the facility's design, construction, operation, and maintenance that materially affects the facility's potential to discharge oil into navigable waters or onto adjoining shorelines. The amended Plan must also be certified by a P.E.

**Triennial Review**

Under § 112.5(b), owners or operators of regulated facilities must review and evaluate the Plan at least once every three years. This involves review of spill prevention and control procedures being implemented under the current Plan, as well as a regulatory review. Facility owners/operators must amend the SPCC Plan within six months of the review to include more effective prevention and control technology if: (1) Such technology will significantly reduce the likelihood of a spill event; and (2) such technology has been field-proven at the time of the review. If amended, the Plan must also be certified by a P.E.

**Oil Discharge**

Under § 112.4, in the event of certain oil discharges, facility owner/operators must submit information to the Regional Administrator within 60 days. Discharges of oil that trigger the reporting requirements are: (1) A single spill event of more than 1,000 U.S. gallons into navigable waters; or (2) two or more spills (in a twelve month period) of harmful quantities as defined in 40 CFR part 110.

Submitting a Plan after a discharge involves time to collect the required information, as well as time for review by management. The facility must also submit a copy of this information to the appropriate state agency in charge of water pollution control activities. After the Regional Administrator and the appropriate state agency have reviewed the Plan, the Regional Administrator may require amendment of the SPCC Plan. The amended Plan must be certified by a P.E. prior to implementation. Facilities may appeal a decision made by the Regional Administrator requiring an amendment to an SPCC Plan.

**Recordkeeping**

Under § 112.3, the facility owner/operator must maintain a copy of the SPCC Plan at the facility, or under certain circumstances, at the nearest field office. The Plan must be available for review during normal working hours. In addition, facilities must maintain (and update) records of Plan-specific inspections as outlined under § 112.7(e).

**Purpose of Data Collection**

EPA does not collect the information required by the Oil Pollution Prevention regulation (i.e., the SPCC Plan) on a routine basis. Preparation, implementation, and maintenance of the SPCC Plan by the facility help prevent oil discharges, and mitigate environmental damage caused by such discharges. Therefore, the primary user of the data is the facility itself. For example:

(i) As facility staff accumulate the necessary data, they must analyze the facility's capability to prevent oil discharges, facilitate safety awareness, and promote appropriate modifications to facility design and operations;

(ii) Because facility staff keep the required information in a single document, they can respond efficiently in the event of a discharge;

(iii) To implement the Plan according to the specifications of § 112.7, the facility must meet certain design and operational standards that reduce the likelihood of an oil discharge;

(iv) Inspection records help facilities to promote important maintenance, facilitate leak detection, and demonstrate compliance with the SPCC requirements; and

(v) When facility staff review the Plan every three years, they ensure implementation of more effective spill prevention control technology.

Although the facility is the primary data user, EPA also uses the data in certain situations. EPA primarily uses SPCC plan data to ensure that facilities comply with the regulation, including design and operation specifications and inspection requirements. EPA reviews SPCC Plans: (1) When facilities submit the Plans because of oil discharges, and (2) as part of EPA's inspection program. State and local governments also use the data, which is not necessarily available elsewhere and can greatly assist local emergency preparedness planning efforts. Coordination with state governments is facilitated when, after certain spill events, a facility sends a copy of the SPCC Plan and additional information on the spill to the relevant state agency.

As part of the Agency's efforts to reduce the overall paperwork burden on regulated facilities, EPA would like to solicit comments on how the Agency could best reduce the total paperwork burden hours for this rule while maintaining an effective level of environmental protection.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

EPA would also like to solicit public 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.

Additionally, the Agency has recently proposed revisions to the SPCC rule to reduce the burden imposed on regulated facilities (December 2, 1997, 62 FR 63812). Proposed revisions would: (1) Give facility owners or operators flexibility to use alternative formats for SPCC Plans; (2) allow the use of certain records maintained pursuant to usual and customary business practices, or pursuant to the National Pollutant Discharge Elimination System (NPDES) program, to be used in lieu of records mandated by the SPCC requirements; (3) reduce the information required to be submitted after certain spill events; and (4) extend the period in which SPCC Plans must be reviewed and evaluated. EPA is now working to finalize the 1997 proposal, as well as two earlier

proposals affecting SPCC requirements, specifically, a proposal from October 22, 1991 (56 FR 54612), and one from February 17, 1993 (58 FR 8824).

**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.

This document first presents the estimated number of existing and new storage and production facilities regulated under the Oil Pollution Prevention Regulation. Next, the estimated burden hours and costs to facilities to perform required actions are presented. Costs are composed of facility labor costs and any associated capital and operation and maintenance (O&M) expenditures. Finally, the estimated total annual burden hours and costs for all facilities to comply with the requirements of this regulation are presented. The burden hours shown for each action represent the hours in both the existing ICR and the corresponding hours in the ICR renewal, where there are differences. Costs have been updated to June 1999 dollars.

As of January 2000, approximately 460,027 existing facilities are assumed to be regulated under the SPCC program with approximately 4,600 new facilities joining the program in 2000. These numbers are based on the previous ICR estimate of approximately 460,027 existing and new facilities as of January 1999. A one percent annual growth in the number of facilities is assumed. For purposes of this ICR, all facilities were grouped into two distinct categories: production facilities (facilities whose operations and oil storage activities are exclusively limited to oil production) and storage facilities (all other SPCC-regulated facilities whose operations do not include oil production). This categorization of facilities reflects differences in the estimated burden of compliance activities depending on the nature of the facility's operations.

The current ICR assumes that storage facilities make up 65 percent of small facilities, 69 percent of medium facilities, and 98 percent of large facilities. Production facilities make up 35 percent of small facilities, 31 percent of medium facilities, and two percent of large facilities. These ratios, as well as the Agency's estimate concerning the number of regulated facilities, are based on the results of a 1995 survey of SPCC regulated facilities conducted by EPA. The results of this survey are available for public review at the Public Docket. The definitions of small, medium, and large facility are based on oil storage capacity and are defined as follows, based on the Agency's January 1991 ''SPCC Facilities Study'':

(i) Small facility—a facility that has aboveground storage capacity greater than 1,320 gallons (or 660 gallons in a single container), but less than or equal to 42,000 gallons;

(ii) Medium facility—a facility that has total (aboveground or underground) storage capacity greater than 42,000 gallons but less than or equal to one million gallons; and

(iii) Large facility—a facility that has total storage capacity greater than one million gallons.

An estimate of the number of existing and new storage and production facilities in 2000 are shown in Exhibits 1 and 2.

EXHIBIT 1.—ESTIMATED NUMBER OF EXISTING FACILITIES

(2000)

| | Small | Medium | Large | Total |
|---|---|---|---|---|
| Storage | 236,057 | 58,857 | 13,453 | 308,366 |
| Production | 125,280 | 26,065 | 315 | 51,661 |
| Total | 361,337 | 84,922 | 13,768 | 460,027 |

EXHIBIT 2.—ESTIMATED NUMBER OF NEW FACILITIES

(2000)

| | Small | Medium | Large | Total |
|---|---|---|---|---|
| Storage | 2,361 | 589 | 135 | 3,084 |
| Production | 1,253 | 261 | 3 | 1,517 |
| Total | 3,613 | 849 | 138 | 4,600 |

The facility cost estimates for each category of activities are based on June 1999 hourly wage rates for managerial ($41.68), technical ($30.96), and clerical ($19.41) work. These wage rates include wages and salaries, benefit costs, and overhead costs and reflect private industry averages, which were estimated by the U.S. Bureau of Labor Statistics. The Agency recognizes that these wage rates may underestimate the actual wages received by some SPCC personnel but overestimate the actual wage rate received by other facility personnel.

Each exhibit represents separate burden estimates for small, medium, and large storage and production facilities. Exhibits 3 through 8 summarize the estimated facility burden associated with performing each separate task associated with an SPCC Plan. Not all of the activities will be performed on an annual basis by all facilities.

**New Plan**

Exhibit 3 presents the estimated burden and costs for a facility to perform the activities associated with preparing an SPCC Plan. All new facilities must prepare and implement an SPCC Plan.

EXHIBIT 3.—ESTIMATED BURDEN HOURS AND COSTS-PREPARATION OF NEW PLAN

| Type of facility | Burden hours | | | Cost | | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total [1] |
| Storage: | | | | | | | |
| Small | 6.0 | 25.0 | 4.0 | 35.0 | $0 | $0 | $1,102 |
| Medium | 6.0 | 44.0 | 6.0 | 56.0 | 0 | 0 | 1,729 |
| Large | 6.0 | 76.0 | 8.0 | 90.0 | 0 | 0 | 2,758 |
| Production: | | | | | | | |
| Small | 6.0 | 28.0 | 4.0 | 38.0 | 0 | 0 | 1,195 |
| Medium | 6.0 | 46.0 | 6.0 | 58.0 | 0 | 0 | 1,791 |
| Large | 6.0 | 77.0 | 8.0 | 91.0 | 0 | 0 | 2,789 |

[1] Total cost includes the cost of facility labor, capital, and O&M costs.

**Modification of Plan**

Exhibit 4 presents the burden hours and costs for a facility to revise an SPCC Plan after any modification that materially affects the facility's potential to discharge oil into navigable waters. An estimated ten percent of facilities will need to modify their SPCC Plans each year.

EXHIBIT 4.—ESTIMATED ANNUAL BURDEN HOURS AND COSTS—MODIFICATION OF PLAN

| Type of facility | Burden hours | | | | Cost | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total [1] |
| Storage: | | | | | | | |
| Small | 0.0 | 4.5 | 1.0 | 5.5 | $0 | $0 | $159 |
| Medium | 0.0 | 4.5 | 1.0 | 5.5 | 0 | 0 | 159 |
| Large | 0.0 | 4.5 | 1.0 | 5.5 | 0 | 0 | 159 |
| Production: | | | | | | | |
| Small | 0.0 | 4.5 | 1.0 | 5.5 | 0 | 0 | 159 |
| Medium | 0.0 | 4.5 | 1.0 | 5.5 | 0 | 0 | 159 |
| Large | 0.0 | 4.5 | 1.0 | 5.5 | 0 | 0 | 159 |

[1] Total cost includes the cost of facility labor, capital, and O&M costs.

**Triennial Review**

Exhibits 5 and 6 present the estimated burden hours and costs for a facility to complete a triennial review, with and without amendment. As a result of the review process, the facility may need to amend its Plan, incurring additional costs. Annual burdens and costs per facility are one-third of the values in Exhibits 5 and 6. An estimated three percent of all existing facilities will need to amend their Plans each year.

EXHIBIT 5.—ESTIMATED ANNUAL BURDEN HOURS AND COSTS—TRIENNIAL REVIEW—NO AMENDMENT

| Type of facility | Burden hours | | | | Cost | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total [1] |
| Storage: | | | | | | | |
| Small | 1.0 | 2.4 | 0.5 | 4.0 | $0 | $0 | $129 |
| Medium | 1.0 | 4.5 | 1.0 | 6.5 | 0 | 0 | 200 |
| Large | 1.0 | 8.0 | 1.0 | 10.0 | 0 | 0 | 309 |
| Production: | | | | | | | |
| Small | 1.0 | 3.5 | 0.5 | 5.0 | 0 | 0 | 160 |
| Medium | 1.0 | 5.5 | 1.0 | 7.5 | 0 | 0 | 231 |
| Large | 1.0 | 9.0 | 1.0 | 11.0 | 0 | 0 | 340 |

[1] Total cost includes the cost of facility labor, capital, and O&M costs.

EXHIBIT 6.—ESTIMATED ANNUAL BURDEN HOURS AND COSTS—TRIENNIAL REVIEW—AMENDMENT

| Type of facility | Burden hours | | | | Cost | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total [1] |
| Storage: | | | | | | | |
| Small | 1.0 | 7.0 | 2.0 | 10.0 | $0 | $0 | $297 |
| Medium | 1.0 | 9.0 | 2.0 | 12.0 | 0 | 0 | 359 |
| Large | 1.0 | 12.5 | 2.0 | 15.5 | 0 | 0 | 468 |

EXHIBIT 6.—ESTIMATED ANNUAL BURDEN HOURS AND COSTS—TRIENNIAL REVIEW—AMENDMENT—Continued

| Type of facility | Burden hours | | | | Cost | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total [1] |
| Production: | | | | | | | |
| Small | 1.0 | 8.0 | 2.0 | 11.0 | 0 | 0 | 328 |
| Medium | 1.0 | 10.0 | 2.0 | 13.0 | 0 | 0 | 390 |
| Large | 1.0 | 13.5 | 2.0 | 16.5 | 0 | 0 | 498 |

[1] Total cost includes the cost of facility labor, capital, and O&M costs.

**Oil Discharge**

Exhibit 7 presents estimated burden hours and costs for a facility to submit information to the Regional Administrator in the event of certain discharges of oil into navigable waters. It is assumed that the probability of a facility having such a spill in any given year is 0.15 percent.

EXHIBIT 7.—ESTIMATED BURDEN HOURS AND COSTS—OIL DISCHARGE

| Type of facility | Burden hours | | | | Cost | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total [1] |
| Storage: | | | | | | | |
| Small | 1.0 | 1.0 | 0.0 | 2.0 | $8 | $0 | $81 |
| Medium | 1.0 | 1.0 | 0.0 | 2.0 | 10 | 0 | 83 |
| Large | 1.0 | 1.0 | 0.0 | 2.0 | 14 | 0 | 87 |
| Production: | | | | | | | |
| Small | 1.0 | 1.0 | 0.0 | 2.0 | 8 | 0 | 81 |
| Medium | 1.0 | 1.0 | 0.0 | 2.0 | 10 | 0 | 83 |
| Large | 1.0 | 1.0 | 0.0 | 2.0 | 14 | 0 | 87 |

[1] Total cost includes the cost of facility labor, capital, and O&M costs.

**Recordkeeping**

Exhibit 8 presents the burden hours and costs for a facility to perform Plan maintenance and Plan-specific recordkeeping activities. All regulated facilities are subject to these requirements.

EXHIBIT 8.—ESTIMATED BURDEN HOURS AND COSTS—RECORDKEEPING

| Type of facility | Burden hours | | | | Cost | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total [1] |
| Storage: | | | | | | | |
| Small | 0.0 | 2.0 | 0.5 | 2.5 | $0 | $0 | $72 |
| Medium | 0.0 | 4.5 | 0.5 | 5.0 | 0 | 0 | 149 |
| Large | 0.0 | 9.5 | 0.5 | 10.0 | 0 | 0 | 304 |
| Production: | | | | | | | |
| Small | 0.0 | 3.0 | 0.5 | 3.5 | 0 | 0 | 103 |
| Medium | 0.0 | 3.0 | 0.5 | 3.5 | 0 | 0 | 103 |
| Large | 0.0 | 3.0 | 0.5 | 3.5 | 0 | 0 | 103 |

[1] Total cost includes the cost of facility labor, capital, and O&M costs.

**Annual Expected Facility Burden**

The total annual burden per facility reflects the sum of the annual burdens incurred by the facility for each category of activities outlined above. The estimated annual burden for an existing and new facility is shown in Exhibit 9. These estimates were computed by estimating the annual burden for both storage and production facilities and weighting each estimate by the percentage of storage and production facilities to compute an overall model facility estimate.

EXHIBIT 9.—ESTIMATED ANNUAL BURDEN HOURS AND COSTS PER FACILITY

| Type of facility | Burden hours | | | | Cost | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total |
| Existing: | | | | | | | |
| Small | 0.3 | 3.8 | 0.8 | 4.9 | $0 | $0 | $147 |
| Medium | 0.3 | 6.1 | 0.9 | 7.4 | 0 | 0 | 222 |
| Large | 0.3 | 12.5 | 0.9 | 13.8 | 0 | 0 | 419 |
| New: | | | | | | | |
| Small | 6.0 | 28.8 | 4.6 | 39.4 | 67 | 0 | 1,232 |
| Medium | 6.0 | 49.1 | 6.6 | 61.7 | 67 | 0 | 1,899 |
| Large | 6.0 | 85.8 | 8.6 | 100.4 | 67 | 0 | 3,074 |

**Total Annual Expected Facility Burdens**

The total annual burdens for all existing facilities and all new facilities are shown in Exhibit 10. The approximately 460,027 existing facilities will incur a combined burden of about 2.6 million hours and $42.0 million. In addition, around 4,600 new facilities will incur a combined burden of about 208,740 hours at a cost of $6.5 million. The total annual reporting and recordkeeping burden to the regulated community as a result of the SPCC Program is estimated to be approximately 2.8 million hours at a cost of about $48.5 million.

EXHIBIT 10.—ESTIMATED ANNUAL BURDEN HOURS AND COSTS-ALL FACILITIES

| Type of facility | Burden hours | | | | Cost | | |
|---|---|---|---|---|---|---|---|
| | Managerial $41.68 | Technical $30.96 | Clerical $19.41 | Total burden | Capital | O&M | Total |
| Existing: | | | | | | | |
| Small | 120,987 | 1,370,233 | 282,445 | 1,773,666 | $4,333 | 0 | $17,413,617 |
| Medium | 28,434 | 519,585 | 80,109 | 628,129 | 1,195 | 0 | 18,828,671 |
| Large | 4,610 | 171,923 | 12,988 | 189,521 | 287 | 0 | 5,767,959 |
| New: | | | | | | | |
| Small | 21,686 | 104,204 | 16,622 | 142,511 | 240,935 | 0 | 4,452,849 |
| Medium | 5,097 | 41,701 | 5,605 | 52,402 | 56,626 | 0 | 1,612,362 |
| Large | 826 | 11,817 | 1,184 | 13,827 | 9,182 | 0 | 423,298 |

No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed at 40 CFR part 9.

Send comments regarding these matters, or any other aspects of information collection, including suggestions for reducing the burden, to the address listed above under **ADDRESSES** near the top of this document.

Dated: August 24, 1999.

**Elaine F. Davies,**

*Deputy Director, Office of Emergency and Remedial Response.*

[FR Doc. 99–22934 Filed 9–1–99; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6432–5]**

## Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Maui Electric Company, Limited for the Maalaea Generating Station Units M17 & M19 (Hawaii CSP No. 0067–01–C) at Maalaea, Maui, Hawaii

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice of final order on petition to object to state operating permit.

**SUMMARY:** Pursuant to Clean Air Act Section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator is hereby denying a petition to object to a state operating permit issued by the Hawaii Department of Health to Maui Electric Company, Limited for the Maalaea Generating Station Units M17 & M19 at Maalaea, Maui, Hawaii. This order constitutes final action on the petition submitted by Kawaihae Cogeneration Partners (KCP). Pursuant to Section 505(b)(2) of the Clean Air Act (''Act''), petitioner may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this decision under section 307 of the Act.

**ADDRESSES:** Copies of the final order, the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region IX, Air Division, 75 Hawthorne Street, San Francisco, California, 94105. The final order is also available electronically at the following address: http://www.epa.gov/ttn/nsr/poly__gui.html.

**FOR FURTHER INFORMATION CONTACT:** Robert Baker (AIR–3), U.S. Environmental Protection Agency, Region 9, Telephone (415) 744–1258, E-mail Baker.Robert@epa.gov. Interested parties may also contact the Hawaii Department of Health, Clean Air Branch, 919 Ala Moana Blvd.—Room 203, Honolulu, Hawaii 96814.

**SUPPLEMENTARY INFORMATION:** The Clean Air Act affords EPA the opportunity for a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting

authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Kawaihae Cogeneration Partners (KCP) submitted a petition to the Administrator on February 17, 1998, seeking EPA's objection to the PSD/Covered Source Permit issued to Maui Electric Company (MECO) for the construction and operation of two 20 megawatt combustion turbine generators at MECO's Maalaea Generating Station at Maalaea, Maui, Hawaii. KCP's petition alleges that the Covered Source Permit's requirement of water injection and low sulfur fuel oil is not BACT for oxides of nitrogen and sulfur dioxide. The order denying this petition explains the reasons behind EPA's conclusion that the petitioner has failed to demonstrate that the Maui Electric permit is not in compliance with the requirements of the Clean Air Act.

Dated: August 22, 1999.

**Nora L. McGee,**

*Acting Regional Administrator, Region 9.*

[FR Doc. 99–22931 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6432–3]**

## Futures Forum Discussion of Source Water Protection; Notice of Meeting

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) will be holding a one-day public meeting from 1:00 to 4:00 on September 13, 1999 in Washington, DC. The purpose of this meeting is to discuss the protection of drinking water sources in the next 25 years, and how protection helps to provide the public with safe drinking water at the tap. Discussion of this question is part of the Safe Drinking Water Act 25th Anniversary Futures Forum.

The purpose of the Drinking Water Futures Forum is to evaluate the challenges facing the nation in ensuring a safe supply of drinking water in 25 years, and develop a plan to meet these challenges. The overall question of the futures forum is: How should we ensure safe drinking water in 25 years? There are 7 sub-questions on: treatment technologies, source water quality and quantity, sensitive subpopulations, cost, small systems, unserved populations, and research.

The discussion on September 13 will focus on source water protection. The proposed vision is that in 25 years, all public drinking water supplies will have source water protection measures in place as the first step of a multi-barrier approach to provide safe drinking water to the public. What needs to happen over the next 25 years to reach this vision? Issues related to source water protection include: Do we need to reach national consensus on a definition of source water protection? Is public health protection significantly enhanced by source water protection, or is treatment technology more effective and economical? Are there adequate institutional frameworks for protecting sources of drinking water given the diversity of authorities responsible for contaminant sources, water supply and water quality? What are the catalysts that will accomplish protection at a local level, and integration of source water protection into a public water systems' management plan?

**DATES:** The meeting will be held on September 13, 1999 from 1 to 4 p.m.

**ADDRESSES:** The meeting will be held at the EPA Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20004, Room 4045.

**FOR FURTHER INFORMATION CONTACT:** To register for the meeting, please contact the Safe Drinking Water Hotline at 1–800–426–4791 or 703–285–1093 between 9:00 a.m. and 5:30 p.m. EDT. For specific meeting information, please contact Betsy Henry by telephone at 202–260–2399 or by e-mail at *henry.betsy@epa.gov.*

**Elizabeth Fellows,**

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

[FR Doc. 99–22935 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6432–2]**

## Drinking Water Futures Forum—Discussions on the Future of Drinking Water Protection; Notice of Meeting

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) will be holding a one-day public meeting from 9:00–4:00 on September 24, 1999 in Washington, DC. The purpose of this meeting is to discuss questions related to the Drinking Water Futures Forum.

The purpose of the Drinking Water Futures Forum is to evaluate the challenges facing the nation in ensuring a safe supply of drinking water in 25 years, and develop a plan to meet these challenges. The question to be discussed is: How should we ensure safe drinking water in 25 years? To help discussion, this all-encompassing question has been broken into 7 sub-questions on: treatment technologies, source water quality and quantity, vulnerable subpopulations, cost, small systems, unserved populations, and research. In discussions to date, several cross-cutting themes have emerged, and these will be the focus of the September 24 meeting.

Some of the questions to be discussed on September 24 include: What are the potential challenges to drinking water protection in 2025? What potential impact does the distribution system have on drinking water quality, and are there approaches to address any negative impact? What incentives can be created to promote voluntary programs that move beyond the baseline, either in treatment or pollution prevention? How do we promote comprehensive water supply planning?

**DATES:** The meeting will be held on September 24, 1999 from 9 a.m. to 4 p.m.

**ADDRESSES:** The meeting will be held at the U.S. Environmental Protection Agency's Ariel Rios Building, 1200 Pennsylvania Avenue, NW, in Room 6226.

**FOR FURTHER INFORMATION CONTACT:** To register for the meeting, please contact the Safe Drinking Water Hotline at 1–800–426–4791 or 703–285–1093 between 9:00 a.m. and 5:30 p.m. EDT. For specific meeting information, please contact Ron Bergman at 202–260–6187

or by e-mail at *bergman.ronald@epa.gov*.

**Elizabeth Fellows,**

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

[FR Doc. 99–22936 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–34198; FRL–6380–9]**

## Availability of Preliminary Risk Assessment for the Organophosphate Pesticides Coumaphos and Fenitrothion

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of documents that were developed as part of the EPA's process for making reregistration eligibility decisions for the organophosphate pesticides and for tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the preliminary human health risk assessments and related documents for coumaphos and fenitrothion. This notice also starts a 60-day public comment period for the preliminary risk assessments. By allowing access and opportunity for comment on the preliminary risk assessments, EPA is seeking to strengthen stakeholder involvement and help ensure our decisions under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply.

**DATES:** Comments, identified by docket control number OPP–34196 for coumaphos and OPP–34197 for fenitrothion, must be received by EPA on or before November 1, 1999.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION** section. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34196 for coumaphos and OPP–34197 for fenitrothion in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affect by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

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

To access information about the risk assessments for coumaphos and fenitrothion organophosphate pesticides, go directly to the Home Page for the Office of Pesticide Programs at http: www.epa.gov/pesticides/op.

2. *In person*. The Agency has established an official record for this action under the docket control number OPP–34196 for coumaphos and OPP–34197 for fenitrothion. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch (PIRIB) telephone number is (703) 305–5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34196 for coumaphos and OPP–34197 for fenitrothion in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA., between 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to:'' opp-docket@epa.gov'' or mail or deliver your standard computer disk to the appropriate address in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–34196 for coumaphos and OPP–34197 for fenitrothion. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI Information that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the

information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

## II. What Action is EPA Taking?

EPA is making available preliminary risk assessments that have been developed as part of EPA's process for making reregistration eligibility decisions for the organophosphate pesticides and for tolerance reassessments consistent with the FFDCA, as amended by the FQPA. The Agency's preliminary human health effects risk assessments for these organophosphate pesticides are available in the OPP docket.

As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for the two organophosphate pesticides listed in this notice. The Agency cautions that these risk assessments are preliminary assessments only and that further refinements of the risk assessments may be appropriate for the coumaphos and fenitrothion organophosphate pesticides. This document reflects only the work and analysis conducted as of the time it was produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions in it may change.

As the preliminary risk assessments for the remaining organophosphate pesticides are completed and registrants are given a 30-day review period to identify possible computational or other clear errors in the risk assessment, these risk assessments and registrant responses will be placed in the individual organophosphate pesticide dockets. A notice of availability for subsequent assessments will appear in the **Federal Register**.

The Agency is providing an opportunity, through this notice, for interested parties to provide written comments and input to the Agency on the preliminary risk assessments for the chemicals specified in this notice. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific chemical. Comments should be limited to issues raised within the preliminary risk assessments and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the organophosphate tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments should be submitted by November 1, 1999 at the address given under **ADDRESSES**. Comments will become part of the Agency record for each individual organophosphate pesticide to which they pertain.

## List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 25, 1999.

**Lois Rossi,**

*Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. 99–22746 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

**[PF–883; FRL–6094–5]**

## Notice of Filing Pesticide Petitions to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

**DATES:** Comments, identified by docket control number PF–883, must be received on or before October 4, 1999.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–883 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** The product manager listed in the table below:

| Product Manager | Office location/telephone number/e-mail address | Address | Petition number(s) |
|---|---|---|---|
| Dana Pilitt (PM 13) ... | Rm. 202, CM #2, 703–305–7071, e-mail: pilitt.dana@epamail.epa.gov. | 1921 Jefferson Davis Hwy, Arlington, VA | PP 9F6022 |
| Shaja Brothers ..... | Rm. 284, CM #2, 703–308–3194, e-mail: brothers.shaja@epamail.epa.gov. | Do. | PP 7E4862, 7E4866, 8E4939, 7E4877, 7E4861, and 4E4302 |
| Mary Waller (PM 21) | Rm. 249, CM #2, 703–308–9354, e-mail: waller.mary@epamail.epa.gov. | Do. | PP 1F4030, 2F4155, and 9F3812 |
| Amelia M. Acierto ..... | Rm. 707B, CM #2, 703–308–8377, e-mail: acierto.amelia@epa.gov. | Do. | PP 9E6010 |

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this Action Apply to Me?*

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

| Categories | NAICS | Examples of potentially affected entities |
|---|---|---|
| Industry | 111 | Crop production |
| | 112 | Animal production |
| | 311 | Food manufacturing |
| | 32532 | Pesticide manufacturing |

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–883 The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–883 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by E-mail to: ''*opp-docket@epa.gov* ,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by docket control number PF–883. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI That I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

## List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 25, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

## Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required

by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

**1. Centre Internationale d'Etudes du Lindane (C.I.E.L.) and its Member Company Inquinosa S.A.**

*PP 9F6022*

EPA has received a pesticide petition (9F6022) from Centre Internationale d'Etudes du Lindane (C.I.E.L.) and its member company Inquinosa S.A. , c/o Charles A. O'Conner III, Esq., McKenna & Cuneo, L.L.P., 1900 K St., NW., Washington, DC 20006-1108 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a time-limited tolerance for residues of lindane in or on the raw agricultural commodities (RAC) canola seed at 0.01 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

*A. Residue Chemistry*

1. *Plant metabolism*. The metabolism of lindane in plants is adequately understood. Lindane is rapidly absorbed and eliminated by plants. Lindane translocates rapidly from treated seeds into the growing plant but concentrates primarily in the plant root. Both lindane and its metabolites appear to be readily lost to air and to soil. In almost all studies, the metabolites found in plants were identical to those found in animals although there may be variations in the conjugates detected. The same processes found in animals metabolize lindane in plants, i.e., dehydrogenation, dehydrochlorination, hydroxylation, and conjugation.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of lindane in or on food with a limit of quantitation (LOQ) that allows monitoring of food with residues at or above the levels set in the tolerances. The parent is analyzed by gas chromatography/electronic capture detector (GC/ECD).

3. *Magnitude of residues*. Lindane was applied to seeds of canola. The RAC canola seed was harvested at the appropriate growth stage. A portion of harvested seed was processed into meal, which is an animal feed item, and edible canola oil, which is the only canola product that constitutes an appreciable portion of the human diet. Subsequent analyses determined that the residues of lindane will not exceed the proposed tolerance of 0.01 ppm for canola seed. Residues of canola in the processed commodities were < 0.005 ppm for meal and < 0.0005 ppm for edible oil. A cattle feeding study (20 ppm) was conducted to support foliar applications of lindane. Data was derived from extrapolation of this study to the 0.024 ppm maximum theoretical dietary burden in beef and diary cattle. Anticipated residues were 0.008 ppm in milk, 0.013 ppm in beef fat, 0.0011 ppm in beef muscle, 0.00038 ppm in beef kidney, and 0.00011 ppm in beef liver. Similarly, results of a poultry feeding study and the maximum anticipated dietary burden for poultry from lindane use as a seed treatment were used to derive anticipated residues of 0.0011 ppm in eggs, 0.00014 ppm in breast muscle, 0.00086 ppm in thigh muscle, and 0.00055 ppm in liver.

*B. Toxicological Profile*

1. *Acute toxicity*. Lindane demonstrates moderate oral, dermal and inhalation toxicity. Reported acute oral $LD_{50}$ values in the rat range from 90 to 250 milligrams/kilograms (mg/kg). The acute dermal $LD_{50}$ value was 200 to 300 mg/kg for rabbits and 900 to 1,000 mg/kg in rats. The acute inhalation $LC_{50}$ value in the rat was 1,600 milligrams per liter (mg/L)/4h. Lindane is not irritating to rabbit skin and is slightly irritating to rabbit eyes. It did not cause skin sensitization in guinea pigs.

2. *Genotoxic*. The mutagenicity of lindane has been adequately studied. Lindane has been extensively investigated for its ability to induce gene mutation in both bacteria and mammalian cells, and for its activation in the assay for sex-linked recessive lethal mutation in D. melanogaster. Negative results were obtained consistently. Lindane's ability to induce chromosomal damage and sister chromatid exchange has been investigated in mammalian cells both *in vitro* and *in vivo*, again with negative results. Both assays for DNA damage in bacteria and studies *in vivo* to investigate covalent binding to DNA in the liver of rats and mice following oral administration also gave negative results. The few studies in which positive results were obtained involved invalid study designs or lindane of unknown purity. Overall, lindane appears not to have mutagenic potential.

3. *Reproductive and developmental toxicity*. Lindane is not considered to be a reproductive or a developmental toxin. In a 2-generation reproduction study, the no observed adverse effect level (NOAEL) for reproductive and developmental toxicity was 2 mg/kg/day. In a developmental toxicity study, the rat maternal NOAEL was 5 mg/kg while the developmental NOAEL was 10 mg/kg. The developmental and parental (based on reduced food consumption, reduced weight gain, slight tachypnea and lethargy) NOAEL for the rabbit was greater than 20 mg/kg/day. or a developmental toxin.

4. *Subchronic toxicity*. 90–day feeding studies were conducted in mice and rats with lindane. The NOAEL for the mouse study was greater than 10 ppm highest dose tested (HDT). For the rat study, the NAOEL was 10 ppm (0.75 mg/kg/bwt/day). Renal effects observed were related to $\alpha_{2U}$-globulin and are not relevant to human safety. Hepatocellular hypertrophy and neurotoxicity were observed at the HDT. A 14–week inhalation study in mice had a NOAEL of 0.3 mg/cubic meter. In a 90–day inhalation study in rats, the NOAEL was 0.6 mg/cubic meter. 90–day dermal toxicity studies have been conducted in rats and rabbits. In both species, the NOAELs were 10 mg/kg/bwt/day.

5. *Chronic toxicity*. A 2–year feeding study was conducted in dogs with lindane. The NOAEL for this study was 50 ppm. A chronic study in rats found a NOAEL of 10 ppm (0.47 mg/kg/bwt/day) based upon liver toxicity at higher dose levels. Lindane is not carcinogenic to rats. A 2–year combined chronic toxicity/oncogenicity study in the rat was negative for carcinogenicity. A total of 8 mouse oncogenicity studies have been conducted in several strains of mice. None of the mouse studies were considered by the Agency, however, to be adequate for a cancer risk assessment. Thus, a ninth study is in progress.

6. *Animal metabolism*. The metabolism of lindane has been thoroughly investigated. Lindane does not appear to bioaccumulate in tissues. Lindane is rapidly absorbed and metabolized. The metabolism of lindane occurs via several different pathways. Major routes of metabolism include stepwise elimination of chlorines and conjuations with sulfates and glucuronides. Another pathway is via the formation of mercapurates.

7. *Metabolite toxicology*. Dietary residues are comprised of lindane and a variety of metabolites. The dietary residues are qualitatively the same as those formed in the rat and have thus been bioassayed in the available toxicity studies. These metabolites are not considered to present a significant toxicological risk.

8. *Endocrine disruption*. An evaluation of the potential effects on the endocrine systems of mammals has not been done. Reproductive effects of lindane are observed only at dose levels higher than those causing other forms of toxicity.

*C. Aggregate Exposure*

1. *Dietary exposure.—Food*. Estimates dietary exposure from the proposed uses would account for approximately 1% or less of the reference dose (RfD). The available data do not indicate any evidence of significant toxicity from a 1–day or single event exposure by the oral route. The only crop use for lindane at this time is seed treatment which results in extremely low dietary exposure. Thus an acute dietary risk assessment is not necessary.

2. *Drinking water*. Studies have shown that lindane will not move into ground water; therefore water has not been included in the dietary risk assessment.

3. *Non-dietary/non-occupational exposure*. There are very few remaining registered uses of lindane and the potential for non-occupational non-dietary exposure to the general population is negligible. As a seed treatment, lindane is limited to a small number of crops with extremely limited market share. The treated seed is either planted immediately, or stored in areas with limited access to the general public prior to sale and shipment to the user. Exposure is basically limited to occupational scenarios, i.e., application to seed and planting treated seed.

*D. Cumulative Effects*

EPA is required to consider the potential for cumulative effects of lindane and other substances that have a common mechanism of toxicity. EPA consideration of a common mechanism of toxicity is not appropriate at this time since EPA does not have information to indicate that toxic effects produced by lindane would be cumulative with those of any other chemical compounds; thus only the potential risks of lindane are considered in this exposure assessment.

*E. Safety Determination*

1. *U.S. population*. Using the conservative exposure assumptions described and based on the completeness and reliability of the toxicity data, the aggregate exposure to lindane will utilize less than 1% of the RfD for the U.S population. EPA generally has no concern for exposures below 100% of the RfD. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, there is a reasonable certainty that no harm will result from aggregate exposure to residues of lindane, including all anticipated dietary exposure and all other non-occupational exposures.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of lindane, EPA considers data from developmental toxicity studies in the rat and rabbit and the 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to effects on the reproductive capacity of males and females exposed to the pesticide. Developmental toxicity was not observed in toxicity studies using rats and rabbits. In these studies, the rat maternal NOAEL was 5 mg/kg/day and developmental NOAEL was 10 mg/kg/day. The parental and developmental NOAELs for the rabbit were greater than 20 mg/kg/day. In a 2-generation reproduction study in rats, the NOAEL for reproductive and developmental toxicity was 2 mg/kg/day. Section 408 of the FFDCA provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base. Based on the current toxicological data requirements, the data base relative to prenatal and postnatal effects for children is complete and an additional uncertainty factor is not warranted. Therefore, at this time, the RfD of 0.0047 mg/kg/bwt/day is appropriate for assessing aggregate risk to infants and children.

*F. International Tolerances*

Acceptable daily intake for lindane is 0.008 mg/kg/bwt. Codex Maximum Residue Levels (MRLs) have been set for several commodities for which tolerances have previously been proposed. In all cases, these MRLs are equal to or greater than the requested tolerances. The Canadian MRL for lindane in canola products is 0.1 ppm, i.e. negligible.

**2. International Specialty Products**

*PP 9E6010*

EPA has received a pesticide petition [PP 9E6010] from International Specialty Products, 1361 Alps Road, Wayne, NJ 07470, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for N-(n-octyl)-2-pyrrolidone (Agsolex 8 ) in or on the RACs soybeans, soybean forage, soybean fodder and soybean hay when used as an inert ingredient (solvent) in seed treatment applied at a maximum rate of 3 grams/acre. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

*A. Residue Chemistry*

The Agency does not generally require residue chemistry data or environmental fate data to rule on the exemption from the requirements of a tolerance for an inert ingredient. However, relevant dietary residue modeling has been completed on N-(n-octyl)-2-pyrrolidone and is discussed in the appropriate section below.

*B. Toxicological Profile*

1. *Acute toxicity*. In a battery of acute studies, N-(n-octyl)-2-pyrrolidone has a low order of mammalian toxicity by oral, dermal and inhalation exposure routes. It is a skin and eye irritant in rabbits and a dermal sensitizer in guinea pigs. However, these acute irritation and sensitization data are not relevant for oral exposures. Therefore, no special susceptibility is anticipated from minor dietary oral exposures to N-(n-octyl)-2-pyrrolidone.

i. *Acute oral toxicity in rats*. N-(n-octyl)-2-pyrrolidone was administered by gavage to groups of five male and female rats (Wistar strain albino) at graded doses of 0.63-5.00 g/kg. Mortality and clinical observations, including signs of toxicity and pharmacological effects were conducted over a 14–day period. The acute oral $LD_{50}$ for N-(n-octyl)-2-pyrrolidone was found to be 2.05 g/kg bodyweight, placing it in Category III for acute oral toxicity.

ii. *Primary ocular irritation in rabbits*. Undiluted N-(n-octyl)-2-pyrrolidone (i.e., as sold) was intra-ocularly applied once to each of nine New Zealand white rabbits at a volume of 0.1 milliliter (mL). An additional nine animals received a

single application of a 2% aqueous suspension of N-(n-octyl)-2-pyrrolidone. In both assays, the eyes of six animals remained unwashed for 24 hours while the eyes of the remaining three animals were washed 30 seconds after instillation of the test materials.

Ocular irritations were evaluated at 24, 48, and 72 hours following instillation of test material. Additional readings were made at 4, 7, 14, and 21 days in the assay with undiluted N-(n-octyl)-2-pyrrolidone. The eyes were scored for corneal opacity, iritis, conjunctivitis and other effects.

The results indicate that N-(n-octyl)-2-pyrrolidone was extremely irritating when tested as sold (i.e., undiluted), with wash procedures reducing the severity of the irritation observed. The 2% aqueous suspension was nonirritating both with and without washout procedures. Undiluted N-(n-octyl)-2-pyrrolidone is considered extremely irritating, placing it in category I or II for eye irritation. However, the 2% aqueous suspension was nonirritating both with or without washout procedures, placing it in Category IV for eye irritation.

iii. *Primary dermal irritation in rabbits*. The backs of six New Zealand white rabbits were closely clipped and the skin on the right side was abraded by making longitudinal epidermal incisions. The skin on the left side was left intact. A single application of 0.5 mL of N-(n-octyl)-2-pyrrolidone, in commercially available form, was made to each test site. In a second assay, an additional six rabbits received single applications of a 2% aqueous suspension of N-(n-octyl)-2-pyrrolidone.

In both assays, the wrapping and compound were removed at 24 hours and the sites scored at 24 and 72 hours for erythema and edema using the Draize scale. The mean scores at 24 and 72 hours were averaged to yield a Primary Irritation Index of 7.45 for N-(n-octyl)-2-pyrrolidone, when tested as sold, and 0.50 when tested as a 2% gravimetric aqueous suspension. N-(n-octyl)-2-pyrrolidone, when tested as commercially available, is therefore, considered to be extremely irritating to rabbit skin, and is minimally irritating as a 2% suspension. N-(n-octyl)-2-pyrrolidone, as sold, will therefore, be placed in Category I or II for skin irritation. However, the 2% aqueous suspension was only minimally irritating, placing it in Category II or III for skin irritation.

iv. *Acute dermal toxicity in rabbits*. Six New Zealand white rabbits each received a single dermal application of undiluted N-(n-octyl)-2-pyrrolidone at a dose level of 2 g/kg bodyweight. The skin of three animals was abraded, while the remaining animals' skin remained intact. Test sites were occluded for 24 hours at which time the occlusive wrap and any remaining test article were removed. Animals were observed for clinical signs and/or pharmacologic activity 1, 3, 6, and 24 hours after treatment and daily thereafter for a total of 14 days. On day 14, gross necropsy was performed on all animals. There was no mortality at the limit dose of 2 g/kg. The skin at the test sites showed crust formation, scaling and scarring. At necropsy, no gross internal changes and no deviations from normal were observed in any of the animals.

The acute dermal $LD_{50}$ for N-(n-octyl)-2-pyrrolidone when tested undiluted (i.e., as sold) is greater than 2 g/kg body weight, placing it in Category III for acute dermal toxicity.

v. *D.O.T. corrosivity*. Six New Zealand white rabbits each received a single dermal application of 0.5 ml of undiluted N-(n-octyl)-2-pyrrolidone on one intact test site. The test site was occluded for 4 hours at which time the occlusive wrap and any remaining material were removed. Animals were observed for erythema, edema and other effects at 4 and 48 hours and 7–days after application. Crust formation was observed in five of the six animals.

Therefore, N-(n-octyl)-2-pyrrolidone when tested as sold, is corrosive to the skin of rabbits under conditions of this test.

vi. *Guinea pig sensitization study*. Twenty female albino guinea pigs received intradermal injections of 0.05% v/v N-(n-octyl)-2-pyrrolidone in both water and in freund's complete adjuvant (FCA) as well as FCA in water alone. One week after the injections the same interscapular area was covered occlusively for 48 hours with a patch saturated with 30%, v/v N-(n-octyl)-2-pyrrolidone in distilled water. During this induction phase, 10 control animals were treated similarly with the exception that the test material was omitted from the injections and topical applications.

Two weeks after the induction period, both the test and control animals were challenged topically using a patch saturated in 0.2 mL N-(n-octyl)-2-pyrrolidone, 10% v/v in distilled water applied to an anterior site on the flank and N-(n-octyl)-2-pyrrolidone, 5% v/v in distilled water applied in a similar manner to a posterior site. The patches were sealed to the flank covered for 24 hours. The challenge sites were evaluated at 24, 48, and 72 hours after patch removal. N-(n-octyl)-2-pyrrolidone produced evidence of delayed contact hypersensitivity in 2 of the 20 test animals.

vii. *Clinical studies*. Clinical exposure studies including phototoxicity, photoallergenicity and comedogenicity were conducted with N-(n-octyl)-2-pyrrolidone. N-(n-octyl)-2-pyrrolidone did not induce contact dermal phototoxic response, contact dermal photoallergy or contact dermal sensitization in human subjects under the exposure conditions of these tests.

viii. *Phototoxicity*. Each of 10 human subjects, all female, received 0.2 mL of a 1% suspension of test material in tap water on both volar forearms. Following a 24–hour exposure period under occlusive wrapping, the patches were removed and the sites scored for erythema and edema. Immediately following scoring one arm was irradiated with UV-A light. Test sites were scored immediately after irradiation and again at 24 and 48 hours. The nonirradiated arm served as a control.

No reactions were exhibited on either the irradiated or nonirradiated sites. N-(n-octyl)-2-pyrrolidone did not induce contact dermal phototoxic response in human subjects under the conditions of this test.

ix. *Photoallergy*. Each of 25 human subjects, 6 male and 19 females, received 0.2 mL of a 1% suspension of test material in tap water on both volar forearms. Following a 24-hour exposure period under occlusive wrapping, the patches were removed and the sites scored for erythema and edema. Immediately after scoring one arm was irradiated with both ultraviolet (UV-A) and UV-B light. The UV-A exposure period was 15 minutes; the UV-B exposure period was adjusted based on each subject's skin type. Sites were scored immediately following irradiation. A series of six induction patches was applied twice a week for 3 weeks.

Following a 2–week rest period, challenge patches were applied to virgin sites on each forearm. After a 24–hour exposure period, both sites were scored and the previously designated arm was irradiated. The sites were scored immediately after irradiation and again at 24 and 48 hours.

During the induction phase, 5 subjects exhibited a faint, minimal reaction on the irradiated contact site and one subject exhibited erythema and/or slight edema on the nonirradiated site. No reactions were exhibited at the challenge phase. N-(n-octyl)-2-pyrrolidone did not induce contact dermal photoallergy nor contact dermal sensitization in human subjects under the conditions of this test.

x. *Comedogenicity in rabbits*. The comedogenicity potential of N-(n-octyl)-2-pyrrolidone was assessed in New Zealand white rabbits. The external ear canal of six animals received dermal applications of 0.5 ml of 2% N-(n-octyl)-2-pyrrolidone in distilled water for 5 days a week, over a 4–week period. This was followed by microscopic examinations of the treated tissues.

Minimal to moderate local irritation was noted in all test animals characterized by redness, eschar, dryness and flaking. A mild to moderate comedogenic response was observed in 4 of the treated rabbits each receiving a comedogenic grade of 1.0 on a scale of 0 to 5. The remaining test animals received a grade of 0 (negative), yielding a mean comedogenic grade of 0.67. Under the conditions of this study, a mean comedogenic grade of > 2.0 in rabbits is considered to indicate a potential for comedogenesis in humans.

Therefore, N-(n-octyl)-2-pyrrolidone is not expected to be comedogenic in humans. There were no neoplastic microscopic findings in this study.

2. *Genotoxicity— Ames Salmonella*/ microsome/reverse mutation assay: N-(n-octyl)-2-pyrrolidone and potential metabolite(s) formed as a result of liver S9 fraction activation was tested, as sold, in the Ames Assay with *Salmonella typhimurium* tester strains TA 1,535, TA 1,537, TA 1,538, TA 98 and TA 100. The entire 5-strain assay, with and without rat liver S9 fraction preparation, was performed twice.

In both experiments, with and without metabolic activation, there was no increase in the incidence of histidine protrotrophic mutants, relative to the negative controls. Therefore, N-(n-octyl)-2-pyrrolidone when tested as sold, using the *Ames Salmonella* assay system, is not a mutagen.

i. *Mouse micronucleus test in vivo*. N-(n-octyl)-2-pyrrolidone was tested for clastogenic (chromosome breaks) and aneugenic (numerical aberrations) effects on mouse bone marrow cells *in vivo*. Mice were administered N-(n-octyl)-2-pyrrolidone by intragastric gavage at a dose level of 1,720 mg/kg, based on results of a preliminary toxicity test. Negative controls receiving dosing vehicle alone and positive control (mitomycin C, 12 mg/kg) were also included. Bone marrow smears were obtained at 24, 48, and 72 hours post-dosing and examined for the presence of micronuclei in polychromatic and normochromatic erythrocytes. The ratio of polychromatic to normochromatic erythrocytes (P/N ratio) was also assessed.

Mice treated with N-(n-octyl)-2-pyrrolidone showed no significant increase in frequency of micronucleated polychromatic erythrocytes, and no significant decrease in P/N ratio at any of the sampling times. N-(n-octyl)-2-pyrrolidone is not mutagenic in this *in vivo* cytogenetic test system. There was no evidence of clastogenic or aneugenic effects in this test.

ii. *Mouse lymphoma mutagenesis assay*. In this assay, N-(n-octyl)-2-pyrrolidone was tested for its potential to induce mutations at the thymidine kinase (TK) locus of L5128Y TK+/- mouse lymphoma cells both in the presence and absence of exogenous metabolic activation. Based on the results of a range finding test N-(n-octyl)-2-pyrrolidone was tested at doses ranging 0.005 to 100 ul/ml which produced varying degrees of reduction in cell growth.

The results of this assay indicate that N-(n-octyl)-2-pyrrolidone did not produce mutagenic response in cultures treated in both the absence and presence of exogenous activation with Aroclor-induced rat liver S-9 preparation.

3. *Reproductive and developmental toxicity*. N-(n-octyl)-2-pyrrolidone was administered orally by gavage, once daily, to pregnant female Wistar rats from day 6 through day 15 post coitum, at dosages of 50, 200, or 800 mg/kg/body weight/day in order to assess the effects on embryonic and fetal development.

At 800 mg/kg, one dam died after the 7th and one after the 10th test article administration. The females of this group had marked treatment-related clinical signs, reduced food consumption, slight body weight loss during the first day of dosing, and reduced corrected body weight gain. The mean fetal body weight was reduced at this dosage, combined with a delay in skeletal ossification.

At 50 or 200 mg/kg, no treatment-related effects on maternal or fetal parameters were observed.

Based on these findings, the NOAEL for the maternal and fetal parameters was determined to be 200 mg/kg/bwt/day. N-(n-octyl)-2-pyrrolidone is not teratogenic to Wistar rats even at the maternally toxic dose of 800 mg/kg/bwt/day. Fetal body weight loss and delays in skeletal ossification at 800 mg/kg/day are not considered evidence of developmental toxicity since they occurred in the presence of severe maternal toxicity.

4. *Subchronic toxicity*—i. *Twenty–eight day oral toxicity in rats*. N-(n-octyl)-2-pyrrolidone, formulated as a solution in corn oil, was administered daily to rats (5 male, 5 female per dosage level) by intragastric intubation at dose levels of 5, 55 or 320 mg/kg, for 28 consecutive days. Similarly, control animals received corn oil (5 ml/kg/day).

At the high dose level (320 mg/kg/day), specific changes in general health, bwt gain, hematological and biochemical parameters were recorded. Statistically significant observations noted included:

ii. Lower body weight gains - females (week 3).

iii. Lower packed cell volume (PCV) and red blood cell counts - males.

iv. Higher mean corpuscular hemoglobin concentration (MCHC)-males.

v. Higher glutamic-pyruvic transaminase levels-females.

In all other respects including food consumption, organ weights, macro and microscopic pathology, no treatment-related changes were noted at all the tested dose levels.

In this 28–day study, the NOAEL of N-(n-octyl)-2-pyrrolidone was determined to be 55 mg/kg/day.

5. *90–Day oral toxicity in dogs*. Groups of 4 male and 4 female beagle dogs were given N-(n-octyl)-2-pyrrolidone orally via capsule at dose levels of 30, 90, and 240 mg/kg/day, for 90 days. All animals were observed daily for mortality and clinical signs of toxicity. At euthanatization, all surviving animals were subjected to histological examinations.

Dose related neurological signs and bwt loss were observed at 90 and 240 mg/kg levels. At 90 and 240 mg/kg treatment-related changes in clinical pathological parameters were also observed. In addition, dose-related increases in both absolute and relative liver weights were observed in all dose groups but was statistically significant in only the 90 and 240 mg/kg/day groups. One female death occurred on day 42 in the 240 mg/kg group. No treatment-related toxicity or clinical signs were observed in the 30 mg/kg/day group. Thirty mg/kg/day was a clear NOAEL.

6. *90–Day dietary toxicity in rats*. Groups of 10 male and 10 female rats were given diets containing 0, 60, 600, or 10,000 ppm N-(n-octyl)-2-pyrrolidone for 90 days. The approximate mean daily intakes of N-(n-octyl)-2-pyrrolidone were calculated to be 0, 5.3, 53, or 686 mg/kg/bwt.

All animals were observed daily for clinical signs of toxicity. At euthanatization, all animals were necropsied and subjected to macroscopic and microscopic examinations.

Reduced weight gain, increased absolute and relative liver weights and mild liver hypertrophy were observed at 10,000 ppm (686 mg/kg/bwt). No

treatment-related effects were observed at 60, (5.3 mg/kg bw/day), and 600 (53 mg/kg/bwt/day) ppm.

The liver was identified as a target organ and 600 ppm (53 mg/kg/day) was a clear NOAEL.

N-(n-octyl)-2-pyrrolidone is used mostly in household and institutional cleaners, especially as a constituent of hard-surface cleaners. Consistent with this public use, N-(n-octyl)-2-pyrrolidone is readily biodegradable in various microbially active matrices. It is freely soluble in water and has a relatively high polarity. For most compounds, there is a direct correlation between tissue uptake and bioaccumulation, and simple physical organic parameters such as log P, molecular mass and water solubility (Davies and Dobbs, 1984; Veith et al., 1979; Zitko and Hutzinger, 1976). The low bioaccumulation potential of N-(n-octyl)-2-pyrrolidone indicates that it is unlikely to accumulate in endocrine tissues, or disrupt endocrine functions. The safety, low uptake and low bioaccumulation potential of pyrrolidones in biological systems has also been experimentally demonstrated, even in active human sperms (Goldstein et al., 1998). These data strongly demonstrate that N-(n-octyl)-2-pyrrolidone is not an endocrine disrupter, and does not have any physiologically disruptive effects on endocrine processes. Additionally, it does not share any mechanistic or chemical similarity with currently known or suspected chemicals or chemical classes being studied for endocrine effects.

Additionally, pyrrolidones are natural products of ornithine metabolism found in many edible plant tissues, including carrots and tobacco. No physiologically disruptive effects have been reported from dietary exposures to these plants.

*C. Aggregate Exposure*

1. *Dietary exposure*. Residue data are generally not required for inert ingredient exemptions from a tolerance. Specific residue data for the inert ingredient N-(n-octyl)-2-pyrrolidone when used as a seed treatment are not available. Residue data are available to EPA for a number of pesticide products when applied as a seed treatment to soybeans at rates equal to or greater than 3 grams per acre. These data show that residues are non-detectable (< 0.01ppm) in soybeans, soybean forage, soybean fodder and soybean hay at harvest.

For the purpose of determining the potential dietary exposure from the proposed use of N-(n-octyl)-2-pyrrolidone as an inert ingredient in pesticides applied as a soybean seed treatment, an ultra conservative assumption was made that residues in soybean products would be 0.66 ppm. This assumption is based upon a maximum of 3 grams per acre of N-(n-octyl)-2-pyrrolidone being applied per acre as a seed treatment and resulting crop yields of 35 bushels of soybeans per acre (2,100 pounds of soybeans yield per acre based on an average weight of 60 pounds per bushel). Further, the soybean seed yield per acre is equal to approximately 36% of the total weight of soybean products at harvest per acre (soybeans equal 36%; the remaining 64% is soybean fodder, stems and roots). It is further assumed that the 3 grams of N-(n-octyl)-2-pyrrolidone is not degraded at all during the growth of the soybeans crop but instead at harvest is equally distributed in all plant parts at harvest.

N-(n-octyl)-2-pyrrolidone has been exempted from the requirement of a tolerance when used as an inert ingredient in certain pesticide products applied to defoliate cotton. No specific residue data are available for N-(n-octyl)-2-pyrrolidone in cotton products. For the purpose of this dietary assessment, the ultra conservative assumption was made that residues of N-(n-octyl)-2-pyrrolidone in cotton products would be 2x the highest residue tolerance established by EPA for any pesticide in cotton products. This results in dietary calculations based upon 70 ppm in cotton seed and cotton seed products including cotton seed oil (based on a 35 ppm tolerance for dalapon in cotton seed) and 200 ppm in cotton gin byproducts (based on a 100 ppm tolerance for glyphosate in cotton gin byproducts). Also, for the purposes of this assessment, the ultra conservative assumption was made that eggs, milk, meat, fat and meat byproducts would contain 0.5 ppm residues of N-(n-octyl)-2-pyrrolidone.

2. *Chronic dietary exposure assessment for N-(n-octyl)-2-pyrrolidone*. Chronic dietary exposure was assessed for the U.S. population and population sub-groups utilizing the Dietary Exposure Evaluation Model (DEEM™) from Novigen Sciences, Inc. Food consumption information (soybean food items only) was taken from USDA's 1994-96 Continuing Survey of Food Intake by Individuals (CSFII).

Exposure was compared to a chronic reference dose (RfD) of 0.03 mg/kg/bwt/day which was based on a no observable adverse effect level (NOAEL) of 30 mg/kg/bwt obtained from a 90–day feeding study in dogs and a 1,000-fold safety factor.

Results indicate that exposure for the overall U.S. population was 21.4% the chronic RfD for the soybean proposed plus the current use on cotton. The most sensitive subpopulation (children 1-6 years old) results in a chronic that uses 68% of the chronic RfD. This assessment is extremely conservative since residue reduction probably occurs with exposure of the treated seed to the environment as well as processing (not taken into account in this assessment) and market shares for both crops were assumed to be 100%.

3. *Acute dietary exposure assessment for N-(n-octyl)-2-pyrrolidone*. Using the same exposure estimates discussed above for soybean products results in an ultra conservative acute exposure for the overall U.S. population of 37.74% of the acute RfD for the proposed use on soybeans plus the current uses on cotton. The most sensitive subpopulation (children 1-6 years old) had an exposure of 52.85% of the acute RfD. These calculations were conducted at the 99.9% level.

i. *Food*. See exposure estimate discussed above.

ii. *Drinking water*. Based on its very low application rate, i.e., < 3 grams/acre, as well as the environmental fate studies, N-(n-octyl)-2-pyrrolidone would not be expected to persist in the environment, nor contaminate drinking water supplies.

4. *Non-dietary exposure*. N-(n-octyl)-2-pyrrolidone may also be used in certain cleaners, specifically hard-surface cleaners. Annual volumes market volume for this use is modest and is not expected to significantly contribute to the exposure profile for N-(n-octyl)-2-pyrrolidone.

*D. Cumulative Effects*

While the Agency has some information in its files that may be helpful in determining whether chemicals share a common mechanism of toxicity with any other substances, EPA does not at this time have the methodology to resolve the scientific issues concerning common mechanism of toxicity in a meaningful way.

*E. Safety Determination*

1. *U.S. population*. As per the details in the Dietary Residue Exposure System analysis, even the most sensitive population, children, 1- 6 years old, would be exposed to considerably less than 100% of the RfD even using the ultra conservative assumptions discussed above.

2. *Infants and children*. No developmental, embryotoxic, or teratogenic effects have been associated with N-(n-octyl)-2-pyrrolidone.

*F. International Tolerances*

The Applicant is not aware of any international tolerance or codes of Maximum Residue Limits (MRLs) for N-(n-octyl)-2-pyrrolidone on any crop or livestock commodities.

**3. Interregional Research Project Number 4 and The Rohm and Haas Company**

*PP 7E4862, 7E4866, 8E4939, 7E4877, 7E4861, 4E4302 PP 1F4030, 2F4155, and 9F3812*

EPA has received pesticide petitions [PP 7E4862, 7E4866, 8E4939, 7E4877, 7E4861, and 4E4302] from the Interregional Research Project Number 4 (IR-4), New Jersey Agricultural Experiment Station, P. O. Box 231 Rutgers University, New Brunswick, NJ 08903. EPA has also received pesticide petitions [PP 1F4030, 2F4155, and 9F3812] from the Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106-2399. The petitions propose, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of the fungicide, myclobutanil [alpha-butyl-alpha-(4-chlorophenyl)-1H-1,2,4-triazole)-1-propanenitrile], and it's metabolite, alpha -(3-hydroxybutyl)-alpha-(4-chloro-phenyl)-1H-1,2,4-triazole-1-propanenitrile (free and bound) in or on the RAC commodity at the tolerance level ppm as follows:

1. *PP 7E4862*. Proposes the establishment of a tolerance for asparagus at 0.02 ppm.

2. *PP 7E4866*. Proposes the establishment of a tolerance for caneberry at 1.0 ppm.

3. *PP 8E4939*. Proposes the establishment of tolerances for currant at 3.0 ppm and gooseberry at 2.0 ppm.

4. *PP 7E4877*. Proposes the establishment of a tolerance for mint at 3.0 ppm.

5. *PP 7E4861*. Proposes the establishment of a tolerance for snap bean at 1.0 ppm.

6. *PP 4E4302*. Proposes the establishment of a tolerance for strawberry at 0.5 ppm.

7. *PP 1F4030*. Proposes the establishment of tolerances for tomato at 0.3 ppm and processed fractions for the following commodities: tomato pomace, wet at 3.0 ppm; tomato pomace, dry at 5.0 ppm; tomato juice at 0.3 ppm; tomato puree at 0.6 ppm; tomato paste at 1.2 ppm; tomato paste juice at 0.6 ppm; and tomato catsup at 0.6 ppm.

8. *PP 2F4155*. Proposes the establishment of tolerances for cucurbits at 0.5 ppm and inadvertent residues at 0.03 ppm for the following rotational crop group: root and tuber vegetables, leaves of root and tuber vegetables, leafy vegetables (except brassica vegetables), brassica (cole) leafy vegetables, legume vegetables (except snapbeans), foliage of legume vegetable group, fruiting vegetables (except cucurbits), cereal grains-commodities; cereal grains-forage, fodder, and straw; and nongrass animal feeds (forage, fodder, straw, and hay).

9. *PP 9F3812*. Proposes the establishment of a tolerance for pome fruit at 0.5 ppm.

EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions.

*A. Residue Chemistry*

1. *Metabolism in plants and animals*—i. *Plants*. Based on the three metabolism studies in wheat, apples, and grapes, which indicate a similar metabolic route for crops in three different crop groups, Rohm and Haas Company (the registrant) concludes that the nature of the residue is adequately understood for the purpose of these tolerances.

ii. *Animals*. The nature of the residue in animals is adequately understood. The residues of concern in animal commodities, except milk, are myclobutanil (RH-3866) and its metabolite RH-9090 (free). The residues of concern in milk are myclobutanil, and its metabolites RH-9090 (free and bound) and alpha-(4-chlorophenyl)-alpha-(3,4-dihydroxybutyl)-1H-1,2,4-triazole-1-propanenitrile; RH-80,294).

2. *Analytical method*. An adequate enforcement method is available to enforce the established and proposed tolerances. Quantitation is by gas-liquid chromatography (GLC) using a nitrogen/phosphorous (NP) detector for RH-3866 and an electron capture ($^{63}$Ni) for residues measured as the alcohol metabolite (RH-9090). Myclobutanil residues in animal commodities are measured in essentially the same manner with the additional diol metabolite in milk.

3. *Magnitude of residues*. Field residue trials were conducted with wettable powder formulations of myclobutanil in geographically representative regions of the United States. The registrant concludes that the results from these studies support the proposed tolerances, and clearly indicate that the RH-9090 metabolite is a minor contributor to the total residue.

*B. Toxicological Profile*

1. *Acute toxicity*. According to the Rohm and Haas Company, myclobutanil wettable powder formulations are essentially non-toxic after administration by the oral, dermal and respiratory routes moderately irritating to the eyes, and non-skin sensitizers. Of these test results, ocular irritation at Toxicity Category III (Caution) was shown to be the worst case acute toxicity.

2. *Genotoxicity*. Myclobutanil was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation. Myclobutanil was negative in a hypoxanthine guanine phosphoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, myclobutanil did not induce unscheduled DNA synthesis (UDS) or repair. Myclobutanil did not produce chromosome effects *in vivo* using mouse bone marrow cells or *in vitro* using CHO cells. On the basis of the results from this battery of tests, it is concluded that myclobutanil is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity*. In the developmental study in rats, the maternal (systemic) no observed adverse effect level (NOAEL) was 93.8 mg/kg/day based on rough hair coat, and salivation at the lowest observed adverse effect level (LOAEL) of 312.6 mg/kg/day. The developmental (fetal) NOAEL was 93.8 mg/kg/day based on incidences of 14th rudimentary and 7th cervical ribs at the LOAEL of 312.6 mg/kg/day.

In the developmental study in rabbits, the maternal (systemic) NOAEL was 60 mg/kg/day based on reduced weight gain, clinical signs of toxicity, and abortions at the LOAEL of 200 mg/kg/day. The developmental (fetal) NOAEL was 60 mg/kg/day based on increases in number of resorptions, decreases in litter size, and a decrease in the viability index at the LOAEL of 200 mg/kg/day.

In the 2-generation reproduction toxicity study in rats, the maternal (systemic) NOAEL was 2.5 mg/kg/day based on increased liver weights and liver cell hypertrophy at the LOAEL of 10 mg/kg/day. The developmental (pup) NOAEL was 10 mg/kg/day based on decreased pup body weight during lactation at the LOAEL of 50 mg/kg/day. The reproductive (parental) NOAEL was 10 mg/kg/day, based on an increased incidence of stillborns, and atrophy of

the testes, epididymides, and prostate at the LOAEL of 50 mg/kg/day.

4. *Subchronic toxicity*—i. Subchronic feeding study in rats was conducted for 13 weeks. The NOAEL was determined to be 1,000 ppm (52 and 66 mg/kg/day in males and females, respectively), and the LOAEL was 3,000 ppm based on increased liver and kidney weights, hypertrophy and necrosis in the liver, pigmentation in convoluted kidney tubules, and vacuolated adrenal cortex.

ii. A subchronic feeding study in mice was conducted for 13 weeks. The NOAEL was determined to be 300 ppm (43 and 66 mg/kg/day in males and females, respectively), and the LOAEL was 1,000 ppm based on increases in liver weight and clinical chemistry parameters, hypertrophy or necrosis and inflammation in the liver, and cytoplasmic eosinophilia and/or hypertrophy of the zona fasciculata cells of the adrenal gland.

iii. A subchronic feeding study in dogs conducted for 13 weeks resulted in a NOAEL of 10 ppm (0.34 mg/kg/day) in males and 200 ppm (8 mg/kg/day) in females. At the LOAEL of 200 ppm and above, hepatocellular centrilobular or midzonal hypertrophy was observed in males. At 800 ppm and above, the same effect was observed in females. In addition, increases in alkaline phosphatase, absolute liver weights in both sexes, and relative liver weights in males were observed. At 1,600 ppm, all the previous effects plus increases in relative liver weights in females, a suggestion of mild red cell destruction or mild anemia, and decreases in body weight and food consumption (possibly related to palatability) were observed.

iv. A 24.99% active ingredient (ai) emulsifiable concentrate (2EC) formulation was dermally applied to rats at 1, 10, or 100 mg/ai/kg/day and a 40% ai wettable powder (40 WP) formulation was dermally applied to rats at 100 mg/ ai/kg/day. Both formulations were applied once per day for a total of 19-20 treatments over a 4–week period. Application of the 2EC formulation resulted in a NOAEL for systemic effects of > 100 mg/ai/kg/day, and a NOAEL and LOAEL for skin irritation of 10 and 100 mg ai/kg/day, respectively. The 40 WP formulation at 100 mg/ai/kg/day the highest dose tested (HDT) did not produce any systemic effects and only produced minor skin irritation.

5. *Chronic toxicity*—i. A 1–year feeding study in dogs resulted in hepatocellular hypertrophy, increases in liver weights, ''ballooned'' hepatocytes, and increases in alkaline phosphatase, serum glutamic pyruvic transaminase (SGPT) and GGT, and possible slight hematological effects. The NOAEL and LOAEL were 100 ppm (3.1 and 3.8 mg/kg/day for males and females, respectively) and 400 ppm (14.3 and 15.7 mg/kg/day for males and females, respectively).

ii. A 24–month chronic/carcinogenicity study in male and female mice was conducted at 0, 20, 100, and 500 ppm myclobutanil, and a second 24–month chronic/carcinogenicity study was conducted in female mice at 0 and 2,000 ppm (394 mg/kg/day). No carcinogenic effects were observed in either study. The NOAEL was 100 ppm (13.7 and 16.5 mg/kg/day for males and females, respectively), and the LOAEL was 500 ppm (70 and 85 mg/kg/day for males and females, respectively) based on increased hepatic mixed-function oxidase (MFO) activity, increased SGPT (males only), increased absolute and relative liver weights, increased incidences and severity of centrilobular hepatocytic hypertrophy, Kupffer cell pigmentation, periportal punctate vacuolation, individual hepatocellular necrosis (males only), and increased incidences of focal hepatocellular alterations and multifocal hepatocellular vacuolation. At 2,000 ppm, these effects, and decreased body weight and body weight gain, and cytoplasmic eosinophilia and hypertrophy of the cells of the zona fasciculata area of the adrenal cortex were observed.

iii. A 24–month chronic/carcinogenicity study in male and female rats was conducted at 0, 25/35/50 (2 weeks/2 weeks/to termination), 100/140/200, and 400/560/800 ppm myclobutanil, and a second 24–month chronic/carcinogenicity was conducted in male and female rats at 0 and 2,500 ppm (125 mg/kg/day). No carcinogenic effects were observed in either study. The NOAEL and LOAEL were 50 ppm (2.5 mg/kg/day) and 200 ppm (10 mg/kg/day), respectively, based on a decrease in testicular weight and increase in testicular atrophy. At 2,500 ppm, these effects, and increases in the incidences of centrilobular to midzonal hepatocellular enlargement and vacuolization in the liver of both sexes, increases in bilateral aspermatogenesis in the testes, increases in the incidence of hypospermia and cellular debris in the epididymides, and increased incidence of arteritis/periarteritis in the testes were observed. The chronic population adjusted dose (cPAD) of 0.025 mg/kg/day was established based on the chronic feeding study in rats with a NOAEL of 2.5 mg/kg/day and an uncertainty factor of 100.

6. *Animal metabolism*. The absorption, distribution, excretion, and metabolism of myclobutanil in rats was investigated. Following oral administration, myclobutanil was completely and rapidly absorbed, extensively metabolized to at least seven major metabolites, and rapidly excreted evenly distributed between urine and feces. Myclobutanil did not accumulate in tissues.

7. *Metabolite toxicology*. Common metabolic pathways for myclobutanil have been identified in both plants (grapes, apples, wheat) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the n-butyl alkyl side-chain in the 3- and 4- positions, oxidation of the cyano- group, and subsequent conjugation. Extensive degradation and elimination of polar metabolites occurs in animals such that residues are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption*. The mammalian endocrine system includes estrogen and androgens as well as other hormonal systems. Myclobutanil is not known to interfere with reproductive hormones; thus, the registrant believes that myclobutanil should not be considered to be estrogenic or androgenic. The Rohm and Haas Company is not aware of any instances of proven or alleged adverse reproductive or developmental effects to people, domestic animals, or wildlife as a result of exposure to myclobutanil or its residues.

*C. Aggregate Exposure*

1. *Dietary (food) exposure*. Permanent tolerances have been established (40 CFR 180.443) for the residues of myclobutanil in or on a variety of RAC including almond nutmeat at 0.1 ppm, almond hulls at 2.0 ppm, apples at 0.5 ppm, apple pomace, wet/dry at 5.0 ppm, banana whole (Post-H) at 4.0 ppm, stone fruits except cherry at 2.0 ppm, cherries, sweet/sour at 5.0 ppm, plums, dried (prunes) at 8.0 ppm, cotton seed at 0.02 ppm, grapes at 1.0 ppm, grape pomace, wet/dry at 10.0 ppm, raisins at 10.0 ppm, and raisin waste at 25.0 ppm. In addition, permanent tolerances have been established for meat and meat byproducts including cattle, fat at 0.05 ppm, cattle, liver at 1.0 ppm, cattle, meat at 0.1 ppm, cattle, meat byproducts at 0.2 ppm, poultry, fat at 0.02 ppm, poultry, meat at 0.02 ppm, poultry, meat byproducts at 0.02 ppm, eggs at 0.02 ppm, and milk at 0.2 ppm.

Risk assessments were conducted by Rohm and Haas Company to assess

dietary exposures and risks from myclobutanil as follows:

i. *Acute exposure and risk*. No acute endpoint was identified for myclobutanil, and no acute risk assessment is required.

ii. *Chronic exposure and risk*. Risk associated with chronic dietary exposure from myclobutanil was assessed on two levels using two dietary exposure models. In the first assessment, tolerance level residues were assumed (except bananas in which 0.8 ppm was used in the dietary risk assessment rather than the tolerance of 4.0 ppm on whole fruit, since residues in the pulp will not exceed 0.8 ppm), and, in the second assessment average field trial residues were used. Both assessments utilized percent of crop treated refinements. The Anticipated Residue Contribution (ARC) from all proposed and existing food uses of myclobutanil was assessed. Additional proposed food uses of myclobutanil not previously mentioned in this document include peppers, hops, and artichokes (IR-4 petitions for these crops will likely be submitted in 1999). The percent of crop values used in these assessments were 79% for grapes, 60% for apples, 47% for cherries, 40% for bananas, 22% for peaches, 8% for pears, 3% for plums, 1% for apricots, 1% for almonds, and 1% for cottonseed. Percent crop treated data were used for the above commodities in the chronic exposure assessment, but were not considered when calculating the dietary burden from which secondary residue tolerances in meat, milk and poultry were derived or for the proposed uses on tomatoes and tomato processed fractions, cucurbit vegetables, and all of the subject minor crops of this petition. For rotational crops, the assessments conservatively assumed the extreme worse-case that 100% of all plantable United States acreage contained crops with residues at the 0.03 ppm proposed tolerance level.

The cPAD used for the chronic dietary analysis is 0.025 mg/kg/day. Potential chronic exposure was estimated using NOVIGEN'S Dietary Exposure Evaluation Model (DEEM Version 5.31), which uses United States Department of Agricultural (USDA) food consumption data from the 1989-1992 survey. The existing and proposed myclobutanil tolerances, and average myclobutanil residues result in ARCs that are equivalent to the following percentages of the cPAD (assumes residues are present at tolerance levels and includes percent crop treated refinements): For the U.S. Population (48 contiguous states) subgroup, the percent cPAD utilized is 19.1%. For the most highly exposed population subgroup, children (1 to 6 years old), the percent cPAD utilized is 57.7%.

iii. *Drinking water*. There is no established Maximum Concentration Level (MCL) for residues of myclobutanil in drinking water. No drinking water health advisory levels have been established for myclobutanil. There is no entry for myclobutanil in the ''Pesticides in Groundwater Database.'' Submitted environmental fate studies suggest that myclobutanil has low to moderate mobility potential in soil. Myclobutanil is stable to hydrolysis and soil photolysis, but does degrade photolytically in natural waters and soil. Field-trial soil dissipation studies had half-lives in the range of 50 to 400 days and indicated no significant downward movement of residues. Field trials showed myclobutanil degrades much more rapidly outdoors on foliage; the foliar decline on turf has a half-life of approximately 7 days.

The registrant believes that myclobutanil will not contaminate ground water or drinking water because of its adsorptive properties on soil, solubility in water, and degradation rate. Data from laboratory studies and field dissipation studies have been used in the PRZM/EXAMS computer model to predict the movement of myclobutanil. The model predicts that myclobutanil will not leach into ground water, even if heavy rainfall is simulated. The modeling predictions are consistent with the data from environmental studies in the laboratory and the results of actual field dissipation studies. Review of terrestrial field dissipation data indicates that myclobutanil did not leach into ground water in either sandy loam or coastal soil. Based on conducted studies to assess environmental risk, the registrant believes that significant exposure to residues of myclobutanil in drinking water is not anticipated.

2. *Non-dietary exposure*. Myclobutanil has no veterinary applications and is not approved for use in swimming pools. It is labeled for application to golf courses or other recreational areas, for use on ornamentals, and myclobutanil may be applied to residential lawns. However, this latter application represents less than 5% of myclobutanil's total non-dietary applications and is almost exclusively done by professional lawn care service companies. There are no indoor residential uses of myclobutanil; therefore, there is no indoor exposure to myclobutanil. Based on reasonable assumptions of exposure, the registrant does not anticipate significant exposure to residues of myclobutanil via non-dietary routes.

*D. Cumulative Effects*

The potential for cumulative effects of myclobutanil with other substances that have a common mechanism of toxicity was considered. The primary toxicological target organs for myclobutanil exposures are the rodent testes and liver. Myclobutanil can also produce phytotoxicity at high application rates. Myclobutanil belongs to the class of fungicide chemicals known as triazoles having demethylase inhibition capability. There are data available which suggest that there is a biochemical target site in fungal cell wall synthesis for myclobutanil and other fungicides in this class. However, there are no data which demonstrate that fungicides of this class have a common mode of action for exaggerated-dose phytotoxicity in plants, nor is there evidence that the toxicological effects produced by fungicides of this class in animals have a common mode of action.

EPA does not have, at this time, available data to determine whether myclobutanil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment

*E. Safety Determination*

1. *U.S. population*. Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the percentage of the cPAD that will be utilized by dietary (food only) exposure to residues of myclobutanil from existing, pending, and proposed tolerances is 19.1% and 3.2% for the U.S. population assuming residues are present at their tolerance levels and average levels, respectively. The registrant believes that aggregate exposure (food, water, residential) is not expected to exceed 100% of the cPAD. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The Rohm and Haas Company concludes that there is a reasonable certainty that no harm will result from aggregate exposure to myclobutanil residues to the U.S. population.

2. *Infants and children—In general*. In assessing the potential for additional sensitivity of infants and children to residues of myclobutanil, data from developmental toxicity studies in the rat and rabbit, and 2-generation reproduction studies in the rat are considered. The developmental toxicity

studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

3. *Developmental toxicity studies*—i. *Rat*. In the developmental study in rats, the maternal (systemic) NOAEL was 93.8 mg/kg/day based on rough hair coat, and salivation at the LOAEL of 312.6 mg/kg/day. The developmental (fetal) NOAEL was 93.8 mg/kg/day based on incidences of 14th rudimentary and 7th cervical ribs at the LOAEL of 312.6 mg/kg/day.

ii. *Rabbit*. In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 60 mg/kg/day, based on reduced weight gain, clinical signs of toxicity and abortions at the LOAEL of 200 mg/kg/day. The developmental (fetal) NOAEL was 60 mg/kg/day, based on increases in number of resorptions, decreases in litter size, and a decrease in the viability index at the LOAEL of 200 mg/kg/day.

iii. *Reproductive toxicity study*. In the 2-generation reproductive toxicity study in rats, the parental (systemic) NOAEL was 2.5 mg/kg/day, based on increased liver weights and liver cell hypertrophy at the LOAEL of 10 mg/kg/day. The developmental (pup) NOAEL was 10 mg/kg/day, based on decreased pup body weight during lactation at the LOAEL of 50 mg/kg/day. The reproductive NOAEL was 10 mg/kg/day, based on the increased incidences of stillborns, and atrophy of the testes, epididymides, and prostate at the LOAEL of 50 mg/kg/day.

iv. *Prenatal and postnatal sensitivity*. The prenatal and postnatal toxicology data base for myclobutanil is complete with respect to current toxicological data requirements. There is approximately a 25-fold difference between the developmental NOAEL of 60 mg/kg/day from the rabbit developmental toxicity study and the NOAEL of 2.5 mg/kg/day from the chronic rat feeding study which was the basis of the cPAD. It is further noted that in both the rabbit and rat developmental toxicity studies, the developmental NOAEL and maternal NOAEL are comparable (60 mg/kg/day for the rabbit and 93.8 mg/kg/day for the rat). In the rat reproduction study, the maternal NOAEL (2.5 mg/kg/day) was four times lower than the developmental (pup) and reproductive NOAELs (10 mg/kg/day). According to the registrant, these studies indicate that there is no additional sensitivity for infants and children in the absence of maternal toxicity for myclobutanil.

v. *Acute risk*. No acute dietary risk has been identified for myclobutanil.

vi. *Chronic risk*. Using the exposure assumptions described above, the exposure to myclobutanil from food will utilize 14.4% (nursing infants < 1–year old), and 40.9% (non-nursing infants < 1–year old) of the cPAD assuming residues are present at tolerance levels, and will utilize 3.0% (nursing infants < 1–year old), and 7.3% (non-nursing infants < 1–year old) of the cPAD assuming residues are present at their average field residue levels. The percent of the cPAD that will be used by the food exposure for children 1 to 6 years old is 57.7% and 8.0% assuming residues are present at tolerance levels and average field residue levels, respectively. The percent of the cPAD that will be used by the food exposure for children 7 to 12 years old is 28.5% and 4.5% assuming residues are present at tolerance levels and average field residue levels, respectively. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

2. *Non-dietary exposure*. Given the limited potential for exposure to myclobutanil from residential exposure, it is not expected that the aggregate exposure will exceed 100% of the cPAD. The registrant believes that there is a reasonable certainty that no harm will result from aggregate exposure to myclobutanil residues.

3. *Conclusion*. The Rohm and Haas Company concludes that reliable and complete data support the use of the 100-fold uncertainty factor, and that an additional 10-fold factor is not needed to ensure the safety of infants and children from dietary exposure.

*F. International Tolerances*

There are Codex Maximum Residue Limits (MRLs) for myclobutanil. The myclobutanil data base was evaluated by the World Health Organization (WHO) and the Food and Agricultural Organization (FAO) Expert Panels at the Joint Meeting on Pesticide Residues (JMPR) in September 1992, and an additional evaluation by the FAO Expert Panels was conducted in September 1997 and September 1998. An Acceptable Daily Intake (ADI; cPAD) of 0.025 mg/kg/day was established by the WHO panel and a total of 13 Codex MRLs are approved, including 0.01 ppm for both meat and milk. An additional nine Codex MRLs were proposed in the 1997 data submission including tomatoes (0.3 ppm), tomato paste (2.0 ppm), pome fruit (0.5 ppm), and strawberries (0.5 ppm).

The EPA has established the residue definition as the total of parent plus RH-9090, but the Codex has decided residues of parent alone are sufficient.

[FR Doc. 99–22636 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6432–9]**

## Proposed CERCLA Administrative Cost Recovery Settlement; In Re: Landmark Farm and Garden, Inc. Superfund Site, North Haven, Connecticut

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Landmark Farm and Garden, Inc. Superfund site in North Haven, Connecticut with the following settling parties: Kerr-McGee Chemical, LLC; IMC Global, Inc.; Agrico Chemical Company; and Phosphate Resources Partners Limited Partnership. The settlement requires the settling parties to pay $775,000 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection with the Regional Docket Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RCG, Boston, Massachusetts (U.S. EPA Docket No. CERCLA I–98–1037).

**DATES:** Comments must be submitted on or before October 4, 1999.

**ADDRESSES:** The proposed settlement is available for public inspection with the Regional Docket Clerk, One Congress Street, Boston, Massachusetts. A copy of the proposed settlement may be obtained from RuthAnn Sherman, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode SES, Boston, Massachusetts 02214, (617)918–1886. Comments should reference the Landmark Farm and Garden, Inc. Superfund Site, North Haven, Connecticut and EPA Docket No. I–98–1037 and should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RCG, Boston, Massachusetts 02214.

**FOR FURTHER INFORMATION CONTACT:** RuthAnn Sherman, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode SES, Boston, Massachusetts 02214, (617) 918–1886.

Dated: August 12, 1999.

**Patricia L. Meaney,**

*Director, Office of Site Remediation and Restoration.*

[FR Doc. 99–22929 Filed 9–1–99; 8:45 am]

BILLING CODE 6560–50–P

## FARM CREDIT ADMINISTRATION

### Farm Credit Administration Board; Regular Meeting

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the September 9, 1999 regular meeting of the Farm Credit Administration Board (Board) will not be held. The Board will hold a special meeting at 9:00 a.m. on Thursday, September 30, 1999. An agenda for that meeting will be published at a later date.

**FOR FURTHER INFORMATION CONTACT:** Vivian L. Portis, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: August 30, 1999.

**Vivian L. Portis,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 99–22965 Filed 8–30–99; 4:37 pm]

BILLING CODE 6705–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 25, 1999.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before November 1, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0120.

*Title:* Broadcast Equal Employment Opportunity Model Program Report.

*Form Number:* FCC 396–A.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 2,526.

*Estimated Time Per Response:* 1 hour.

*Frequency of Response:* Reporting, on occasion.

*Total Annual Burden:* 2,526 hours.

*Total Annual Costs:* $0.

*Needs and Uses:* FCC Form 396–A is filed in conjunction with applicants seeking authority to construct a new broadcast station, to obtain assignment of construction or license and/or seeking authority to acquire control of an entity holding construction permit or license. This program is designed to assist the applicant in establishing an effective EEO program for its station.

On September 30, 1998, the Commission suspended the requirement that television and radio broadcast licensees and permittees submit the FCC 396–A with their construction permit, transfer or assignment applications. This suspension is to remain in effect until the Commission revises the EEO rules to be consistent with the Court of Appeals *Lutheran* Church decision. The Commission will make such adjustments to the form as necessary to conform to the *Lutheran* Church decision consistent with the record in the rulemaking. Until such time as the Commission reaches a decision in the outstanding Notice of Proposed Rulemaking concerning the Court of Appeals *Lutheran* Church decision, the FCC 396–A needs to retain a current OMB control number.

The data is reviewed by FCC analysts to determine how stations will provide equal employment opportunity to all qualified persons without regard to race, color, religion, sex or national origin.

Federal Communications Commission.

**Willliam F. Caton,**

*Deputy Secretary.*

[FR Doc. 99–22872 Filed 9–1–99; 8:45 am]

BILLING CODE 6712–01–P

## 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., Tuesday, September 7, 1999.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 2lst Streets, N.W., Washington, D.C. 20551.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

*Discussion Agenda*

1. Proposed 2000–2001 Federal Reserve Board budget.
2. Proposed 2000–2001 budget for the Office of Inspector General.
3. Any items carried forward from a previously announced meeting.

**Note:** This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $6 per cassette by calling 202–452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**CONTACT PERSON FOR MORE INFORMATION:** Lynn S. Fox, Assistant to the Board; 202–452–3204.

**SUPPLEMENTARY INFORMATION:** You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: August 31, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99–23019 Filed 8–31–99; 12:24 pm]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** Approximately 11:30 a.m., Tuesday, September 7, 1999, following a recess at the conclusion of the open meeting.

**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 31, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99–23020 Filed 8–31–99; 12:24 pm]

BILLING CODE 6210–01–P

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Sunshine Act Meeting

**TIME AND DATE:** 9:00 a.m. (EDT), September 13, 1999.

**PLACE:** 4th floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of the minutes of the August 9, 1999, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of FY 1999 budget and projected expenditures, approval of FY 2000 proposed budget, and review of FY 2001 estimates.
4. Review of KPMG Peat Marwick audit reports.
   (a) ''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Withdrawal Operations at the United States Department of Agriculture, National Finance center''
   (b) ''Pension and Welfare Benefits Administration Review of Backup, Recovery, and Contingency Planning of the Thrift Savings Plan at the United States Department of Agriculture, National Finance Center''
   (c) ''Pension and Welfare Benefits Administration Review of Access Controls and Security Over the Thrift Savings Plan Computerized Resources at the United States Department of Agriculture, National Finance Center''

**CONTACT PERSON FOR MORE INFORMATION:** Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: August 30, 1999.

**Elizabeth S. Woodruff,**

*Secretary to the Board, Federal Retirement Thrift Investment Board.*

[FR Doc. 99–22990 Filed 8–31–99; 10:36 am]

BILLING CODE 6760–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. HHS Acquisition Regulations—HHSAR Part 342—Contract Administration—Extension no change—0990–0131—HHSAR 342.7103 requires reporting information when a cost overrun is anticipated. The information is used to determine if a proposed overrun is reasonable—Respondents—State or local governments, Business or other for-profit, non-profit institutions, small businesses. *Annual number of Responses:* 45; *Average burden per response:* 20 hours; *Total burden:* 900 hours.

2. HHS Acquisition Regulation—HHSAR Part 333—Disputes and Appeals—Extension no change—0990–0133—The Litigation and Claims clause is needed to inform the government of actions filed against government contracts—*Respondents:* State or local governments, Business or other for-profit, non-profit institutions, small businesses. *Annual number of Responses:* 100; *Average burden per response:* 30 minutes; *Total burden:* 50 hours.

3. HHS Acquisition Regulation—HHSAR Part 332—Contract Financing—Extension no change—0990–0134—The requirements of HHSAR Part 332 are needed to ascertain costs associated with certain contracts so as to timely pay contractor. *Respondents:* State or local governments, small businesses—Burden Information for Cost Sharing Clause—*Number of Respondents:* 24; *Annual Number of Responses per Respondent:* 10; *Average Burden per Response:* one hour; *Annual Burden:* 240 hours—Burden Information for Letter of Credit Clause—*Number of Respondents:* 268; *Annual Number of Responses:* 4; *Burden per Response:* 1 hour; *Estimated Annual burden:* 1,072 hours—*Total Burden:* 1,312 hours.

4. HHS Acquisition Regulation—HHSAR Part 324—Protection of Privacy and Freedom of Information—Extension no change—0990–0136—The

confidentiality of Information requirements are needed to prevent improper disclosure of confidential data. *Respondents:* State or local governments, businesses or other for-profit, non-profit institutions, small businesses; *Annual Number of Responses:* 449; *Average Burden per Response:* 8 hours; *Estimated Burden:* 3,592 hours.

5. HHS Acquisition Regulation—HHSAR Part 316—Types of Contracts—Extension no change—0990–0138—The Negotiated Overhead Rate—Fixed clause is needed since fixed rates are authorized by OMB Circular and a clause is not provided in the Federal Acquisition Regulation (FAR). *Respondents:* non-profit institutions; *Annual Number of Responses:* 376; *Average Burden per Response:* 10 hours; *Estimated Burden:* 3,760 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: August 23, 1999.

**Dennis P. Williams,**

*Deputy Assistant Secretary, Budget.*

[FR Doc. 99–22820 Filed 9–1–99; 8:45 am]

BILLING CODE 4150–04–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Public Health and Science

### Announcement of Anticipated Availability of Funds for Family Planning Services Grants; Correction

**AGENCY:** Office of Population Affairs, OPHS, HHS.

**ACTION:** Notice of correction.

**SUMMARY:** The Department of Health and Human Services (DHHS) published a document in the **Federal Register** of June 8, 1999 announcing the anticipated availability of funds for family planning services grants. Table I of this document contained incorrect information. Specifically, under the heading entitled ''Populations or areas to be served,'' which appears in the first column of Table I, for DHHS Regions II, III, IV, V, VI, VII, IX and X, current Title X family planning services grantees are listed, rather than geographic areas/populations.

**FOR FURTHER INFORMATION CONTACT:** George Jones, 301–594–4014.

### Correction

In the **Federal Register** of June 8, 1999, in FR Doc. 99–14425, on page 30847, correct Table I to read:

TABLE I

| Populations or areas to be served | Number of competing grants to be awarded | FY99 funding | Appl. due date | Grant funding date |
|---|---|---|---|---|
| Region I: No Grants Available for Competition in FY 2000 | | | | |
| Region II: | | | | |
| Puerto Rico | 1 | 1,735,229 | 03/01/00 | 07/01/00 |
| New York | 1 | 7,703,876 | 03/01/00 | 07/01/00 |
| Region III: | | | | |
| Delaware | 1 | 690,187 | 12/01/99 | 04/01/00 |
| Virginia | 1 | 3,724,186 | 12/01/99 | 04/01/00 |
| Maryland | 1 | 3,205,729 | 12/01/99 | 04/01/00 |
| West Virginia | 1 | 1,693,832 | 12/01/99 | 04/01/00 |
| Western Pennsylvania | 1 | 2,762,425 | 03/01/00 | 07/01/00 |
| Central Pennsylvania | 1 | 2,086,193 | 03/01/00 | 07/01/00 |
| Southeastern Pennsylvania | 1 | 3,487,789 | 03/01/00 | 07/01/00 |
| Northeastern Pennsylvania | 1 | 1,264,753 | 03/01/00 | 07/01/00 |
| Region IV: | | | | |
| Florida | 1 | 6,578,352 | 03/01/00 | 07/01/00 |
| Tennessee | 1 | 5,503,248 | 03/01/00 | 07/01/00 |
| Kentucky | 1 | 3,864,571 | 03/01/00 | 07/01/00 |
| Georgia | 1 | 5,824,306 | 03/01/00 | 07/01/00 |
| North Carolina | 1 | 4,736,317 | 03/01/00 | 07/01/00 |
| Alabama | 1 | 3,698,168 | 03/01/00 | 07/01/00 |
| South Carolina | 1 | 4,131,705 | 03/01/00 | 07/01/00 |
| Mississippi | 1 | 3,722,603 | 03/01/00 | 07/01/00 |
| Region V: | | | | |
| Ohio | 1 | 4,133,315 | 11/01/99 | 03/01/00 |
| Central Ohio | 1 | 623,535 | 11/01/99 | 03/01/00 |
| Summit, Portage and Medina Counties, Ohio | 1 | 676,843 | 03/01/00 | 07/01/00 |
| Region VI: | | | | |
| New Mexico | 1 | 1,995,334 | 09/01/99 | 01/01/00 |
| Arkansas | 1 | 2,961,564 | 11/01/99 | 03/01/00 |
| Oklahoma | 1 | 2,891,198 | 08/01/99 | 12/01/99 |
| Region VII: | | | | |
| Kansas | 1 | 1,786,800 | 03/01/00 | 07/01/00 |
| Region VIII: No grants available for competition in FY 2000 | | | | |
| Region IX: | | | | |
| Government of Guam | 1 | 168,408 | 03/01/00 | 07/01/00 |

TABLE I—Continued

| Populations or areas to be served | Number of competing grants to be awarded | FY99 funding | Appl. due date | Grant funding date |
|---|---|---|---|---|
| Republic of Palau | 1 | 57,971 | 03/01/00 | 07/01/00 |
| Federated States of Micronesia | 1 | 220,564 | 03/01/00 | 07/01/00 |
| Gila River, Arizona | 1 | 172,582 | 03/01/00 | 07/01/00 |
| Region X: | | | | |
| Columbia, Willamette Counties, Oregon | 1 | 561,485 | 03/01/00 | 07/01/00 |
| Idaho | 1 | 961,979 | 03/01/00 | 07/01/00 |
| Seattle, Washington | 1 | 123,800 | 05/30/00 | 09/30/00 |
| Total | 32 | 83,748,838 | | |

Dated: August 27, 1999.

**Denese O. Shervington,**

*Deputy Assistant Secretary for Population Affairs.*

[FR Doc. 99–22819 Filed 9–1–99; 8:45 am]

BILLING CODE 4160–17–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

*Name:* National Committee on Vital and Health Statistics (NCVHS).

*Times and Dates:* 9:00 a.m.–5:30 p.m., September 27, 1999; 10:15 a.m.–3:30 p.m., September 28, 1999.

*Place:* Conference Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201.

*Status:* Open.

*Purpose:* The meeting will focus on a variety of health data policy and privacy issues. Department officials will update the Committee on recent activities of the HHS Data Council and the status of HHS activities in implementing the administrative simplification provisions of Pub. L. 104–191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Committee also will discuss its forthcoming report on Medicaid managed care data issues, as well as a report to the Secretary concerning standards for computer-based patient records, and plans for a November, 1999 workshop at the National Academy of Sciences on Health Statistics for the 21st Century. The Committee also will receive briefings on quality of care data issues and the revision of the U.S. Standard Certificates for Live Birth and Death for 2002. In addition, Subcommittee breakout sessions and reports to the full Committee are planned.

All topics are tentative and subject to change. Prior to the meeting, please check the NCVHS web site, where a detailed agenda will be posted when available.

*Contact Person for More Information:* Substantive information as well as summaries of NCVHS meetings and a roster of committee members may be obtained by visiting the NCVHS website (http://aspe.os.dhhs.gov.ncvhs) where an agenda for the meeting will be posted when available. Additional information may be obtained by calling James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

**Note:** In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, individuals without a government identification card may need to have the guard call for an escort to the meeting room.

Dated: August 26, 1999.

**James Scanlon,**

*Director, Division of Data Policy.*

[FR Doc. 99–22821 Filed 9–1–99; 8:45 am]

BILLING CODE 4151–04–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[INFO–99–28]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Project**

Translating Research Into Action for Diabetes (TRIAD)—New—The National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Division of Diabetes Translation. Diabetes exerts a huge public health burden, and there are several efficacious interventions to combat the effects of this disease. Yet, the quality of care and quality of life among people with diabetes remain sub-optimal in the United States. The Centers for Disease Control and Prevention, Division of Diabetes Translation, intends to conduct a multi-center study called Translating Research Into Action for Diabetes (TRIAD). This study will assess quality of diabetes care and identify effective means of applying existing knowledge to improve care and quality of life. Data provided from TRIAD will be critical to the Division of Diabetes Translation's ongoing efforts to reduce the burden of diabetes.

Data will be collected through cooperative agreements with six

Managed Care Organizations (MCOs). Each MCO will provide data on organization of care, details of diabetes interventions, and efforts to improve diabetes care collected from interviews of health plan and provider group directors. Each MCO will also provide data from random samples of its diabetic members collected via computer-assisted telephone interviews (CATIs). Information from plan members will include demography, quality of diabetes care, quality of life, satisfaction with care, diabetes severity and duration, and barriers to care. Each MCO will collect data from directors and diabetic members at baseline and after two years of follow-up. The total cost to respondents is estimated at $1,620,000.

| Respondent | Number of respondents | Number of responses/ respondent | Avg. burden of response (In hrs.) | Total burden (In hrs.) |
|---|---|---|---|---|
| Managed Care Organizations (MCOs) | 6 MCOs—(each respondent MCO will provide information from an average of 3,000 plan members and directors). | 2 | 0.75 | 27,000 |
| Total | | | | 27,000 |

Dated: August 24, 1999.

**Nancy Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99–22860 Filed 9–1–99; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[INFO–99–30]**

## Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

### Proposed Project

II. Disease Summaries (0920–0004)—Reinstatement—National Center for Infectious Diseases (NCID), National Disease Surveillance Program. Surveillance of the incidence and distribution of disease has been an important function of the U.S. Public Health Service (PHS) since 1878. Through the years, PHS/CDC has formulated practical methods of disease control through field investigations. The CDC Surveillance program is based on the premise that diseases cannot be diagnosed, prevented, or controlled until existing knowledge is expanded and new ideas developed and implemented. Over the years, the mandate of CDC has broadened to include preventive health activities and the surveillance systems maintained have expanded.

Data on disease and preventable conditions are collected in accordance with jointly approved plans by CDC and the Council of State and Territorial Epidemiologists (CSTE). Changes in the surveillance programs and in reporting methods are effected in the same manner. At the onset of this surveillance program in 1968, the CSTE and CDC decided on which diseases warranted surveillance. These diseases are reviewed and revised based on variations in the public health. Surveillance forms are distributed to the State and local health departments who voluntarily submit these reports to CDC on variable frequencies, either weekly or monthly. CDC then calculates and publishes weekly statistics via the Morbidity and Mortality Weekly Report (MMWR), providing the states with timely aggregates of their submissions.

The following diseases/conditions are included in this program: Influenza Virus, Respiratory and Enterovirus, Arboviral Encephalitis, Rabies, Salmonella, Campylobacter, Shigella, Foodborne Outbreaks, Waterborne Outbreaks, and Enteric Virus. This request is for extension of the data collection for three years with minor revisions.

These data are essential on the Local, State, and Federal levels for measuring trends in diseases, evaluating the effectiveness of current preventive strategies, and determining the need for modifying current preventive measures. The total cost to the respondent is 0.

| Respondents | Number of respondents | Number of responses/ respondent | Avg. burden of response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|
| State and Local Health Officials in 50 states/territories | 864 | 28 | .25 | 6048 |
| Table | | | | 6048 |

Dated: August 25, 1999.

**Nancy Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99–22861 Filed 9–1–99; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[INFO–99–31]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Project**

Assessment of Exposure to Arsenic through Household Water—New—National Center for Environmental Health (NCEH). Arsenic is a naturally occurring element present in food and water as both inorganic and organic complexes. Epidemiologic evidence shows a strong link between ingestion of water containing inorganic arsenic and an increase in a wide variety of cancers (e.g., bladder cancer). Consumption of contaminated food is the major source of arsenic exposure for the majority of United States citizens. There are some areas of the United States where elevated levels of arsenic in water occur with appreciable frequency. In such areas, ingestion of water can be the dominant source of arsenic exposure. Currently, the preferred method of treatment of private, domestic well water containing elevated levels of arsenic is point-of-use (POU) devices. The acceptability of bottled water and POU treatment systems as effective means of managing arsenic exposure is based on the assumption that other water exposures such as bathing, brushing of teeth, cooking, and occasional water consumption from other taps contribute relatively minor amounts to a person's total daily intake of arsenic.

We propose to conduct a study to methodically test the validity of the commonly-made assumption that secondary exposures such as bathing will not result in a significant increase in arsenic intake over background dietary levels. Specifically, we are interested in assessing urine arsenic levels among individuals where ingestion of arsenic-containing water is controlled by either POU treatment or use of bottled water, combined with use of short-term diaries to record diet, water consumption, and bathing frequency. The total cost to recipients is $0.00.

| Respondents | Number of Respondents | Number of responses/ respondent | Avg. burden response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|
| Recruiting telephone interview | 580 | 1 | 15/60 | 145 |
| Survey interview (in person) | 520 | 1 | 30/60 | 260 |
| Biologic specimen collection | 520 | 1 | 10/60 | 88 |
| Total | | | | 493 |

Dated: August 27, 1999.

**Nancy Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99–22863 Filed 9–1–99; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[INFO–99–32]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**1. Proposed Projects**

National Disease Surveillance Program—I. Case Reports (0920-0009)—Reinstatement—The National Center for Infectious Disease ( NCID)—Formal surveillance of 19 separate reportable diseases has been ongoing to meet the public demand and scientific interest for accurate, consistent, epidemiologic data. These ongoing diseases include: bacterial meningitis, dengue, kawasaki

syndrome, legionellosis, Hansen's Disease, lyme disease, malaria, pertussis, plague, poliomyelitis, psittacosis, Reye Syndrome, Tetanus, Tick-borne Rickettsial Disease, Toxic Shock Syndrome, toxocariasis, trichinosis, typhoid fever, and viral hepatitis. Case report forms enable CDC to collect demographic, clinical, and laboratory characteristics of cases of these diseases. This information is used to direct epidemiologic investigations, to identify and monitor trends in reemerging infectious diseases or emerging modes of transmission, to search for possible causes or sources of the diseases, and to develop guidelines for the prevention of treatment. It is also used to recommend target areas in most need of vaccinations for certain diseases and to determine development of drug resistance.

Because of the distinct nature of each of the diseases, the number of cases reported annually is different for each. The total cost to respondents is estimated at $818,184.

| Respondents | Number of respondents | Number of responses/ respondent | Average burden/ response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|
| Health Care Workers | 125,214 | 1 | 30/60 | 62,607 |
| Total | | | | 62,607 |

Dated: August 27, 1999.

**Nancy Cheal,**

*Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 99–22864 Filed 9–1–99; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[INFO–99–29]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

**Comments Are Invited On**

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Project**

Supplement to HIV/AIDS Surveillance (SHAS) Project—Revision—The National Center for HIV, STD and TB Prevention (NCHSTP). NCHSTP is proposing revisions to the currently-approved questionnaire for the Supplement to HIV/AIDS Surveillance (SHAS) project (OMB No. 0920–0262). This questionnaire provides detailed information about persons with HIV infection which continues to be of significant interest to public health, community, minority groups and affected groups. Since 1989, the CDC, in collaboration with 12 state and local health agencies, has collected data through the national Supplemental HIV/AIDS Surveillance project. The objective of this project is to obtain increased descriptive information on persons with newly-reported HIV and AIDS infections, including sociodemographic characteristics, risk behaviors, use of health care services, sexual and substance abuse behaviors, minority issues and adherence to therapy. The revised questionnaire will address important emerging surveillance and prevention issues, particularly those related to the recent advances in therapy for HIV infection. This information supplements routine, national HIV/AIDS surveillance and is used to improve CDC's understanding of minority issues related to the epidemic of HIV, target educational efforts to prevent transmission, and improve services for persons with HIV infection. The total cost to the respondents is 0.

Data for Calendar Year 1998:

| Respondents | Number of respondents | Number of responses/ respondent | Avg. burden of response (In hrs.) | Total burden (In hrs.) |
|---|---|---|---|---|
| Georgia | 292 | 1 | .75 | 219 |
| California | 301 | 1 | .75 | 226 |
| Michigan | 82 | 1 | .75 | 62 |
| New Mexico | 81 | 1 | .75 | 61 |
| Arizona | 165 | 1 | .75 | 124 |
| Colorado | 139 | 1 | .75 | 104 |
| Connecticut | 229 | 1 | .75 | 172 |
| Delaware | 43 | 1 | .75 | 32 |
| Florida | 430 | 1 | .75 | 323 |
| S. Carolina | 270 | 1 | .75 | 203 |
| New Jersey | 86 | 1 | .75 | 65 |
| Washington | 160 | 1 | .75 | 120 |
| Total | 2,278 | 1 | .75 | 1,709 |

Dated: August 25, 1999.

**Nancy Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99–22865 Filed 9–1–99; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[INFO–99–27]**

## Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

### Comments Are Invited On

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

### Proposed Project

Evaluation of NIOSH Fire Fighter Alert (Structural Collapse)—New—The National Institute of Occupational Safety and Health (NIOSH). An Alert documents the scientific research about an occupational health and safety hazard and provides recommendations for assessing, avoiding, or reducing the hazard. The Alert is probably the National Institute for Occupational Safety and Health's (NIOSH) best tool for addressing risks of great immediate danger involving hazards to life and health. Even though the Alert can be termed an important tool, prior to 1999 no rigorous test of Alert efficacy had ever been conducted. During the past year, NIOSH began the first rigorous test of one NIOSH Alert on the dangers of structural collapse among fire fighters. This testing was done with a sample of fire fighters, and on the basis of this sample, a national distribution strategy for the Alert will follow.

This Alert contains recommendations with important safety and health implications for more than one million fire fighters in over 36,000 fire fighter units. Morbidity and mortality rates are relatively high for this occupation, which increases the need for effective communication strategies when reporting safety and health recommendations.

The formative research phase done this year by NIOSH's Health Communication Research Branch and Division for Safety Research will produce data with strong levels of internal and external validity. However, the formative phase is only aimed at designing effective messages and not aimed at understanding the impact of those messages in the final distribution of the Alert. NIOSH believes that it is reasonable to: (1) Conduct an evaluation of the national distribution of the Alert to determine its final impact and (2) identify the characteristics of those fire fighter units that may not have met optimal levels of communication effect (receiver awareness, comprehension, acceptance, and use).

The specific goals of this investigation are to: (1) Assess the communication effect of NIOSH recommendations contained within the Alert on structural collapse and (2) identify the characteristics (behavioral, normative, and control beliefs, and demographics) of receivers who fail to meet minimum levels of communication effect.

A standardized questionnaire developed and approved for the formative research phase will be used to assess communication effect. Items will identify the extent of receiver awareness, comprehension, acceptance, and use of the Alert. The Theory of Planned Behavior will be used to help identify the factors that mediate this communication effect, and relevant questions will be added to the existing questionnaire.

The data collected in this study will be used to assess the communication effect of the national distribution of the Alert by comparing the means between the respondents in the formative evaluation and the respondents in the national distribution. This data also will be used to identify the characteristics of those fire fighter units that may not have met optimal levels of communication effects. The total cost to respondents is estimated at $4,500.00.

| Respondents | Number of respondents | Number of responses/ respondent | Avg. burden response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|
| Fire Fighters | 1000 | 1 | .25 | 250 |
| Total | | | | 250 |

Dated: August 27, 1999.

**Nancy Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99–22866 Filed 9–1–99; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Availability of Draft Guidelines for Prevention of Opportunistic Infections in Bone Marrow Transplant Recipients

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This notice announces the availability of a draft document entitled ''Guidelines for the Prevention of Opportunistic Infections in Bone Marrow Transplant Recipients,'' prepared by the Centers for Disease Control and Prevention (CDC), for review and comment.

**DATES:** To ensure consideration, written comments on this draft document must be received on or before November 1, 1999.

**ADDRESSES:** The draft document ''Guidelines for the Prevention of Opportunistic Infections in Bone Marrow Transplant Recipients'' can be accessed electronically at <http://www.cdc.gov/ncidod/dastlr/announce.html>. Alternatively, single copies of the draft are available by mail from Jackie Curlew, CDC, National Center for Infectious Diseases, Division of AIDS, STD, and TB Laboratory Research, Mailstop A–12, 1600 Clifton Rd., NE, Atlanta, GA 30333, telephone (404) 639–4581, FAX (404) 639–4664. Written comments on the draft document should be sent to the above address for receipt by November 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** CDC, National Center for Infectious Diseases, Division of AIDS, STD, and TB Laboratory Research, Mailstop A–12, Atlanta, GA 30333; telephone (404) 639–4581, FAX (404) 639–4664.

**SUPPLEMENTARY INFORMATION:** Opportunistic infections constitute a major cause of morbidity and mortality in bone marrow transplant recipients. These draft guidelines, prepared by CDC, in consultation with representatives from other public and private organizations and bone marrow transplant centers, represent a comprehensive approach to preventing opportunistic infections (*e.g.*, viral, bacterial, mycotic, and parasitic infections) in bone marrow transplant recipients.

Dated: August 27, 1999.

**Joseph R. Carter,**

*Associate Director for Management and Operations Centers for Disease Control and Prevention.*

[FR Doc. 99–22867 Filed 9–1–99; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Office of AIDS Research Advisory Council.

*Date:* October 14–15, 1999.

*Time:* October 14, 1999, 8:45 am to 4:30 pm.

*Agenda:* The role of the Federal Government in AIDS drug discovery, therapeutics, and clinical evaluation.

*Place:* National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

*Time:* October 15, 1999, 8:45 am to 4:30 pm.

*Agenda:* Continue agenda items from the previous day.

*Place:* Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Linda Reck, Head, Program, Planning and Evaluation, Office of AIDS Research, NIH, Bethesda, MD 20892, (301) 402–8655.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals with Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 26, 1999.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 99–22827 Filed 9–1–99; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; Biobehavioral Bases of CHD Risk and Management.

*Date:* September 15, 1999.

*Time:* 3:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Rockledge Bldg. II, 6701 Rockledge Dr., Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Anthony M. Coelho, Leader, Clinical Studies SRG, NIH, NHLBI, DEA, Review Branch, 6701 Rockledge Drive, Room 7194, Bethesda, MD 20892–7924, (301) 435–0288.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; Coronary Artery Disease Risk Development in Young Adults Study; Computed Tomography Reading Center.

*Date:* September 27, 1999.

*Time:* 9:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* 6701 Rockledge Dr., Room 4212, Bethesda, MD 20817, (Telephone Conference Call).

*Contact Person:* David T. George, Scientific Review Administrator, Review Branch, NIH, NHLBI, DEA, Rockledge II, 6701 Rockledge Drive, Suite 7188, Bethesda, MD 20892–7924, (301) 435–0280.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 26, 1999.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 99–22826 Filed 9–1–99; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental Research Special Emphasis Panel 99–C2, Contract 5–99–8.

*Date:* September 20–21, 1999.

*Time:* 8:30 am to 5:00 pm.

*Agenda:* To review and evaluate contract proposals.

*Place:* Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* H. George Hausch, Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental Research Special Emphasis Panel 99–64, Review of R13 Grants.

*Date:* September 20, 1999.

*Time:* 12:15 pm to 2:00 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Natcher Building, Rm. 4AN44F, Bethesda, MD 20892 (telephone Conference Call).

*Contact Person:* H. George Hausch, Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 26, 1999.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy, NIH.*

[FR Doc. 99–22824 Filed 9–1–99; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposal, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel ''Preparation and Distribution of Research Drug Products''.

*Date:* September 16, 1999.

*Time:* 9:00 am to 4:00 pm.

*Agenda:* To review and evaluate contract proposals.

*Place:* Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

*Contact Person:* Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 94547, Bethesda, MD 20892–9547, (301) 435–1438.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: August 26, 1999.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy, NIH.*

[FR Doc. 99–22825 Filed 9–1–99; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4441–N–47]**

### Submission for OMB Review: Quality Control for Rental Assistance Subsidy Determinations

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development (HUD).

**ACTION:** Notice of proposed collection of information.

**SUMMARY:** The Department intends to collect data from a sampling of households receiving housing assistance subsidies. The data will be used to update HUD's estimates of the extent and type of errors associated with income, rent, and subsidy determinations for the 4.5 million households covered by Public Housing and Section 8 housing subsidies. HUD will then identify the most serious problems and their associated costs. HUD program offices will be responsible for designing and implementing corrective actions. Error rates will be compared with error rates from the first quality control study, which was completed in 1995, to measure whether corrective actions initiated after the first study have had impacts and if changes in priorities are needed.

**DATES:** *Comments Due Date:* October 4, 1999.

**ADDRESSES:** Comments should be sent to Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7316. This is not a toll-free number.

**FOR FURTHER INFORMATION CONTACT:** Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number, or e-mail Wayne Eddins@HUD.gov. Copies of the proposed information collection and any proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as

required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

*Title of Proposal:* Quality control for Rental Assistance Subsidy Determinations.

*OMB Approval Number:* 2528–XXXX.

*Description of the Need for the Information and Its Proposed Use:* Date collected from households receiving HUD housing assistance subsidies will be used to determine if subsidies are calculated correctly. Impact of past corrective actions will be measured.

*Form Number(s):* None.

*Respondents:* Individuals or households business or other for-profit not-for-profit institutions.

*Frequency of Submission:* Biennially.

*Reporting Burden:*

| Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| 3000 | .... | 1 | .... | 0.79 | .... | 2,350 |

*Total Estimated Burden Hours:* 2350.

*Status:* Reinstatement w/change.

Dated: August 26, 1999.

**Debra Stouffer,**

*Acting Director, Investment Strategies, Policy, and Management.*

[FR Doc. 99–22828 Filed 9–1–99; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4344–FA–03]**

## Announcement of Funding Awards; Community Development Block Grant Program for Indian Tribes and Alaska Native Villages, Fiscal Year 1998

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1998 for the Community Development Block Grant (CDBG) Program for Indian Tribes and Alaska Native Villages. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to the Indian Tribes and Alaska Native Villages.

**FOR FURTHER INFORMATION CONTACT:** Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003, 450 Golden Gate Avenue, San Francisco, CA 94102; telephone (415) 436–8122 (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 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** The CDBG Program for Indian Tribes and Alaska Native Villages is authorized by Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR part 953.

This Notice announces FY 1998 funding to be used to assist in the development of viable Indian and Alaska Native communities, including decent housing, a suitable living environment, and economic opportunities. The FY 1998 awards announced in this Notice were selected for funding consistent with the provisions in the Notice of Funding Availability (NOFA) published in the **Federal Register** on June 1, 1998 (63 FR 29834) and the amendment notice published on August 5, 1998 (63 FR 41936).

The Catalog of Federal Domestic Assistance number for the CDBG Program for Indian Tribes and Alaska Native Villages is 14.862.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is hereby publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: August 19, 1999.

**Harold Lucas,**

*Assistant Secretary for Public and Indian Housing.*

### APPENDIX A

FISCAL YEAR 1998 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT RECIPIENTS OF FUNDING DECISIONS

| Funding recipient (name and address) | Amount approved |
|---|---|
| **Eastern/Woodlands ONAP** | |
| Arrostook Band of Micmacs, 572 Main Street,Presque Isle, ME 04769 | $400,000 |
| Bay Mills Indian Community, 12140 West Lakeshore Drive, Brimley, MI 49715 | 400,000 |
| Bois Forte Reservation, P.O. Box 16, Nett Lake, MN 55772 | 400,000 |
| Catawba Indian Nation, P.O. Box 188, Catawba, SC 29704 | 400,000 |
| Fond Du Lac Reservation, 1720 Big Lake Road, Cloquet, MN 55720 | 400,000 |
| Lac Courte Oreilles Tribe, Route 2, Box 2700, Hayward, WI 54843 | 400,000 |
| Lac Du Flambeau Band of Lake Superior Chippewa Indians, P.O. Box 67, Lac Du Flambeau, WI 54538 | 103,221 |

FISCAL YEAR 1998 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT RECIPIENTS OF FUNDING DECISIONS—Continued

| Funding recipient (name and address) | Amount approved |
|---|---|
| Leech Lake Reservation, R.R. 3, Box 100 Cass Lake, MN 56633 | 400,000 |
| Menominee Tribe of Wisconsin, P.O. Box 910 Courthouse Road, Keshena, WI 54135 | 400,000 |
| Poarch Band of Creek Indians, 5811 Jack Springs Road, Atmore, AL 36502 | 400,000 |
| Saint Regis Mohawk Tribe, R.R. 1, Box 8A Community Building, Hogansburg, NY 13655 | 200,000 |
| Stockbribge-Munsee Community, N8476 Moh He Con Nuck Road, P.O. Box 70, Bowler, WI 54416 | 400,000 |
| Upper Sioux Indian Community, P.O. Box 147, Granite Falls, MN 56241 | 400,000 |
| White Earth Reservation, P.O. Box 418, White Earth, MN 56591 | 400,000 |
| **Southern Plains ONAP** | |
| Cherokee Nation, P.O. Box 948, Tahlequah, OK 74465 | 750,000 |
| Cheyenne-Arapaho Tribe, P.O. Box 38, Concho, OK 73022 | 750,000 |
| Chickasaw Nation, P.O. Box 1548, Ada, OK 74821 | 750,000 |
| Chitimacha Tribe, P.O. Box 661, Charenton, LA 70523 | 604,140 |
| Choctaw Nation, P.O. Drawer 1210, Durant, OK 74702 | 750,000 |
| Citizen Potawatomi Nation, 1901 S. Gordon Cooper Drive, Shawnee, OK 74801 | 750,000 |
| Delaware Tribe, 220 NW Virginia Avenue, Bartlesville, OK 74003 | 750,000 |
| Iowa Tribe of Oklahoma, R. R. 1, Box 721, Perkins, OK 74059 | 145,562 |
| Kaw Nation, P.O. Box 50, Kaw City, OK 74641 | 668,000 |
| Kickapoo Traditional Tribe of Texas, HC1, Box 9700, Eagle Pass, TX 78852 | 750,000 |
| Miami Tribe, P.O. Box 1326, Miami, OK 74355 | 286,979 |
| Muscogee (Creek) Nation, P.O. Box 580, Okmulgee, OK 74447 | 750,000 |
| Osage Tribe, P.O. Box 53, Pawhuska, OK 74056 | 610,375 |
| Pawnee Tribe, P.O. Box 470, Pawnee, OK 74058 | 750,000 |
| Ponca Tribe, 20 White Eagle Drive, Ponca City, OK 74601 | 750,000 |
| Seminole Nation, P.O. Box 1498, Wewoka, OK 74884 | 750,000 |
| Seneca-Cayuga Tribe, P.O. Box 1283, Miami, OK 74355 | 672,485 |
| Thlopthlocco Tribal Town, P.O. Box 188, Okemah, OK 74859 | 750,000 |
| **Northern Plains ONAP** | |
| Assiniboine & Sioux Tribes, P.O. Box 1027, Poplar, MT 59255 | 400,000 |
| Blackfeet Indian Tribe, P.O. Box 850, Browning, MT 59417 | 800,000 |
| Chippewa-Cree Indians, P.O. Box 544, Box Elder, MT 59521 | 388,356 |
| Crow Creek Sioux Tribe, P.O. Box 50, Fort Thompson, SD 57339 | 570,000 |
| Fort Belknap Indian Community, Box R.R. 1, Box 66, Harlem, MT 59526 | 800,000 |
| Goshute Tribe, P.O. Box 6104, Ibapah, UT 84034 | 800,000 |
| Lower Brule Sioux Tribe, P.O. Box 187, Lower Brule, SD 57548 | 800,000 |
| Northern Arapaho Tribe, P.O. Box 396, Fort Washakie, WY 82514 | 690,915 |
| Paiute Indian Tribe of Utah, 440 North Paiute Drive, Cedar City, UT 84720 | 537,078 |
| Rosebud Sioux Tribe, P.O. Box 430, Rosebud, SD 57570 | 800,000 |
| Salish & Kootenai Tribes, P.O. Box 278, Pablo, MT 59855 | 800,000 |
| Sisseton Wahpeton Sioux Tribe, P.O. Box 509, Agency Village, SD 57262 | 800,000 |
| Turtle Mountain Band of Chippewa Indians, P.O. Box 900, Belcourt, ND 58316 | 400,000 |
| Ute Mountain Ute Tribe, P.O. Box 248, Towaoc, CO 81334 | 800,000 |
| Yankton Sioux Tribe, P.O. Box 248, Marty, SD 57361 | 800,000 |
| **Southwest ONAP** | |
| Agua Caliente Band of Cahuilla Indians, 600 E. Tahquitz Canyon Way, Palm Springs, CA 92262 | 550,000 |
| Big Lagoon Rancheria of Smith River Indians, P.O. Box 3060, Trinidad, CA 95570 | 72,010 |
| Big Sandy Rancheria of Mono Indians, P.O. Box 337, Auberry, CA 93602 | 550,000 |
| Big Valley Rancheria of Pomo and Pit River Indians, P.O. Box 430, Lakeport, CA 95453 | 493,669 |
| Chicken Ranch Rancheria of Me-Wuk Indians, P.O. Box 1159, Jamestown, CA 95327 | 550,000 |
| Fort Bidwell Indian Community of Paiute Indians, P.O. Box 129, Fort Bidwell, CA 96112 | 476,000 |
| Fort Independence Indian Community of Paiute Indians, P.O. Box 67, Fort Independence, CA 93526 | 550,000 |
| Fort Mojave Indian Tribe, 500 Merriman Avenue, Needles, CA 92363 | 550,000 |
| Grindstone Rancheria of Wintun-Wailaki Indians, P.O. Box 63, Elk Creek, CA 95939 | 550,000 |
| Guidiville Rancheria, P.O. Box 339, Talmage, CA 95481 | 529,504 |
| Hualapai Indian Tribe, P.O. Box 179, Peach Springs, AZ 86434 | 750,000 |
| Havasupai Tribe, P.O. Box 10, Supai, AZ 86435 | 550,000 |
| Hoopa Valley Tribe, P.O. Box 1348, Hoopa, CA 95546 | 694,104 |
| Jackson Rancheria of Me-Wuk Indians, P.O. Box 429, Jackson, CA 95642 | 550,000 |
| Karuk Tribe of California, P.O. Box 1016, Happy Camp, CA 96039 | 750,000 |
| Los Coyotes Band of Cahuilla Indians, P.O. Box 189, Warner Springs, CA 92086 | 550,000 |
| Mechoopda Indian Tribe, 1907 F. Mangrove Avenue, Chico, CA 95926 | 269,858 |
| Mesa Grande Band of Diegueno Indians, P.O. Box 270, Santa Ysabel, CA 92070 | 112,245 |
| Mescalero Apache Tribe, P.O. Box 176, Mescalero, NM 88340 | 1,400,000 |
| Middletown Rancheria of Pomo Indians, P.O. Box 1035, Middletown, CA 95461 | 550,000 |
| Navajo Nation, P.O. Box 900, Window Rock, AZ 86515 | 4,996,999 |
| Pala Band of Luiseno Indians, P.O. Box 43, Pala, CA 92059 | 463,580 |
| Pueblo of Santa Ana, 02 Dove Road, Bernalillo, NM 87004 | 550,000 |
| Redding Rancheria, 2000 Redding Rancheria Road, Redding, CA 96001 | 482,540 |
| Reno-Sparks Indian Colony, 98 Colony Road, Reno, NV 89502 | 550,000 |

FISCAL YEAR 1998 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT RECIPIENTS OF FUNDING DECISIONS—Continued

| Funding recipient (name and address) | Amount approved |
|---|---|
| Rincon Band of Luiseno Indians, P.O. Box 68, Valley Center, CA 92082 | 550,000 |
| Robinson Rancheria of Pomo Indians, P.O. Box 1119, Nice, CA 95464 | 550,000 |
| Round Valley Indian Tribes, P.O. Box 448, Covelo, CA 95428 | 415,000 |
| Salt River Pima-Maricopa Indian Community, 1005 E. Osborn Road, Scottsdale, AZ 85256 | 2,000,000 |
| San Carlos Apache Tribe, P.O. Box 0, San Carlos, AZ 85550 | 300,000 |
| San Pasqual Band of Diegueno Indians, P.O. Box 365, Valley Center, CA 92082 | 550,000 |
| Santa Ysabel Band of Diegueno Indians, P.O. Box 130, Santa Ysabel, CA 92070 | 134,373 |
| Scotts Valley Band of Pomo Indians, 149 North Main Street, Suite 200, Lakeport, CA 95453 | 550,000 |
| Shingle Springs Band of Miwok Indians, P.O. Box 1340, Shingle Springs, CA 95682 | 550,000 |
| Table Bluff Rancheria of Wiyot Indians, P.O. Box 519, Loleta, CA 95551 | 476,829 |
| Torres Martinez Band of Cahuilla Indians, P.O. Box 1160, Thermal, CA 92274 | 550,000 |
| Tule River Indian Tribe, P.O. Box 589, Porterville, CA 93257 | 550,000 |
| Tuolomne Band Band of Me-Wuk Indians, P.O. Box 699, Tuolomne, CA 95379 | 550,000 |
| Washoe Tribe of Nevada and California, 919 Highway 395 South, Gardnerville, NV 89410 | 550,000 |
| Yavapai-Apache Nation, P.O. Box 1188, Camp Verde, AZ 86322 | 550,000 |
| Zuni Pueblo, P.O. Box 339, Zuni, NM 87327 | 968,709 |
| **Northwest ONAP** | |
| Burns Paiute Tribe, HC 71, 100 Pasigo St Burns, OR 97720 | 335,000 |
| Chehalis Tribe, P.O. Box 536, Oakville, WA 98568 | 316,825 |
| Coeur d'Alene Tribe, W 30001, Hwy. 95, Worley, ID 83876 | 334,078 |
| Coquille Tribe, P.O. Box 783, North Bend, OR 97459 | 335,000 |
| Jamestown S'Klallam Tribe, 1033 Old Blyn Hwy., Sequim, WA 98382 | 277,733 |
| Kalispel Tribe, P.O. Box 39, Usk, WA 99180 | 335,000 |
| Nez Perce Tribe, P.O. Box 365, Lapwai, ID 83540 | 335,000 |
| Samish Indian Nation, P.O. Box 217, Anacortes, WA 98221 | 335,000 |
| Shoshone Bannock Tribes, P.O. Box 306, Fort Hall, ID 83203 | 335,000 |
| Spokane Tribe, P.O. Box 100, Wellpinit, WA 99040 | 335,000 |
| Squaxin Island Tribe, SE 70 Squaxin Land, Shelton, WA 98584 | 335,000 |
| Swinomish Indian Community, P.O. Box 817, LaConner, WA 98257 | 335,000 |
| **Alaska ONAP** | |
| Akiachak Native Community, P.O. Box 70, Akiachak, AK 99551 | 500,000 |
| Alakanuk Traditional Council, P.O. Box 149, Alakanuk, AK 99554 | 497,135 |
| Atmautluak Traditional Council, P.O. Box 6568, Atmautluak, AK 99559 | 500,000 |
| Beaver Tribal Village Council, P.O. Box 24029, Beaver, AK 99724 | 486,506 |
| Chenega Bay IRA Council, P.O. Box 8079, Chenega Bay, AK 99574 | 499,593 |
| Craig Community Association, P.O. Box 828, Craig, AK 99921 | 500,000 |
| Crooked Creek Community Council, P.O. Box 69, Crooked Creek, AK 99575 | 333,179 |
| Curyung Tribal Council, 134 1st Avenue West, P.O. Box 216, Dillingham, AK 99576 | 500,000 |
| Native Village of Ekuk, P.O. Box 530, Dillingham, AK 99576 | 500,000 |
| Emmonak Corporation, P.O. Box 49, Emmonak, AK 99581 | 500,000 |
| Evansville Tribal Council, P.O. Box 26087, Bettles Field, AK 99726 | 257,590 |
| Holy Cross Tribal Council, P.O. Box 89, Holy Cross, AK 99602 | 321,014 |
| Huslia Tribal Council, P.O. Box 70, Huslia, AK 99746 | 267,007 |
| Kasigluk Traditional Council, P.O. Box 19, Kasigluk, AK 99609 | 500,000 |
| Kwethluk IRA Council, P.O. Box 129, Kwethluk, AK 99621 | 500,000 |
| Kwigillingok IRA Council, P.O. Box 49, Kwigillingok, AK 99622–0049 | 415,427 |
| Lower Kalskag Traditional Council, P.O. Box 27, Lower Kalskag, AK 99626 | 415,427 |
| Metlakatla Indian Community, P.O. Box 8, Metlakatla, AK 99926 | 500,000 |
| Napaskiak Village Council, P.O. Box 6009, Napaskiak, AK 99559 | 498,000 |
| Noorvik IRA Council, P.O. Box 71, Noorvik, AK 99763 | 500,000 |
| Pedro Bay Village Council, P.O. Box 47020 Pedro Bay, AK 99647 | 500,000 |
| Qagan Tayagungin Tribe, P.O. Box 447, Sand Point, AK 99661 | 500,000 |
| Tuntutuliak Traditional Council, P.O. Box 8086, Tuntutuliak, AK 99680 | 500,000 |
| Unga Tribal Council, P.O. Box 508, Sand Point, AK 99661 | 500,000 |

[FR Doc. 99–22829 Filed 9–1–99; 8:45 am]

BILLING CODE 4210–33–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of an Application for Incidental Take Permit During Construction on Lot 5 of a Single Family Residence on 2.75 Acres on Pearce Road in Travis County, Texas

**SUMMARY:** Brent Mayberry (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE–012963–0. The requested permit, which is for a period of 7 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of a single family residence on Pearce Road, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

**DATES:** Written comments on the application should be received on or before October 4, 1999.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Christina Longacre, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas at the above address. Please refer to permit number TE–012963–0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Christina Longacre at the above Austin Ecological Services Field Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

### Applicant

Brent Mayberry plans to construct a single family residence on Pearce Road, Travis County, Texas. This action will eliminate less than three quarters of an acre of habitat and indirectly impact less than four additional acres of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by donating $1,500 into the Balcones Canyonlands Preserve to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to this action were rejected because not developing the subject property with federally listed species present was not economically feasible, and alteration of the project design would not decrease the impacts.

**Geoffrey L. Haskett,**

*Acting Regional Director, Region 2, Albuquerque, New Mexico.*

[FR Doc. 99–22859 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[TE 016724]**

### Endangered and Threatened Wildlife and Plants: Notice of Availability and Opening of Comment Period for an Application for an Incidental Take Permit to Allow Take of an Endangered Species by Cinergy Corporation, Gibson County, IN, and National Environmental Policy Act Determination

**SUMMARY:** The US Fish and Wildlife Service (Service) provides notice of the availability of a Habitat Conservation Plan (HCP) and Incidental Take Permit Application received from Cinergy Corporation, Gibson County, Indiana, and the Service's National Environmental Policy Act Determination for the proposed action of permit issuance. In 1986, a single pair of endangered interior least terns (Sterna antillarum) nested at Cinergy's Gibson Generating Station in Gibson County, Indiana. Since that time, the least tern colony at the facility has grown. The most terns ever recorded in a single year was in 1998 when an estimated 85 adult terns, 63 nests, and 72 fledged young were present. Since the initial discovery, Cinergy has worked with the Indiana Department of Natural Resources and the Service to maintain conditions favorable for successful tern production at the Gibson Generating Station. All tern nesting habitat at the Gibson Generating Station was created as the result of the construction and maintenance of the facility. No tern habitat existed at this site prior to construction of the generating station and associated facilities. Cinergy has voluntarily enhanced the habitat to maintain and improve nesting conditions for least terns. Cinergy proposes to continue efforts to enhance nesting opportunities for least terns on the facility. However, some least tern nesting has occurred in active ash disposal areas and on access roads to these areas and Cinergy acknowledges that the operation and maintenance of the Gibson Generating Station entails some potential for incidental take. The applicant has submitted an HCP detailing their proposal for management of least terns at the facility, and seeks an incidental take permit for a 5 year period. The proposed take of least terns (adults, chicks, or eggs) will not exceed 5% of the estimated maximum adult population present on the facility in any given year. The net result of activities proposed in Cinergy's HCP will be an increase in suitable tern nesting habitat; no existing habitat will be destroyed. However, attempts may be made to make ash disposal areas and associated access roads, areas where there is potential for incidental take of terns, less attractive as potential nesting sites. Cinergy will continue to maintain the core nesting area at the Gibson Generating Station in a condition favorable for least tern nesting. In addition, Cinergy will assist in the development of the 187-hectare Cane Ridge Wildlife Area, which will include creation of least tern nesting units. These tern nesting units, which will be immediately adjacent to the Gibson Generating Station, will be owned and managed by the Service and will provide additional suitable habitat for least terns. The HCP and Incidental Take Permit Application are available for public review and comment for a

period of 30 days. In addition, the Service has determined that the HCP meets the criteria for a ''Low Effect'' HCP and has determined that it qualifies for a Categorical Exclusion. This NEPA determination is available for review by interested parties. All comments received, including commentors names and addresses, will become part of the Service's Administrative Record and may be made available to the public.

**DATES:** Written comments on the Habitat Conservation Plan/Incidental Take Permit Application and the Service's NEPA Determination must be received on or before October 4, 1999.

**ADDRESSES:** Persons wishing to review the application and associated documents may obtain copies by writing to the Regional HCP/NEPA Coordinator, Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Documents will be available for public inspection by appointment only, during normal business hours (8:00–4:30), at the US Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, Minnesota, (612–713–5350) and at the US Fish and Wildlife Service, 620 South Walker Street, Bloomington, Indiana (812–334–4261). Written comments should be submitted to the Regional HCP/NEPA Coordinator at the address listed above or via FAX at 612–713–5292. Please refer to permit number TE 016724 when submitting comments.

**FOR FURTHER INFORMATION, CONTACT:** Ms. Lisa Mandell, Regional HCP/NEPA Coordinator, at (612) 713–5350.

Dated: August 27, 1999.

**Charles M. Wooley,**

*Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*

[FR Doc. 99–22918 Filed 9–1–99; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Intent To Prepare Environmental Assessments of Environmental Impact Statements for Permit Applications To Incidentally Take the Preble's Meadow Jumping Mouse in Boulder, Douglas, Elbert, El Paso, and Jefferson Counties, Colorado; Correction

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

**ACTION:** Notice; correction.

**SUMMARY:** The Fish and Wildlife Service published a document in the **Federal Register** of August 26, 1999; the document contained one incorrect date. In notice document 99–21891 beginning on page 46703 in the issue of Thursday, August 26, 1999, make the following corrections:

On page 46704, Item number 3 under the Public Participation Section, insert the following date correction: ''3. October 5, 1999, 7:00 p.m., Elbert County—County Courthouse, 215 Comanche Street, Kiowa, Colorado 80117.''

Dated: August 26, 1999.

**Mary L. Gessner,**

*Acting Regional Director, Denver, Colorado.*

[FR Doc. 99–22858 Filed 9–1–99; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Land Acquisitions; Little Traverse Bay Bands of Odawa Indians of Michigan

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of final agency determination to take land into trust under 25 CFR part 151.

**SUMMARY:** The Assistant Secretary—Indian Affairs made a final agency determination to acquire approximately 5 acres, more or less, of land into trust for the Little Traverse Bay Bands of Odawa Indians of Michigan on August 27, 1999. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Pierskalla, Indian Gaming Management Staff Office, Bureau of Indian Affairs, MS 2070–MIB, 1849 C Street, NW, Washington, DC 20240, telephone (202) 219–4066.

**SUPPLEMENTARY INFORMATION:** This notice is published to comply with the requirement of 25 CFR 151.12(b) that notice be given to the public of the Secretary's decision to acquire land in trust at least 30 days prior to signatory acceptance of the land into trust. The purpose of the 30-day waiting period in 25 CFR 151.12(b) is to afford interested parties the opportunity to seek judicial review of final administrative decisions to take land in trust for Indian tribes and individual Indians before transfer of title to the property occurs. On August 27, 1999, the Assistant Secretary—Indian Affairs decided to accept approximately 5 acres, more or less, of land into trust for the Little Traverse Bay Bands of Odawa Indians pursuant to Section 1300k-4(b) and (d) of the Little Traverse Bay Bands of Odawa Indians and Little River Band of Ottawa Indians Act, Public Law 103–324, 25 U.S.C. 1300k—1300k–7(1994). The Secretary shall acquire title in the name of the United States in trust for the Little Traverse Bay Bands of Odawa Indians for the following parcel of land described below no sooner than 30 days after the date of this notice. A parcel of land containing 5 acres, more or less, situated near the City of Petoskey, in Emmet County, Michigan, and is more particularly described as follows:

commencing at the South ¼ corner of Section 7, Township 34 North, Range 5 West; thence North 01°02′30″ East 133.03 feet to a T-iron stake which is the Point of Beginning; thence West 425.07 feet to a T-iron stake; thence North 05°08′30″ East 120.16 feet to a T-iron stake; thence North 03°06′30″ East 408.43 feet to a T-iron stake; thence South 89°54′30″ East 401.67 feet to a T-iron stake; thence South 01°02′30″ West 526.91 feet to the Point of Beginning; being a part of the Southeast ¼ of the Southwest ¼ of said Section 7 in the Township of Bear Creek, Emmet County, Michigan.

Subject to all easements, restrictions, covenants, reservations, responsibilities and requirements of record.

Dated: August 27, 1999.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 99–22852 Filed 9–1–99; 8:45 am]

BILLING CODE 4310–02–P

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

**[INS No. 2010–99; AG Order No. 2252–99]**

**RIN 1115–AE 26**

### Extension of Designation of Montserrat Under Temporary Protected Status Program

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice.

**SUMMARY:** This notice extends the Attorney General's designation of Montserrat under the Temporary Protected Status (TPS) program until August 27, 2000. Eligible nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) may re-register for TPS and an extension of employment authorization. Re-registration is limited to persons who registered for the initial period of TPS, which ended on August 27, 1998, or who registered after that date under the late initial registration provision. Persons who are eligible for late initial registration may register for TPS during this extension.

**EFFECTIVE DATES:** The extension of the TPS designation for Montserrat is effective August 28, 1999, and will remain in effect until August 27, 2000. The 30-day re-registration period begins September 2, 1999 and will remain in effect until October 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Michael Valverde, Residence and Status Service Branch, Adjudications, Immigration and Naturalization Service, Room 3214, 425 I Street, NW, Washington, DC 20536, telephone (202) 514–4754.

**SUPPLEMENTARY INFORMATION:**

## What Authority Does the Attorney General Have To Extend the Designation of Montserrat Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (Act) states that at least 60 days before the end of an extension or a designation, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General determines that the foreign state continues to meet the conditions for designation, the period of designation is extended, pursuant to section 244(b)(3)(C) of the Act. 8 U.S.C. 1254(b)(3)(C). Through such an extension, TPS is available only to persons who have been continuously physically present and have continuously resided in the United States from the effective date of the initial designation, in this case, since August 28, 1997.

## Why Did the Attorney General Decide To Extend the TPS Designation for Montserrat?

On August 28, 1997, the Attorney General initially designated Montserrat for TPS for a period of 12 months. 62 FR 45685. Since that date, the Departments of State and Justice have annually reviewed conditions within Montserrat. Based on this year's review, the Attorney General finds that extraordinary and temporary conditions that would prevent aliens who are nationals of Montserrat (and aliens having no nationality who last resided in Montserrat) from returning to Montserrat in safety persist and that permitting such aliens to remain temporarily in the United States is not contrary to the national interest. 8 U.S.C. 1254a(b)(1)(C).

On the basis of these findings, an extension of the TPS designation for Montserrat is warranted. 8 U.S.C. 1254a(b)(3)(C).

## If I Currently Have TPS How Do I Register for an Extension?

Persons previously granted TPS under the Montserrat program may apply for an extension by filing a Form I–821, Application for Temporary Protected Status, without the fee, during the re-registration period that begins September 2, 1999 and ends October 4, 1999. Additionally, you must file a Form I–765, Application for Employment Authorization. See the chart below to determine whether you must submit the one-hundred dollar ($100) filing fee with the Form I–765.

| If | Then |
|---|---|
| You are applying for employment authorization through August 27, 2000. | You must complete and file the Form I–765, Application for Employment Authorization, with the one-hundred dollar ($100) fee. |
| You already have employment authorization or do not require employment authorization. | You must complete and file the Form I–765, Application for Employment Authorization, with no fee. |
| You are applying for employment authorization and are requesting a fee waiver. | You must complete and file Form I–765, with a fee waiver request and affidavit (and any other information), in accordance with 8 CFR 244.20. |

To re-register for TPS, you also must include two identification photographs (1½″×1½″).

## Is Late Registration Possible?

Yes. In addition to timely re-registration, late initial registration is possible for some persons from Montserrat under 8 CFR 244.2(f)(2). The requirements for late initial registration specify that an applicant for late initial registration must:

(1) Be a national of Montserrat (or an alien having no nationality who last habitually resided on Montserrat);

(2) Have been continuously physically present in the United States since August 28, 1997;

(3) Have continuously resided in the United States since August 22, 1997; and

(4) be admissible as an immigrant, except as otherwise provided in section 244(c) of the Act, and not ineligible under section 244(c)(2)(B) of the Act. 8 CFR 244.2(f)(2).

Additionally, the applicant must be able to demonstrate that, during the initial registration period from August 28, 1997, through August 27, 1998, he or she:

(1) Was in valid immigrant or nonimmigrant status, or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal pending or subject to further review or appeal;

(3) Was a parolee or has a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant. Id.

An applicant for late initial registration must register no later than sixty (60) days from the expiration or termination of the qualifying condition. Id.

## Where Should I File for an Extension of TPS?

Persons seeking to register for an extension of TPS must submit an application and accompanying materials to the Immigration and Naturalization Service local office that has jurisdiction over the applicant's place of residence.

## When Can I File for an Extension of TPS?

The 30-day re-registration period begins September 2, 1999 and will remain in effect until October 4, 1999.

## How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not preclude or affect an application for asylum or any other immigration benefit. A national of Montserrat (or alien having no nationality who last habitually resided in Montserrat) who is otherwise eligible for TPS and has applied for or plans to apply for asylum, but who has not yet been granted asylum or withholding of removal, may also apply for TPS. Denial of an application for asylum or any other immigration benefit does not affect an applicant's ability to register for TPS, although the grounds of denial may also be grounds of denial for TPS. For example, a person who has been

convicted of an aggravated felony is not eligible for asylum or TPS.

**Does This Extension Allow Nationals of Montserrat (or Aliens Having No Nationality Who Last Habitually Resided in Montserrat) Who Entered the United States After August 28, 1997, To File for TPS?**

No. This is a notice of an extension of the TPS designation for Montserrat. It is not a notice of redesignation of Montserrat under the TPS program. An extension of TPS does not change the required dates of continuous physical presence and residence in the United States, and does not expand the TPS program to include nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) who arrived in the United States after the date of the initial designation, in this case, August 28, 1997.

**Notice of Extension of Designation of Montserrat Under the TPS Program**

By the authority vested in me as Attorney General under sections 244(b)(3)(A) and (C) of the Act, I have consulted with the appropriate agencies of the Government concerning whether the conditions under which Montserrat was initially designated for TPS continue to exist. As a result, I determine that the conditions for the initial designation of TPS for Montserrat continue to be met. 8 U.S.C. 1254a(b)(3)(A), (C). Accordingly, I order as follows:

(1) The designation of Montserrat under section 244(b) of the Act is extended for an additional 12-month period from August 28, 1999, until August 27, 2000. 8 U.S.C. 1254a(b)(3)(C).

(2) I estimate that there are approximately 300 nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) who have been granted TPS and who are eligible for re-registration.

(3) In order to be eligible for TPS during the period from August 28, 1999, through August 27, 2000, a national of Montserrat (or alien having no nationality who last habitually resided in Montserrat) who received a grant of TPS during the initial period of designation from August 28, 1997, until August 27, 1998, must re-register for TPS by filing a new Application for Temporary Protected Status, Form I–821, along with an Application for Employment Authorization, Form I–765, within the 30-day period beginning September 2, 1999 and ending on October 4, 1999. Late re-registration will be allowed pursuant to 8 CFR 244.17(c).

(4) Pursuant to section 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before August 27, 2000, the designation of Montserrat under the TPS program to determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the reasons underlying it, will be published in the **Federal Register**.

(5) Information concerning the TPS program for nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) will be available at local Service offices upon publication of this notice.

Dated: August 26, 1999.

**Janet Reno,**

*Attorney General.*

[FR Doc. 99–22837 Filed 9–1–99; 8:45 am]

BILLING CODE 4410–10–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

August 27, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). 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 by 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), within 30 days from the date of this publication in the **Federal Register.**

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 submissions of responses.

*Agency:* Employment Standards Administration.

*Title:* Housing Terms and Conditions.

*OMB Number:* 1215–0146.

*Frequency:* On occasion.

*Affected Public:* Farms; Individuals or households; business or other for-profit.

*Number of Respondents:* 1,300.

*Estimated Time Per Respondent:* 30 minutes.

*Total Burden Hours:* 650.

*Total Annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The Migrant and Seasonal Agricultural Worker Protection Act requires any farm labor contractor, agricultural employer, or agricultural association providing housing to post or present, in writing form, to each migrant agricultural worker the terms and conditions, if any, of occupancy.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 99–22844 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–27–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

August 27, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). 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 by 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 10234, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

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 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:* Bureau of Labor Statistics.

*Title:* National Compensation Survey.

*OMB Number:* 1220–0164.

*Frequency:* Quarterly; annually.

*Affected Public:* Business or other for-profit; not-for-profit institutions; State, Local or Tribal Government.

*Number of Respondents:* 40,116.

| Forms | Total respondents | Frequency | Total annual responses | Average minutes per response | Average time for predominant form use | Total annual burden |
|---|---|---|---|---|---|---|
| Earnings Initiation (NCS 99–1) | 5,640 | Annual or quarterly | 6,204 | 76 | 82 | 7,821 |
| Earnings Update (NCS 99–2) | 24,106 | Annual or quarterly | 54,368 | 19 | 20 | 17,477 |
| Benefits Initiation [1] (NCS 99–3) | 2,240 | Annual or quarterly | 2,593 | 156 | 180 | 6,748 |
| Benefits Update (NCS 99–4) | 10,686 | Annual or quarterly | 37,807 | 20 | 20 | 12,464 |
| Informed Consent (NCS 99–5) | (2) | (3) | (3) | (4) | (4) | (4) |
| Collection Not Tied to a Specific Form. | 10,370 | Annual | 10,370 | 56 | 82 | 9,752 |
| Total | 53,041 | | 111,342 | | | 54,262 |

[1] Form 3038D will continue to be used until the NCS data capture system is completed at the end of FY 2000.
[2] Unknown; dependent upon number of respondents who elect to have third parties provide data.
[3] Unknown.
[4] Negligible.

**Note:** All figures are based on a three-year average. The total respondents and total responses are asked to give data that will be used on several forms.

*Total Annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The National Compensation Survey integrates three BLS programs: The Occupational Compensation Survey Program, the Employment Cost Index, and the Employee Benefits Survey. Data are collected from both the private non-farm economy and State and local governments. Data produced from this survey are critical in determining pay increases for Federal workers; in determining monetary policy; and for use by compensation administrators and researchers in the private sector.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 99–22845 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–24–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

August 27, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). 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 by 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) 3965–7316), within 30 days from the date of this publication in the **Federal Register**.

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:* Employment Standards Administration.

*Title:* Certification of Medical Necessity.

*OMB Number:* 1215–0113.

*Frequency:* On occasion.

Affected Public: Business or other for-profit; not-for-profit institutions.

*Number of Respondents:* 9,000.

*Estimated Time Per Respondent:* 20–40 minutes.

*Total Burden Hours:* 3,600.

*Total Annualized capital/startup costs:* $0.

*Total annual costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The CM–893, Certificate of Medical Necessity, is completed by the miner's doctor and is used by DCMWC to determine if the miner meets the specific impairment standards to qualify for durable medical equipment, home nursing care and/or pulmonary rehabilitation.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 99–22846 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–27–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Job Training Partnership Act, Section 402 Migrant and Seasonal Farmworker Program and Workforce Investment Act, Sections 127 and 167 Migrant and Seasonal Farmworker Program

**AGENCY:** Employment and Training Administration.

**ACTION:** Notice of Availability of Funds and Solicitation for Grant Applications (SGA) for Migrant and Seasonal Farmworker (MSFW) Youth Program under the Workforce Investment Act (WIA).

**SUMMARY:** All information required to submit a grant application is contained in this announcement. The U.S. Department of Labor (the Department), Employment and Training Administration (ETA), announces the availability of funds as authorized in Section 127 (b)(1)(A)(iii) of the Workforce Investment Act, to provide MSFW youth workforce investment activities.

This notice provides the information and the process that eligible entities must use to apply for these MSFW youth funds and how grantees will be selected for the two-year designation period. It is anticipated that up to $10,000,000 will be available for the first grant year (commencing during the month of November 1999) for funding approximately 12 to 20 projects covered by this Solicitation.

The Department intends to provide non-competitive funding for the succeeding one-year period (FY 2001) for grantees who perform satisfactorily during FY 2000, subject to availability of federal funds. In accordance with WIA Section 167(c)(4)(B), the Department will establish criteria for making a determination of satisfactory performance upon which to base the non-competitive funding for the second one-year period. The Department will advise the grantees of its determination and will include the criteria to be used for determining satisfactory performance.

**DATES:** The closing date for receipt of proposals is October 15, 1999 at 4:00 p.m. (Eastern Time). No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted. Applications that do not meet the conditions set forth in this notice will not be considered.

**ADDRESSES:** Applications must be mailed or hand-delivered to: Ms. Lorraine Saunders; U.S. Department of Labor; Employment and Training Administration; Division of Federal Assistance; 200 Constitution Avenue, N.W., Room S–4203; Washington, D.C. 20210. Reference: SGA/DFA–99–020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lorraine Saunders at (202) 219-8702, Ext. 145 (this is not a toll-free number).

## Part I. Background

*Introduction*

The proposals solicited must consist of a two-year program strategy consisting of five sections covering the applicant's understanding of the problems of migrant and seasonal farmworker youth (Section 1); familiarity with the area to be served and capacity to work within the existing service environment (Section 2); description of planned program activities and services (Section 3); capacity to administer effectively a workforce investment program for MSFW youth (Section 4); and administrative and management capability (Section 5). The statement of programmatic experience must reflect the applicant's capacity to administer effectively a diversified program of workforce investment activities and related assistance (an employability development program under JTPA) for eligible migrant and seasonal farmworker youth.

For rating purposes, each section is assigned a range of possible points, and the sum of the maximum possible points for all five sections totals 100. The most heavily weighted section is Section 3 which covers the perceived effectiveness of the proposed MSFW youth workforce activities. The applicant's proposal for Section III should be a description of an operational plan that is appropriate to the conditions described by the proposer in Section 1.

*Background*

The purpose of WIA is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, employment retention, participant earnings, and increase occupational skill attainment by participants. As set forth in 20 CFR 669.600 (published at 64 Fed. Reg. 18750 (Apr. 15, 1999)), the purpose of the MSFW youth program is to provide an effective and comprehensive array of educational opportunities, employment skills, and life enhancement activities to at-risk and out-of-school MSFW youth that lead to success in school, economic stability and development into productive members of society.

WIA, Section 167, 29 U.S.C. 2912, and as defined in the Interim Final Regulations, provides for eligible entities, selected through a Federal competitive grants or contracts process, to deliver a diversified program of workforce investment activities, and related assistance to eligible migrant and seasonal farmworker youth who are members of families that suffer chronic seasonal unemployment and underemployment in the agriculture industry. Regulations promulgated by the Department to implement the provisions of Section 167 are set forth in 20 CFR Part 669 (published at 64 Fed. Reg. 18662, 18746 (Apr. 15, 1999)). These programs will:

(1) Strengthen the ability of eligible farmworkers and their dependents to obtain or retain unsubsidized employment, or stabilize their unsubsidized employment; and

(2) Provide related assistance and supportive services, integrated and coordinated with other appropriate services.

The portion of the regulations that specifically pertain to the MSFW youth program are set fourth in Subpart E at 20 CFR 669.600 et. seq. (64 Fed. Reg. 18750 (Apr. 15, 1999)).

In addition, migrant and seasonal farmworker programs are subject to all applicable provisions of the Interim Final WIA Regulations, 29 CFR Parts 93 (New Restrictions on Lobbying), 96 (Audit Requirements), and 98 (Debarment, Suspension and Drug-free Workplace requirements) and the Department's nondiscrimination regulations implementing Section 188. Should the regulations at Part 669 conflict with regulations elsewhere in 20 CFR, the regulations at Part 669 will control. Further, should any instructions in this notice conflict with WIA Interim Final Rules, WIA regulations will control. Applicants

should consult and be familiar with WIA regulations at 20 CFR Parts 660 through 670.

*Consultation With Governors and Local Boards*

Executive Order No. 12372, ''Intergovernmental Review of Federal Programs,'' and the implementing regulations at 29 CFR Part 17, are applicable to this program. Under these requirements, the applicant must provide a copy of the application for comment to the States that have established a consultation process under the Executive Order. Applications must be submitted to the State's Single Point of Contact (SPOC) no later than the deadline for submission of the application to the Department.

For States that have not established a consultative process under Executive Order No. 12372, and have established a State Workforce Investment Board (State Board), the State Board will be the SPOC. For WIA implementation purposes, this consultation process fulfills the requirement of WIA Section 167(e) concerning consultation with Governors and Local Boards. To strengthen the implementation of Executive Order No. 12372, the Department establishes the following time-frame for its treatment of comments from the State's SPOC on WIA Section 167 applications:

1. The SPOC must submit comments, if any, to the Department and to the applicant, no later than 30 days after the deadline date for submission of applications;

2. The applicant's response to the SPOC comments, if any, must be submitted to the Department no later than 15 days after the post-marked date of the comments from the SPOC;

3. The Department will notify the SPOC of its decision regarding the SPOC comments and applicant response; and

4. The Department will implement that decision within 10 days after it has notified the SPOC.

*Eligible Applicants*

To be eligible to operate MSFW youth programs an organization must have:

1. an understanding of the problems of migrant and seasonal farmworker youth;

2. a familiarity with the area to be served;

3. a demonstrated capacity to administer effectively a diversified workforce investment program for youth; and

4. an appropriate legal status to enter into a grant agreement with the U.S. Department of Labor (e.g. a private non-profit corporation or a unit of State of local government).

To maximize available resources, applications are encouraged to form a consortia of organizations which individually or collectively meet the above criteria.

*MSFW Youth Participant Eligibility*

Eligible participants are the 14 to 21 year old farmworkers and children of migrant and seasonal farmworker parents (or guardians) as defined in Section 167(h) of the Workforce Investment Act and at 20 CFR Part 669.

*Grant Duration and Period of Performance*

The Department anticipates that grants will be funded for two one-year time periods—with funding in the second year contingent on satisfactory performance during the first year and the availability of funding in the second year. The period of performance for the first funding cycle is expected to commence during November 1999.

**Part II. Application Process and Guidelines**

*Submission of the Grant Application Package*

Applicants must submit an original and three (3) copies of the complete application package for review. Applications must be mailed no later than five (5) days prior to the closing date for the receipt of applications. However, if applications are hand-delivered, they must be received at the designated place by 4:00 p.m., Eastern Time on the closing date for receipt of applications. All overnight mail will be considered to be hand-delivered and must be received by the specified time and closing date. Telegraphed, faxed, and e-mailed proposals will not be honored. Applications that do not adhere to the above instructions will not be honored.

*Late Applications*

Any application received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it

(a) Was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the closing date specified for receipt of applications (e.g. an offer submitted in response to a solicitation requiring a receipt of application by the 30th of January must have been mailed by the 25th); or

(b) Was sent by U.S. Postal Service Express Mail Next Day Service—Post Office to Addressee, not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of application. The term ''working days'' excludes weekends and U.S. Federal holidays.

The only acceptable evidence to establish the date of a late application sent by U.S. Postal Service registered or certified mail is the U.S. postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. Both postmarks must show a legible date or the proposal will be processed as if it had been mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been applied or affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bulls eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by ''Express Mail Next Day Service—Post Office to Addressee'' is the date entered by the post office receiving clerk on the Express Mail Next Day Service—Post Office to Addressee label and the postmarks on both the envelope and wrapper and the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, an applicant should request the postal clerk to place a legible hand cancellation ''bull's eye'' postmark on both the receipt and the envelope or wrapper.

*Withdrawal of Applications*

Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before the award. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

*Grant Application Package*

The grant application package must consist of:

(1) A Standard Form 424 (Application for Federal Assistance) found in OMB Circular A–102 and as an attachment to this Solicitation.

(2) A Standard Form 424A (Budget) found in OMB Circular A–102 and as an attachment to this Solicitation. Costs in Section B (Budget Categories), Item 6 (Object Cost Categories) should be budgeted by Administrative, Program, and Total. Administrative costs are to be included in column (1), program costs in column (2), and the total cost in column (5). Administrative costs are

limited to 10 percent. *Budgets are required only for ''Year 1'' of the two-year designation period.*

(3) A certification, prepared within the last six months prior to the submission of this application, attesting to the adequacy of the entity's fiscal management and accounting systems to account for and safeguard Federal funds properly. The certification is to be obtained as follows:

(a) For incorporated organizations, a certification from a Certified Public Accountant, or

(b) For public agencies, a certification by its Chief Fiscal Officer;

(4) A statement describing the entity's legally constituted authority under which the organization functions. A nonprofit organization should submit a copy of its Charter or Articles of Incorporation, including proof of the organization's nonprofit status;

(5) A copy of the current indirect cost rate agreement issued by the cognizant federal agency, *if applicable.*

(6) The entity's application for grant funding as described below.

*Format of the Grant Application*

The grant application is limited to 50 numbered pages, double-spaced, using type no smaller than 12 point. The page number limitation does not include letters of support or the required attachments. Proposals may be fastened using a binder clip. Please do not use 3-ring binders, or otherwise bind your proposal package.

To ensure full consideration, the application must follow the numerical sequence of the Sections 1 through 6 as listed below, and must include a table of contents. All attachments are to be included in Section 6. Credit may not be afforded in instances where items are not addressed in the proper section.

*Contents of the Grant Application*

Section 1—An Understanding of the Problems of Migrant and Seasonal Farmworker Youth

An understanding of the problems of migrant and seasonal farmworker youth must be demonstrated through a comprehensive description and analysis of:

(A) the needs and problems of farmworker youth; and

(B) the demographic and socio-economic characteristics of migrant and seasonal farmworker youth in the service area. The description must include an explanation of how these characteristics compare with those of non-farmworker youth and why a youth program, specifically targeted to farmworker youth, would more appropriately address the needs of farmworkers.

Specific Rating Criteria, Section 1 [0 to 15 points]—This factor rates the applicant's knowledge and analysis of the needs, problems, and demographic characteristics of the target group. Ratings are based on the degree to which the narrative is clear, concise, and demonstrates an in depth understanding of the MSFW youth population.

Section 2—A Familiarity with the Area to Be Served and Capacity to Work Within the Existing Service Environment

A familiarity with the area to be served and the capacity to work within the existing service environment is demonstrated through:

(A) The identification of the geographic boundary(ies) of the proposed service area(s)—including a map. A rationale should be provided, if the proposed service area(s) is(are) not contiguous.

(B) A description of the communities where migrant and seasonal farmworkers youth, who would be served by the proposed project, reside and or travel for work purposes. The description must include a discussion of educational, social, cultural, workforce and other relevant opportunities available for youth, and the degree to which these opportunities, if available, are appropriate for MSFW youth.

(C) A description of the relationship between the grant applicant and the JTPA Section 402/WIA Section 167 MSFW employment and training/ workforce investment program sponsor(s). (If the applicant is not the current JTPA Section 402/WIA Section 167 MSFW employment and training/ workforce investment program grantee in the proposed service area, describe the arrangements that have been or will be made to coordinate the delivery of services and avoid needless duplication of services.)

(D) A description of the status of the workforce investment system within the proposed service area. Describe what steps have or will be taken to coordinate the delivery of core services to MSFW youth.

(E) A description of available community programs and services that would complement the proposed program and the efforts that have been made to coordinate the delivery of services.

(F) An itemization of program linkages in a tabular format. The specific information sought is the name of the entity with whom a linkage has (or will be) established, the relationship of the linkage entity to the applicant, the specific service to be provided by the linkage, and whether or not a letter documenting the linkage is provided as an attachment. Linkages listed here must be limited to only those which are relevant to the proposed program.

Specific Rating Criteria, Section 2 [0 to 15 points]—This factor rates the applicant's familiarity with the area and capacity to work within the existing service environment. Rates will consider factors such as reasonableness of the service area in terms of program scope and funds sought; applicant's ability to work within the service environment, as evidenced by the existence of appropriate and documented linkages—especially those related to other MSFW program efforts; and applicant's knowledge and integration of local resources into the program design.

Section 3—A Description of Planned Program Activities and Services

The description of planned program activities and services (Note: Any references to time frames should be cited as year 1 and/or year 2):

(A) Identifies the goal(s) of the proposed program.

(B) Provides a detailed description of the proposed program activities and services. This description should be provided in a way that illustrates the participant flow through the various phases of the proposed program. A flow chart must be included. The description and flow chart must, at a minimum, include:

(1) Outreach, intake, and eligibility determination; and

(2) Specific youth services:

(i) Tutoring, study skills training and instruction leading to secondary school completion, including dropout prevention strategies;

(ii) Alternative secondary school offerings;

(iii) Summer employment opportunities directly linked to academic and occupational learning;

(iv) Paid and unpaid work experiences, including internships and job shadowing;

(v) Occupational skills training;

(vi) Leadership development opportunities, which may include such activities as positive social behavior and soft skills, decision making, team work, and other activities;

(vii) Supportive services;

(viii) Adult mentoring for a duration of at least twelve (12) months, that may occur both during and after program participation;

(ix) Follow-up services; and

(x) Comprehensive guidance and counseling, including drug and alcohol

abuse counseling, as well as referrals to counseling, as appropriate to the needs of individual youth.

(C) Identifies the planned outcomes for youth served by the proposed program. Explain how the program goals and outcomes are related to and will address the problems of MSFW youth addressed in Section 1, including the following:

(1) A description of the involvement and participation of the parents/guardians of MSFW youth in the proposed program.

(2) A description of the plan to ensure that the provision of proposed services encourages the continued participation in school by MSFWs who have not completed the twelfth grade.

(D) Describes, in narrative form, the proposed program budget. The description should explain and justify the costs budgeted (year 1 only) to each Object Class Category (page 2, SF 424A, Section B). The description should also address how the budgeted costs support the proposed program activities and services and the staffing pattern.

(E) Description of the demographic and socio-economic characteristics of the MSFW youth who would most likely participate in the proposed program and how the program has been designed to address the needs of this population.

Specific Rating Criteria, Section 3 [0 to 40 points]—This factor rates the perceived effectiveness of the proposed MSFW youth workforce investment activities in addressing the stated farmworker problems addressed in Section 1; if proposed outcomes reflect proposed goals; the appropriateness of strategies for parental involvement and participation; and plans to ensure the continued school participation by enrolled MSFW youth who have not completed the twelfth grade. Additionally, up to 10 of the points associated with this rating criteria will be based on an assessment of the reasonableness of the budget in relation to the proposed program of activities and services and outcome to be achieved.

Section 4—A Capacity to Administer Effectively a Workforce Investment Program for MSFW Youth

The capacity to administer effectively a workforce development program for MSFW youth as evidenced by a description of:

(A) The mission/principle goals and objectives of the applicant organization.

(B) The applicant organization's experience providing services to youth, particularly MSFW youth.

(C) The programs operated by the applicant organization during the last two years, presented in tabular form. For each entry, the table must include:

(1) Funding source (Name of Agency/Organization, Address, Telephone, and Contact Person);

(2) Program Information (Type of Program, Grant/Contract/Agreement Number, Principle Activities, Period of Performance and Funding Amount);

(3) Clientele (Number of participants served, percent of MSFW participant, percent of MSFW youth (age 14–21) served);

(4) Performance standards and outcomes achieved; and

(5) Outcomes achieved for farmworker youth (ages 14–21).

Specific Rating Criteria, Section 4 [0 to 20 points]—This factor rates an applicant's capacity to provide effectively workforce investment activities for MSFW youth based on the applicant's previous relevant program performance.

Section 5—Administrative and Management Capability

Administrative and management capability is demonstrated by:

(A) A chart depicting the overall organization structure of the proposed youth program. The chart must clearly show how the proposed program fits within the overall organizational structure. It must include both staffing patterns and office locations. In addition, the chart must show which parts of the proposed MSFW youth program structure are in place and which parts would be established if the proposal were funded.

(B) A description of the proposed implementation schedule which clearly shows exactly when the proposed program will be fully operational.

(C) A description of the administrative and program management processes which include the fiscal management systems and the program management systems (including management information system). Program management must address systems for participant tracking, follow-up, program monitoring and oversight, and the provision of training and technical assistance for staff who work directly with participants.

Specific Rating Criteria, Section 5 [0 to 10 points]—This factor rates the applicant's managerial experience and the potential for efficient and effective administration of the proposed program.

Section 6—Attachments

All attachments referenced in the proposal are to be included in this section of the proposal. The first page in this section should itemize the included attachments.

**Part III—Review Process of Grant Application**

*Panel Review*

The Grant Officer will select potential grantees utilizing all information available to him/her. A review panel will rate each proposal using the specific criteria cited above. Panel results are advisory in nature and are not binding on the Grant Officer. The Grant Officer will give appropriate consideration to an entity in any service area for which the entity has been designated as a WIA section 167 MSFW program grantee (20 CFR 669.630). Further, the Grant Officer will make selections that promote a geographic distribution of funds where merited (20 CFR 669.650). The Grant Officer may, at his/her discretion, request an applicant to submit additional or clarifying information if deemed necessary to make a selection. However, selections may be made without further contact with the applicants.

*Responsibility Review*

Prior to awarding a grant to any applicant, the Department will conduct a responsibility review. The responsibility review is an analysis of available information and records to determine if an applicant has established a satisfactory history of accounting for Federal funds and property. The responsibility review is independent of the competitive process. Applicants failing to meet the requirements of this section may be disqualified for designation as a grantee, without respect to their standing in the competitive process. An applicant that is not selected as a result of the Grant Officer's responsibility review will be advised of its appeal rights. The responsibility tests that will be considered are presented in the WIA regulations at 20 CFR 667.170.

*Notification of Non Selection*

Any applicant that is not selected as a potential grantee, or that has its grant application denied in whole or in part by the Department for receipt of funds, will be notified in writing by the Grant Officer and will be advised of all appeal rights.

*Notification of Selection*

Applicants that are selected will be notified in writing by the Grant Officer. Formal designation as a grantee will be contingent on the successful negotiation of a grant agreement for the first year of operation.

Signed on this 26th day of August 1999.

**E. Fred Tello,**

*Grant Officer, Department of Labor/ETA.*

BILLING CODE 4510–30–P

# APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

| | | |
|---|---|---|
| 1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction | 2. DATE SUBMITTED | Applicant Identifier |
| | 3. DATE RECEIVED BY STATE | State Application Identifier |
| | 4. DATE RECEIVED BY FEDERAL AGENCY | Federal Identifier |

5. APPLICANT INFORMATION

| | |
|---|---|
| Legal Name: | Organizational Unit: |
| Address (give city, county, State and zip code): | Name and telephone number of the person to be contacted on matters involving this application (give area code): |

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipa
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H Independent School Dist.
I State Controlled Institution of Higher Learning
J . Private University
K Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

| 13. PROPOSED PROJECT: | | 14. CONGRESSIONAL DISTRICTS OF: | |
|---|---|---|---|
| Start Date | Ending Date | a. Applicant | b. Project |

| 15. ESTIMATED FUNDING: | | |
|---|---|---|
| a. Federal | $ | .00 |
| b. Applicant | $ | .00 |
| c. State | $ | .00 |
| d. Local | $ | .00 |
| e. Other | $ | .00 |
| f. Program Income | $ | .00 |
| g. TOTAL | $ | .00 |

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

| | | |
|---|---|---|
| a. Typed Name of Authorized Representative | b. Title | c. Telephone number |
| d. Signature of Authorized Representative | | e. Date Signed |

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

**Authorized for Local Reproduction**

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

| Item: | Entry: |
|---|---|
| 1. | Self-explanatory. |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). |
| 3. | State use only (if applicable) |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. |
| 7. | Enter the appropriate letter in the space provided. |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided.<br>- "New" means a new assistance award.<br>- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |
| 9. | Name of Federal agency from which assistance is being requested with this application. |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required. |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project. |
| 12. | List only the largest political entities affected (e.g., State, counties, cities. |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |

## BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

**SECTION A - BUDGET SUMMARY**

| Grant Program Function or Activity (a) | Catalog of Federal Domestic Assistance Number (b) | Estimated Unobligated Funds | | New or Revised Budget | | |
|---|---|---|---|---|---|---|
| | | Federal (c) | Non-Federal (d) | Federal (e) | Non-Federal (f) | Total (g) |
| 1. | | $ | $ | $ | $ | $ |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |
| 5. Totals | | $ | $ | $ | $ | $ |

**SECTION B - BUDGET CATEGORIES**

| 6. Object Class Categories | GRANT PROGRAM, FUNCTION OR ACTIVITY | | | | Total |
|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) |
| a. Personnel | $ | $ | $ | $ | $ |
| b. Fringe Benefits | | | | | |
| c. Travel | | | | | |
| d. Equipment | | | | | |
| e. Supplies | | | | | |
| f. Contractual | | | | | |
| g. Construction | | | | | |
| h. Other | | | | | |
| i. Total Direct Charges *(sum of 6a-6h)* | | | | | |
| j. Indirect Charges | | | | | |
| k. TOTALS *(sum of 6i and 6j)* | $ | $ | $ | $ | $ |
| | | | | | |
| 7. Program Income | $ | $ | $ | $ | $ |

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

| SECTION C - NON-FEDERAL RESOURCES | | | | |
|---|---|---|---|---|
| (a) Grant Program | (b) Applicant | (c) State | (d) Other Sources | (e) TOTALS |
| 8. | $ | $ | $ | $ |
| 9. | | | | |
| 10. | | | | |
| 11. | | | | |
| 12. TOTAL *(sum of lines 8-11)* | $ | $ | $ | $ |

| SECTION D - FORECASTED CASH NEEDS | | | | | |
|---|---|---|---|---|---|
| | Total for 1st Year | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| 13. Federal | $ | $ | $ | $ | $ |
| 14. Non-Federal | | | | | |
| 15. TOTAL *(sum of lines 13 and 14)* | $ | $ | $ | $ | $ |

| SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT | | | | |
|---|---|---|---|---|
| (a) Grant Program | FUTURE FUNDING PERIODS (Years) | | | |
| | (b) First | (c) Second | (d) Third | (e) Fourth |
| 16. | $ | $ | $ | $ |
| 17. | | | | |
| 18. | | | | |
| 19. | | | | |
| 20. TOTAL *(sum of lines 16-19)* | $ | $ | $ | $ |

| SECTION F - OTHER BUDGET INFORMATION | |
|---|---|
| 21. Direct Charges: | 22. Indirect Charges: |
| 23. Remarks: | |

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## INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**General Instructions**

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

**Section A. Budget Summary Lines 1-4 Columns (a) and (b)**

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

**Lines 1-4, Columns (c) through (g)**

*For new applications*, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

*For continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

*For supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

**Line 5** - Show the totals for all columns used.

**Section B Budget Categories**

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

**Line 6a-i** - Show the totals of Lines 6a to 6h in each column.

**Line 6j** - Show the amount of indirect cost.

**Line 6k** - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

**Line 7** - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

## INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

**Section C. Non-Federal Resources**

**Lines 8-11** Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

**Column (a)** - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

**Column (b)** - Enter the contribution to be made by the applicant.

**Column (c)** - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

**Column (d)** - Enter the amount of cash and in-kind contributions to be made from all other sources.

**Column (e)** - Enter totals of Columns (b), (c), and (d).

**Line 12** - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

**Section D. Forecasted Cash Needs**

**Line 13** - Enter the amount of cash needed by quarter from the grantor agency during the first year.

**Line 14** - Enter the amount of cash from all other sources needed by quarter during the first year.

**Line 15** - Enter the totals of amounts on Lines 13 and 14.

**Section E. Budget Estimates of Federal Funds Needed for Balance of the Project**

**Lines 16-19** - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

**Line 20** - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

**Section F. Other Budget Information**

**Line 21** - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

**Line 22** - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

**Line 23** - Provide any other explanations or comments deemed necessary.

[FR Doc. 99–22843 Filed 9–1–99; 8:45 am]
BILLING CODE 4510–30–C

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Summary of Decisions Granting in Whole or in Part Petitions for Modification

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

**SUMMARY:** Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term ''FR Notice'' appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

**FOR FURTHER INFORMATION:** Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Contact Barbara Barron at 703–235–1910.

Dated: August 27, 1999.

**Carol J. Jones,**

*Acting Director, Office of Standards, Regulations and Variances.*

### Affirmative Decisions on Petitions for Modification

*Docket No.:* M–99–014–C.
*FR Notice:* 64 FR 16761.
*Petitioner:* The Ohio Valley Coal Company.
*Regulation Affected:* 30 CFR 75.804(a).
*Summary of Findings:* Petitioner's proposal is to use a high-voltage cable with an internal ground check conductor smaller than No. 10 (A.W.G.) as part of its longwall mining system. This is considered an acceptable alternative method for the Powhatan No. 6 Mine. MSHA grants the petition for modification for the Powhatan No. 6 Mine with conditions.

*Docket No.:* M–98–021–C.
*FR Notice:* 63 FR 18232.
*Petitioner:* Peabody Coal Company.
*Regulation Affected:* 30 CFR 75.364(a)(1).
*Summary of Findings:* Petitioner's proposal is to have a certified person conduct weekly examinations at established evaluation points immediately inby and outby the affected area to determine methane and oxygen concentrations and the volume of air, and record the results in a book maintained on the surface of the mine. This is considered an acceptable alternative method for the Camp No. 1 Mine. MSHA grants the petition for modification for the Camp No. 1 Mine with conditions.

*Docket No.:* M–98–032–C.
*FR Notice:* 63 FR 29034.
*Petitioner:* Mettiki Coal Corporation.
*Regulation Affected:* 30 CFR 75.1002.
*Summary of Findings:* Petitioner's proposal is to use 4,300 volt cables on high-voltage longwall electric equipment used within 150 feet from pillar workings (longwall gob). This is considered an acceptable alternative method for the Mettiki Mine. MSHA grants the petition for modification for the Mettiki Mine with conditions.

*Docket No.:* M–98–055–C.
*FR Notice:* 63 FR 44291.
*Petitioner:* Twentymile Coal Company.
*Regulation Affected:* 30 CFR 75.1002–1(a).
*Summary of Findings:* Petitioner's proposal is to measure the thickness of the deck plate and related components on its longwall face conveyor using a hand-held, double insulated 7.5 volt non-permissible ultrasonic thickness gauge during idle shifts when mining is not occurring; to deenergize all electrical equipment, except lighting, on the longwall face and follow all appropriate lockout and tagout procedures prior to using the gauge; and to have a certified person examine for methane in the immediate area of the longwall face conveyor and record the results, as a special examination, in the onshift examination books after the shift on which the examination is performed. This is considered an acceptable alternative method for the Foidel Creek Mine. MSHA grants the petition for modification for the Foidel Creek Mine with conditions.

*Docket No.:* M–98–057–C.
*FR Notice:* 63 FR 44291.
*Petitioner:* Blue Mountain Energy, Inc.
*Regulation Affected:* 30 CFR 75.1002–1(a).
*Summary of Findings:* Petitioner's proposal is to allow the use of non-permissible electronic testing or diagnostic equipment within 150 feet of pillar workings. This is considered an acceptable alternative method for the Deserado Mine. MSHA grants the petition for modification for the Deserado Mine with conditions.

*Docket No.:* M–98–066–C.
*FR Notice:* 63 FR 44292.
*Petitioner:* G and A Coal Company, Inc.
*Regulation Affected:* 30 CFR 75.350.
*Summary of Findings:* Petitioner's proposal is to use belt air to ventilate the working faces; to install carbon monoxide monitoring devices to monitor the air at each belt drive and tailpiece and at intervals not to exceed 2,000 feet along each conveyor belt entry; to have an audible alarm that would sound at the surface master station and that would give the location and type of alarm on a computer screen located at the surface master station, and the alarm system would be capable of giving a warning of a fire for a minimum of four (4) hours after the power to the belt is removed, except when the power is removed during a fan stoppage or the belt haulageway is examined. This is considered an acceptable alternative method for the No. 1 Mine. MSHA grants the petition for modification for the No. 1 Mine with conditions.

*Docket No.:* M–98–067–C.
*FR Notice:* 63 FR 45865.
*Petitioner:* Mettiki Coal Corporation.
*Regulation Affected: 30 CFR 75.500(b)*
*Summary of Findings:* Petitioner's proposal is to allow non-permissible hand-held, battery-powered drills and non-permissible electronic testing and diagnostic equipment to be taken into or used inby the last open crosscut. This is considered an acceptable alternative method for the Mettiki Mine. MSHA grants the petition for modification for the Mettiki Mine with conditions.

*Docket No.:* M–98–080–C.
*FR Notice:* 63 FR 50603.
*Petitioner:* Mettiki Coal Corporation.
*Regulation Affected:* 30 CFR 75.1002–1(a).
*Summary of Findings:* Petitioner's proposal is to use non-permissible low

horsepower testing and diagnostic equipment within 150 feet from pillar workings. This is considered an acceptable alternative method for the Mettiki Mine. MSHA grants the petition for modification for the Mettiki Mine with conditions.

*Docket No.:* M–98–081–C.
*FR Notice:* 63 FR 58430.
*Petitioner:* U.S. Steel Mining Company, LLC.
*Regulation Affected:* 30 CFR 75.503.
*Summary of Findings:* Petitioner's proposal is to use permanently installed spring-loaded locking devices on battery plugs on battery-powered equipment instead of using padlocks. This is considered an acceptable alternative method for the Gary No. 50 Mine. MSHA grants the petition for modification for the Gary No. 50 Mine with conditions.

*Docket No.:* M–98–085–C.
*FR Notice:* 63 FR 58431.
*Petitioner:* Rustler Coal Company.
*Regulation Affected:* 30 CFR 75.340.
*Summary of Findings:* Petitioner's proposal is for an underground battery charging station in the intake (gangway) entry. This is considered an acceptable alternative method for the Orchard Slope Mine. MSHA grants the petition for modification for the Orchard Slope Mine with conditions.

*Docket No.:* M–98–087–C.
*FR Notice:* 63 FR 58070.
*Petitioner:* Headache Coal Company, Inc.
*Regulation Affected:* 30 CFR 75.380(f)(4).
*Summary of Findings:* Petitioner's proposal is to install two 10 pound portable chemical fire extinguishers in the operators deck or in the scoop of each Mescher Tractor at the mine instead of a fire suppression system. This is considered an acceptable alternative method for the Roses Creek Mine. MSHA grants the petition for modification for the Roses Creek Mine with conditions.

*Docket No.:* M–98–089–C.
*FR Notice:* 63 FR 64103.
*Petitioner:* Consolidation Coal Company.
*Regulation Affected:* 30 CFR 75.503.
*Summary of Findings:* Petitioner's proposal is to increase the maximum length of their trailing cables to 1,000 feet for the mining machine, loading machine, shuttle car, roof bolter, and the section ventilation fan while developing longwall panels. This is considered an acceptable alternative method for the Loveridge No. 22 Mine. MSHA grants the petition for modification for the Loveridge No. 22 Mine with conditions.

*Docket No.:* M–98–099–C.
*FR Notice:* 64 FR 2520.
*Petitioner:* M & M Anthracite Coal Company.
*Regulation Affected:* 30 CFR 75.1400.
*Summary of Findings:* Petitioner's proposal is to use a slope conveyance (gunboat) in transporting persons using increased rope strength/safety factor and secondary safety rope connection in place of safety catches or other devices. This is considered an acceptable alternative method for the L.V. No. 3 Vein Slope Mine. MSHA grants the petition for modification for the L.V. No. 3 Vein Slope Mine with conditions.

*Docket No.:* M–98–110–C.
*FR Notice:* 64 FR 2519.
*Petitioner:* Eastern Association Coal Corp.
*Regulation Affected:* 30 CFR 75.503.
*Summary of Findings:* Petitioner's proposal is to use a threaded ring and spring-loaded device instead of a padlock on the battery plug connectors for mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load. This is considered an acceptable alternative method for the Harris No. 1 Mine. MSHA grants the petition for modification for the Harris No. 1 Mine with conditions.

*Docket No.:* M–98–111–C.
*FR Notice:* 64 FR 2519.
*Petitioner:* The Ohio Valley Coal Company.
*Regulation Affected:* 30 CFR 75.1002.
*Summary of Findings:* Petitioner's proposal is to amend the Decision and Order Granting Petition for Modification No. M–87–169–C to provide for the use of a high voltage shearer in the Powhatan No. 6 Mine. Petition No. M–87–169–C only addressed the use of a high voltage face conveyor. MSHA has determined that this is an acceptable alternative method for the Powhatan No. 6 Mine and grants the petition for modification with conditions. In granting this petition for modification with conditions, MSHA has modified the terms of the previously granted petition to include the same protection to miners as is provided in other recent modifications.

The petitioner represents that exceptional circumstances exist that would result in significant economic loss if the petition were not granted. MSHA has also determined that delaying the effective date would unnecessarily disrupt mining and cause dislocation of the work force. MSHA grants Petitioner's application for relief to give effect.

*Docket No.:* M–98–112–C.
*FR Notice:* 64 FR 2519.
*Petitioner:* G & S Coal Company.
*Regulation Affected:* 30 CFR 75.1100–2.
*Summary of Findings:* Petitioner's proposal is to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical. This is considered an acceptable alternative method. MSHA grants the petition for modification for the G & S Mine with conditions.

*Docket No.:* M–98–114–C.
*FR Notice:* 64 FR 2519.
*Petitioner:* Snyder Coal Company.
*Regulation Affected:* 30 CFR 75.1202–1(a).
*Summary of Findings:* Petitioner's proposal is to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations. This is considered an acceptable alternative method for the N and L Slope Mine. MSHA grants the petition for modification for the N and L Slope Mine with conditions.

*Docket No.:* M–97–096–C.
*FR Notice:* 62 FR 51910.
*Petitioner:* Peabody Coal Company.
*Regulation Affected:* 30 CFR 75.364(b)(4).
*Summary of Findings:* Petitioner's proposal is to establish fixed evaluation points in lieu of traveling certain portions of the air course during weekly examination; and to have a certified person examine these evaluation points for methane and oxygen concentrations and the volume of air and record the results in a book maintained on the surface of the mine. This is considered an acceptable alternative method for the Camp No. 1 Mine. MSHA grants the petition for modification for the Camp No. 1 Mine with conditions.

*Docket No.:* M–97–101–C.
*FR Notice:* 62 FR 51908.
*Petitioner:* McElroy Coal Company.
*Regulation Affected:* 30 CFR 75.312(c) and (d).
*Summary of Findings:* The Petitioner has filed two petitions: Petition Docket No. M–97–101–C, seeking to modify § 75.312(c); and M–97–112–C, seeking to modify § 75.312(d). Sections 75.312(c) and 75.312(d) require a fan shutdown to test the fan stoppage signal and the air-reversal-prevention doors. MSHA has elected to dismiss Docket No. M–97–112–C and combine petitioner's request in Docket No. M–97–101–C. The Petitioner's proposes an alternate method of performing the tests without shutting down the fan(s) and without removing the miners from the mine. The alternative method proposes is considered acceptable for the McElroy Mine. MSHA grants the petition for modification with conditions.

*Docket No.:* M–97–106–C.

*FR Notice:* 62 FR 51909.

*Petitioner:* Mark P. Shingara Coal Company.

*Regulation Affected:* 30 CFR 75.1200(d) and (i).

*Summary of Findings:* Petitioner's proposal is to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnel. This is considered an acceptable alternative method for the No. 4 Vein Slope Mine. MSHA grants the petition for modification for the No. 4 Vein Slope Mine with conditions.

*Docket No.:* M–97–107–C.

*FR Notice:* 62 FR 51909.

*Petitioner:* Mark P. Shingara Coal Company.

*Regulation Affected:* 30 CFR 75.1202–1(a).

*Summary of Findings:* Petitioner's proposal is to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations. This is considered an acceptable alternative method for the No. 4 Vein Slope Mine. MSHA grants the petition for modification for the No. 4 Vein Slope Mine with conditions.

*Docket No.:* M–97–136–C.

*FR Notice:* 63 FR 2699.

*Petitioner:* Jim Walter Resources, Inc.

*Regulation Affected:* 30 CFR 75.1002.

*Summary of Findings:* The Petitioner is operating under a previously granted modification, Docket No. M–93–209–C. Petitioner requests that paragraph 13 of the previous petition be amended to allow damaged high voltage cable to be repaired in the mine. MSHA considers this an acceptable alternative method at the No. 3 Mine. MSHA grants the petition with conditions, including the amendment of other provisions of high voltage longwall petition Docket No. M–93–209–C.

[FR Doc. 99–22836 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–43–P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. ICR–99–14]**

### Servicing Multi-Piece and Single Piece Rim Wheels (Manufacturer's Certification Record); 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 extension of the information collection requirements contained in the standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177(d)(3)(iv)).

### 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 November 1, 1999.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR–99–14, 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, 200 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 requirement (manufacturer's certification record) contained in the standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177(d)(3)(iv)) 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.) In this regard, the information collection requirement (the manufacturer's certification record) in the standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177(d)(3)(iv)) ensures that employers protect employees from the hazards of a damaged restraining device in the event of a rim wheel separation or the sudden release of pressurized air.

### II. Proposed Actions

OSHA proposes to retain its earlier estimate of six burden hours for the provision pertaining to the manufacturer's certification record in the standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177(d)(3)(iv)).

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 standard.

*Type of Review:* Extension of currently approved information collection requirement.

*Agency:* Occupational Safety and Health Administration.

*Title:* Servicing Multi-Piece and Single Piece Rim Wheels, Manufacturer's Certification Record (29 CFR 1910.177(d)(3)(iv)).

*OMB Number:* 1218–0219.

*Affected Public:* Business or other for-profit; not-for-profit institutions; Federal government; state, local or tribal government.

*Number of Respondents:* 80.

*Frequency:* Annually.

*Average Time per Response:* 5 minutes (0.08 hour).

*Estimated Total Burden Hours:* 6.

## 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 27th day of August, 1999.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 99–22847 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–26–M

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## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

**[Docket No. ICR–99–19]**

## Overhead and Gantry Cranes (Inspection Certification Records); Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirement

**AGENCY:** Occuptional Safety and Health Administration (OSHA); Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the proposed decrease in, and extension of, the information collection requirements (inspection certification records) contained in the standard on Overhead and Gantry Cranes, 29 CFR 1910.179.

## 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 November 1, 1999.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR–99–19, 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, 200 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 (inspection certification records) contained in the standard on Overhead and Gantry Cranes (29 CFR 1910.179) 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) 603–2444. 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.) In this regard, the information collection requirements (the inspection certification records) in the standard on Overhead and Gantry Cranes (29 CFR 1910.179) ensures that employers maintain properly overhead and gantry cranes to ensure safe operating conditions for employees.

## II. Proposed Actions

OSHA proposes to decrease its earlier estimate of 367,528 burden hours to 367,500 burden hours for the provisions pertaining to the inspection certification records in the standard on Overhead and Gantry Cranes (29 CFR 1910.179).

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the above standard.

*Type of Review:* Extension of currently approved information collection requirement.

*Agency:* Occupational Safety and Health Administration.

*Title:* Overhead and Gantry Cranes, Inspection Certification Records (29 CFR 1910.179(j)(2)(iii), (j)(2)(iv), (m)(1), and (m)(2)).

*OMB Number:* 1218–0224.

*Affected Public:* Business or other for-profit; not-for-profit institutions; Federal government; state, local or tribal government.

*Number of Respondents:* 30,000.

*Frequency:* Varies (annually, semi-annually).

*Average Time per Response:* Varies from 15 minutes (0.25 hour) to 30 minutes (0.50 hour).

*Estimated Total Burden Hours:* 367,500.

## III. Authority and signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 27th day of August, 1999.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 99–22848 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–26–M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. ICR–99–21]**

### Manlifts (Inspection Certifications) Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirement

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

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the proposed decrease in estimated burden hours, and the extension of the inspection certification records contained in the Manlift Standard, 29 CFR 1910.68(e)(3).

### 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 November 1, 1999.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR–99–21, 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, 200 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 1910.68(e)(3) (inspection certification records) is available for inspection and copying in the Docket Office, or mailed on request by telephoning Theda Kenney at (202) 693–2222 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at http://www.osha.gov/comp-links.html, and click on ''Information Collection Requests.''

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is correct.

The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers 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 contained in 29 CFR 1910.68(e)(3) (inspection certification records) will ensure that manlifts are in safe operating condition, and all safety devices, such as belt switches, are working properly. The failure of belts or switches could cause serious injury or death to an employee.

### II. Proposed Actions

OSHA proposes a minimal decrease in its earlier estimate of burden hours from 51,005 to 51,000 for the information collection requirements in 29 CFR 1910.68(e)(3) (inspection certification records).

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the above provision.

*Type of Review:* Extension of currently approved information collection requirement.

*Agency:* Occupational Safety and Health Administration.

*Title:* Manlifts (Inspection Certifications) (29 CFR 1910.68(e)(3)).

*OMB Number:* 1218–0226.

*Affected Public:* Business or other for-profit; Not-for-profit institutions; Federal government; state, local or tribal government.

*Number of Respondents:* 3,000.

*Frequency:* Varies (monthly, daily).

*Average Time per Response:* Varies from 5 minutes (0.08 hour) to 69 minutes (1.15 hours).

*Estimated Total Burden Hours:* 51,000.

### 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 27th day of August 1999.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 99–22849 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–26–M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. ICR–99–22]**

### Forging Machines (Inspection Certification Records); 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 extension of the information collection requirements (inspection certification records) contained in the standard on Forging Machines, 29 CFR 1910.218(a)(2)(i) and (a)(2)(ii).

**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 November 1, 1999.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR–99–22, 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, 200 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 (inspection certification records) contained in the standard on Forging Machines (29 CFR 1910.218) 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/complinks.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.) In this regard, the information collection requirements (the inspection certification records) in the standard on Forging Machines (29 CFR 1910.218) ensures that employers perform periodic and regular maintenance checks on forging machines to ensure safe operating conditions for employees.

## II. Proposed Actions

OSHA proposes to retain its earlier estimate of 244,868 burden hours for the provisions pertaining to the inspection certification records in the standard on Forging Machines (29 CFR 1910.218(a)(2)(i) and (a)(2)(ii)).

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the above provisions.

*Type of Review:* Extension of currently approved information collection requirement.

*Agency:* Occupational Safety and Health Administration.

*Title:* Forging Machines, Inspection Certification Records (29 CFR 1910.218(a)(2)(i) and (a)(2)(ii)).

*OMB Number:* 1218–0228.

*Affected Public:* Business or other for-profit; Federal government; state, local or tribal government.

*Number of Respondents:* 27,700.

*Frequency:* Bi-weekly.

*Average Time per Response:* 10 minutes (0.17 hour).

*Estimated Total Burden Hours:* 244,868.

## 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 27th day of August, 1999.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 99–22850 Filed 9–1–99; 8:45 am]

BILLING CODE 4510–26–M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 99–109]**

## NASA Advisory Council, Minority Business Resource Advisory Committee; meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

**DATES:** Tuesday, September 21, 1999, 9:00 a.m. to 2:00 p.m., and Wednesday, September 22, 1999, 9:00 a.m. to 4:00 p.m.

**ADDRESSES:** NASA Headquarters, 300 E Street, SW, Room MIC–7, Washington, DC 20546–0001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ralph C. Thomas III, Code K, National Aeronautics and Space Administration, Room 9K70, 300 E Street, SW, Washington, DC 20546–0001, (202) 358–2088.

**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:

—MBRAC Subpanel Reports

—The Present State of Former NASA SDB Contractors

—Action Items

—Agency Small Disadvantaged Business (SDB) Program

—Report of Chair

—Public Comment

—Summary of MBRAC III Accomplishments

—Report on NASA FY 98 SDB Accomplishments

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: August 27, 1999.

**Matthew M. Crouch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 99–22928 Filed 9–1–99; 8:45 am]

BILLING CODE 7510–01–P

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** U. S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

**SUMMARY:** The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: Application for License to Export Nuclear Equipment and Material, NRC Form 7.

2. Current OMB approval number: 3150–0027.

3. How often the collection is required: On occasion; for each separate request for a specific export license and for exports of incidental radioactive material using existing general licenses.

4. Who is required or asked to report: Any person in the U.S. who wishes to export: (a) Nuclear material and equipment subject to the requirements of a specific license; (b) radioactive waste subject to the requirements of a specific license; and (c) incidental radioactive material that is a contaminant of shipments of more than 100 kilograms of non-waste material using existing NRC general licenses.

5. The number of annual respondents: 63.

6. The number of hours needed annually to complete the requirement or request: 150 hours (2.4 hours per response).

7. Abstract: Any person in the U.S. wishing to export nuclear material and equipment requiring a specific authorization or radioactive waste requiring a specific authorization ordinarily should file an application for a license on NRC Form 7, except that certain submittals should be filed by letter. The application will be reviewed by the NRC and by the Executive Branch, and if applicable statutory, regulatory, and policy considerations are satisfied, the NRC will issue a license authorizing the export.

A completed NRC Form 7 must also be filed by any person in the U.S. wishing to use existing NRC general licenses for the export of incidental radioactive material before the export takes place (if the total amount of the shipment containing the incidental radioactive material exceeds 100 kilograms). The form is reviewed by the NRC to ensure that the Agency is informed before the fact of these kinds of shipments and to allow NRC to inform other interested parties, as appropriate, including import control authorities in interested foreign countries.

Submit, by November 1, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC, 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 26th day of August 1999.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 99–22914 Filed 9–1–99; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–361 AND 50–362]**

### Southern California Edison Co.; San Onofre Nuclear Generating Station, Units 2 and 3, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License Nos. NPF–10 and NPF–15, issued to Southern California Edison (the licensee), for operation of the San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, located in San Diego County, California.

**Environmental Assessment**

*Identification of the Proposed Action*

The proposed action would exempt Southern California Edison from the requirements of 10 CFR 50.44, ''Standards for combustible gas control system in light-water cooled power reactors,'' and 10 CFR part 50, Appendix A, General Design Criterion 41, ''Containment atmosphere clean-up.''

The proposed action is in accordance with the licensee's application for exemption dated September 10, 1998, as supplemented July 19, 1999.

*The Need for the Proposed Action*

The proposed action would allow the licensee to remove hydrogen control requirements from the SONGS Units 2 and 3 design basis. The hydrogen control requirements in the SONGS design basis are not required to provide assurance that the containment would not fail due to combustible gas accumulation and ignition during accidents where fission products would be present in the containment atmosphere. The exemption would also allow the licensee to modify emergency operating instructions to remove operator action requirements for controlling hydrogen concentration in containment because the hydrogen control requirements are no longer necessary.

*Environmental Impacts of the Proposed Action*

The Commission has completed its evaluation of the proposed action. Current design analyses assess the potential for offsite dose consequences based on maximum allowable leakage and the potential for containment failure. The proposed exemption does

not change the allowed leakage, and therefore does not affect the offsite dose consequences based on this criteria. The licensee has concluded and the Commission agrees that removing the hydrogen control systems will not result in containment failure for any postulated accident or normal operating conditions. The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historical sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

*Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981, with Errata dated June 1981.

*Agencies and Persons Consulted*

In accordance with its stated policy, on August 6, 1999, the staff consulted with the California State official, Mr. Steven Hsu of the Radiologic Health Branch, State Department of Health Services, regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of No Significant Impact**

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 10, 1998, as supplemented by letter dated July 19, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, Irvine, California 92713.

Dated at Rockville, MD, this 25th day of August 1999.

For the Nuclear Regulatory Commission.

**L. Raghavan,**

*Senior Project Manager, Section 2, Project Directorate IV and Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 99–22913 Filed 9–1–99; 8:45 am]

BILLING CODE 7590–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Collection; Comment Request; Extension of Standard Form 113–A

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit a request to the Office of Management and Budget (OMB) for renewal of authority to collect data for the Monthly Report of Federal Civilian Employment (SF 113-A). The information that is collected provides a timely count of Governmentwide employment, payroll, and turnover data. Uses of the data include monthly reporting to OMB and publishing the bimonthly *Federal Civilian Workforce Statistics—Employment and Trends;* answering data requests from the Congress, White House, other Federal agencies, the media, and the public; Providing employment counts required by OMB; and serving as benchmark data for quality control of the Central Personnel Data File. The number of responding agencies is 130. The report is submitted 12 times a year. The total number of person-hours required by the 130 agencies to prepare and transmit the reports annually is estimated at 3,120.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways to assist the Office of Personnel Management which is currently actively exploring ways to electronically transmit agency data and would like any comments that would help facilitate this process.

For copies of the clearance package, call Mary Beth Smith-Toomey, Reports and Forms Officer, on (202) 606–8358, or by e-mail to mbtoomey@opm.gov.

**DATES:** Comments on this proposal should be received on or before November 1, 1999.

**ADDRESSES:** Send or deliver comments to: May Eng, U.S. Office of Personnel Management, Room 7439, 1900 E Street, NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** May Eng, (202) 606–2684 U.S. Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

[FR Doc. 99–22912 Filed 9–1–99; 8:45 am]

BILLING CODE 6325–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for OMB Review; Comment Request for a Revised Information Collection: OPM Form 1593

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for clearance of a revised and expired information collection. OPM Form 1593, Federal Employment Information Customer Survey, is used by the job seeking public to express their level of satisfaction with our automated employment information systems. Participation is voluntary.

We estimate 245,000 surveys will be completed annually. Each form takes approximately 1 minute to complete. The annual estimated burden is 4,083 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

**DATES:** Comments on this proposal should be received on or before October 2, 1999.

**ADDRESSES:** Send or deliver comments to—

Richard A. Whitford, Director, Washington Service Center/ Employment, Information Office, U.S. Office of Personnel Management, 1900 E Street, NW, Room 2455, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

U.S. Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

[FR Doc. 99–22910 Filed 9–1–99; 8:45 am]

BILLING CODE 6325–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Employees Health Benefits Program:

### Medically Underserved Areas for 2000

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of Medically Underserved Areas for 2000.

**SUMMARY:** The Office of Personnel Management (OPM) has completed its annual determination of the States that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for the calendar year 2000. This is necessary to comply with a provision of FEHB law that mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. Accordingly, for calendar year 2000, OPM's calculations show that the following States are Medically Underserved Areas under the FEHB Program: Alabama, Idaho, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, North Dakota, South Carolina, South Dakota, Utah, and Wyoming. Kentucky, Missouri, and Utah are new for 2000.

**EFFECTIVE DATE:** January 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Karen Leibach, 202–606–0004.

**SUPPLEMENTARY INFORMATION:** FEHB law (5 U.S.C. 8902(m)(2)) mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. Such States are designated as Medically Underserved Areas for purposes of the FEHB Program, and the law requires plan payments to all qualified providers in these States.

FEHB regulations (5 CFR 890.701) require OPM to make an annual determination of the States that qualify as Medically Underserved Areas for the next calendar year by comparing the latest Department of Health and Human Services State-by-State population counts on primary medical care manpower shortage areas with U.S. Census figures on State resident populations.

Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

[FR Doc. 99–22911 Filed 9–1–99; 8:45 am]

BILLING CODE 6325–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### The National Partnership Council; Meeting

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of meeting.

**TIME AND DATE:** 2 p.m., September 15, 1999.

**PLACE:** Alan K. Campbell Auditorium, U.S. Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC. The Campbell Auditorium is located on the ground floor.

**STATUS:** This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

**MATTERS TO BE CONSIDERED:** This meeting will consist of an awards ceremony. The 1999 John N. Sturdivant National Partnership Award will be presented to this year's winners. The John N. Sturdivant National Partnership Award is given in recognition of outstanding labor-management partnership activities.

**CONTACT PERSON FOR MORE INFORMATION:** Jeffrey Sumberg, Director, Center for Partnership and Labor-Management Relations, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 7H28, Washington, DC 20415–0001, (202) 606–2930.

Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

[FR Doc. 99–22909 Filed 9–1–99; 8:45 am]

BILLING CODE 6325–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–23979; File No. 812–11682]**

### The American Franklin Life Insurance Company, et al.

August 26, 1999.

**AGENCY:** Securities and Exchange Commission (the ''Commission'' or ''SEC'').

**ACTION:** Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the ''1940 Act'') approving certain substitutions of securities.

### Summary of Application

Applicants request an order to permit a certain registered unit investment trust to substitute shares of EQ Advisors Trust, a registered open-end investment company, for shares of The Hudson River Trust, another registered open-end investment company, currently held by the unit investment trust.

### Applicants

The American Franklin Life Insurance Company and Separate Account VUL of The American Franklin Life Insurance Company (collectively the ''Applicants'').

### Filing Date

The application was filed on July 1, 1999, and amended and restarted on August 13, 1999.

### Hearing or Notification of Hearing

An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission 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 20, 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 Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Applicants: The American Franklin Life Insurance Company, #1 Franklin Square, Springfield, Illinois 62713, Attn: Elizabeth E. Arthur, Esq.

**FOR FURTHER INFORMATION CONTACT:**

Kevin P. McEnery, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

## Applicant's Representations

1. The American Franklin Life Insurance Company (''American Franklin'') is an Illinois stock life, accident and health insurance company. American Franklin is the depositor for Separate Account VUL of The American Franklin Life Insurance Company (''American Franklin Account'').

2. American Franklin is an indirect wholly-owned subsidiary of American General Corporation (''American General''), a publicly-traded corporation. American General's operating subsidiaries provide retirement services, consumer loans, and life insurance.

3. The American Franklin Account is a segregated asset account of American Franklin, is registered with the Commission under the 1940 Act as a unit investment trust, and meets the definition of a separate account under Section 2(a)(37) of the 1940 Act. The American Franklin Account funds the variable benefits under certain variable life insurance policies issued by American Franklin (the ''Policies''). The Policies are individual flexible premium variable life insurance policies. American Franklin no longer offers the Policies through the American Franklin Account, but the Policies that it issued are still outstanding.[1]

4. The Hudson River Trust (''HRT'') is organized as a Massachusetts business trust. It is registered as an open-end management investment company under the 1940 Act, and its shares are registered under the Securities Act of 1933 (the ''1933 Act'') on Form N–1A. HRT is a series investment company, as defined by Rule 18f–2 under the 1940 Act, and currently offers shares of 14 separate portfolios, six of which (''Current Funds'') would be involved in the proposed substitutions. HRT sells shares to the American Franklin Account to serve as an investment medium for the Policies.[2] Sales of HRT shares to the American Franklin Account currently account for less than 1% of HRT's total assets. HRT currently offers two classes of shares, Class IA and Class IB shares, which differ only in that Class IB shares are subject to a distribution plan adopted and administered pursuant to Rule 12b–1 under the 1940 Act. The American Franklin Account holds only Class IA shares. Each Current Fund is advised by Alliance Capital Management L.P. (''Alliance''), an investment adviser registered under the Investment Advisers Act of 1940, as amended (''Advisers Act'').

5. EQ Advisors Trust (''EQAT'') is organized as a Delaware business trust. It is registered as an open-end management investment company under the 1940 Act, and its shares are registered under the 1933 Act on Form N–1A. EQAT is a series investment company, as defined by Rule 18f–2 under the 1940 Act, and currently offers 25 separate portfolios of shares. EQAT currently sells shares to certain registered and unregistered separate accounts (''Equitable Separate Accounts'') used as the underlying investment options for certain variable annuity contracts and/or variable life insurance policies issued by The Equitable Life Assurance Society of the United States (''Equitable''). EQAT currently offers two classes of shares, Class IA and IB shares, which differ only in that Class IB shares are subject to a distribution plan adopted and administered pursuant to Rule 12b–1 under the 1940 Act. EQ Financial Consultants, Inc. (''EQ Financial''), an indirect wholly-owned subsidiary of Equitable, serves as investment manager of each of the current 25 portfolios of EQAT under an investment management agreement with EQAT.[3] EQ Financial is an investment adviser registered under the Advisers Act and a broker-dealer registered under the Securities Exchange Act of 1934, as amended. Pursuant to the investment management agreement, the investment manager (''Manager'') is responsible for the general management and administration of EQAT, including selecting the investment advisers for each of EQAT's portfolios (''Advisers''), monitoring their investment programs and results, reviewing brokerage matters, overseeing compliance issues, and carrying out the directives of the Board of Trustees. EQAT has received an exemptive order from the Commission (''Multi-Manager Order'') that permits EQ Financial, or any entity controlling, controlled by, or under common control (within the meaning of Section 2(a)(9) of the 1940 Act) with EQ Financial, subject to certain conditions, including approval of the Board of Trustees of EQAT, and without the approval of shareholders, to: (a) Employ a new Adviser or Advisers for any portfolio pursuant to the terms of a new Investment Advisory Agreement, in each case either as a replacement for an existing Adviser or as an additional Adviser; (b) change the terms of any Investment Advisory Agreement; and (c) continue the employment of an existing Adviser on the same contract terms where a contract has been assigned because of a change of control of the Adviser.[4] In such circumstances, Contract owners and owners of Policies would receive notice of any such action, including information concerning any new Adviser, that normally is provided in proxy materials.

6. EQAT has filed a post-effective amendment to its registration statement on Form N–1A in order to register 14 new portfolios for which Alliance will provide the day-to-day advisory services (''Alliance Funds''), including the six portfolios (''New Funds'') that American Franklin proposes to substitute for the Current Funds. EQAT intends to sell shares of the New Funds to the Equitable Separate Accounts, as well as to the American Franklin Account.

[1] Applicants represent that, in reliance on the relief in Great-West Life Insurance Company (pub. avail. Oct. 23, 1990)(''Great-West''), they provide certain information to Policy owners about the Policies, American Franklin, and the underlying fund in lieu of filing post-effective amendments to the registration statement relating to those Policies or delivering updated prospectuses to those Policies owners.

[2] An exemptive order was issued by the Commission granting exemptions from the 1940 Act to permit shares of HRT to be offered to separate accounts of affiliated and unaffiliated insurance companies that offer either variable life insurance policies or variable annuity contracts. See Equitable Variable Life Insurance Company. Investment Company Act Rel. Nos. 14899 (Jan. 14, 1986) (order) and 14860 (Dec. 18, 1985) (notice). An exemptive order also was issued by the Commission granting exemptions from the 1940 Act to permit shares of EQ Advisors Trust to be offered to separate accounts of affiliated and unaffiliated insurance companies that offer either variable life insurance policies or annuity contracts (''EQAT Shared Funding Order''). See EQ Advisors Trust, Investment Company Act Rel. Nos. 22651 (April 30, 1997) (order) and 22602 (April 4, 1997) (notice).

[3] During 1999, EQ Financial plans to change its name to AXA Advisors, Inc. On July 12, 1999, the Board of Trustees of EQAT approved a transfer of the Investment Management Agreement to Equitable. That transfer of the Investment Management Agreement is expected to occur prior to October 1, 1999.

[4] *See* EQ Advisors Trust and EQ Financial Consultants, Inc., Investment Company Act Rel. Nos. 23128 (April 24, 1998) (order) and 23093 (March 30, 1998) (notice). Before a New Fund may rely on the Multi-Manager Order, the operation of that New Fund as a multi-manager fund, as described in the application for the Multi-Manager Order, will be approved, following the substitutions proposed in the application, by a majority of that New Fund's outstanding voting securities in a manner consistent with the EQAT Shared Funding Order.

7. The Policies expressly reserve to the Applicants the right, subject to compliance with applicable law, to change or add investment companies and add or remove investment divisions. The prospectuses describing the Policies contain appropriate disclosure of this right of substitution.

8. Applicants represent that they are not affiliates of HRT, EQAT or Equitable.

9. The Applicants propose to substitute Class IA shares issued by the six New Funds for the Class IA shares issued by the six Current Funds. Equitable and each Equitable Separate Account that is registered under the 1940 Act and that currently invests in HRT (collectively, the ''Equitable Accounts'') have filed an application with the Commission (''Equitable Application'') requesting, *inter alia*, an order pursuant to Section 26(b) of the 1940 Act, approving the substitution of securities issued by the Alliance Funds for the securities issued by the 14 portfolios of HRT and currently used as the investment options for the contracts issued by Equitable through the Equitable Accounts.[5] If approved, Equitable will redeem more than 99% of HRT's assets, and more than 99% of the assets of the Current Funds, in connection with those substitutions. Applicants state that it is their belief that it is reasonable to conclude that, following the proposed substitutions by Equitable: (i) The expense level of the Current Funds will increase dramatically as a percentage of net assets due to the smaller asset base, which is highly unlikely to increase; (ii) the Current Funds will be more difficult to manage in conformity with the applicable diversification regulations under the Internal Revenue Code of 1986, as amended (''Code''); and (iii) the asset levels of the Current Funds will be small enough to raise concern as to whether the Current Funds will remain viable investment options. By contrast, none of these concerns will be associated with investments in EQAT. It is anticipated that if the Equitable Application is approved, all of the net assets of the Equitable Accounts attributable to the Current Funds will be transferred to the New Funds. Applicants submit that, under these circumstances, the substitution of the New Funds for the Current Funds is in the best interest of Policy owners.

10. The Applicants represent that the Manager of the 25 current portfolios of EQAT will also serve as Manager of the New Funds and that the Alliance will serve as the portfolio manager to each of the New Funds, just as it serves as portfolio manager to each of the Current Funds. The Applicants also state that each of the New Funds will have investment objectives, investment strategies and anticipated risks that are identical in all material respects to those of the corresponding Current Fund. The investment objectives of the Current fund and the corresponding New Fund are as follows:

| Current fund | Investment objective | New fund | Investment objective |
|---|---|---|---|
| Alliance Aggressive Stock. | Seeks to achieve long-term growth of capital | Alliance Aggressive Stock. | Seeks to achieve long-term growth of capital |
| Alliance Balanced ..... | Seeks to achieve a high return through both appreciation of capital and current income. | Alliance Balanced ..... | Seeks to achieve a high return through both appreciation of capital and current income |
| Alliance Common Stock | Seeks long-term growth of its capital and increase in income. | Alliance Common Stock. | Seeks long-term growth of its capital and increase in income |
| Alliance Global ..... | Seeks long-term growth of capital ..... | Alliance Global ..... | Seeks long-term growth of capital |
| Alliance High Yield ..... | Seeks to achieve a high return by maximizing current income and, to the extent consistent with that objective, capital appreciation. | Alliance High Yield ..... | Seeks to achieve a high return by maximizing current income and, to the extent consistent with that objective, capital appreciation |
| Alliance Money Market .. | Seeks to obtain a high level of current income, preserve its assets and maintain liquidity. | Alliance Money Market. | Seeks to obtain a high level of current income, preserve its assets and maintain liquidity |

11. The Applicants state that it is expected that: (i) The management fees (i.e., the total management fees and investment advisory fees paid to the Manager and the Adviser) with respect to each New Fund will be the same as the management fees currently applicable to the corresponding Current Funds; and (ii) there may be a slight increase in the total expense ratios of each of the New Funds as compared to those of the Current Funds. The Applicants also represent that the chart below shows: (i) The management fees and total expenses for Class IA shares of each of the Current Funds for the year ending December 31, 1998; and (ii) the estimated management fees and total expenses of Class IA shares of each of the New Funds following the proposed substitutions. Estimated management fees and total expenses of Class IA shares of each of the New Funds are based on *pro forma* expenses of the New Funds following the proposed substitutions and are based upon the audited financial statements of HRT for the year ending December 31, 1998.

YEAR ENDING DECEMBER 31, 1998

[Pro Forma]

| Current fund class IA | Advisory fees (as percentage of average daily net assets) (percent) | Total expenses (as percentage of average daily net assets) (percent) | New fund class IA | Management and advisory fees (as percentage of average daily net assets) (percent) | Total expenses (as percentage of average daily net assets) (percent) |
|---|---|---|---|---|---|
| Alliance aggressive stock ..... | 0.54 | 0.56 | Alliance aggressive stock ..... | 0.54 | 0.57 |

[5] File No. 812–11602 (filed Apr. 30, 1999).

YEAR ENDING DECEMBER 31, 1998—Continued

[Pro Forma]

| Current fund class IA | Advisory fees (as percentage of average daily net assets) (percent) | Total expenses (as percentage of average daily net assets) (percent) | New fund class IA | Management and advisory fees (as percentage of average daily net assets) (percent) | Total expenses (as percentage of average daily net assets) (percent) |
|---|---|---|---|---|---|
| Alliance balanced | 0.41 | 0.45 | Alliance balanced | 0.41 | 0.46 |
| Alliance common stock | 0.36 | 0.39 | Alliance common stock | 0.36 | 0.40 |
| Alliance global | 0.64 | 0.71 | Alliance global | 0.64 | 0.72 |
| Alliance high yield | 0.60 | 0.63 | Alliance high yield | 0.60 | 0.64 |
| Alliance money market | 0.35 | 0.37 | Alliance money market | 0.35 | 0.38 |

12. The Applicants state that they provided Policy owners with detailed notice disclosing the proposed substitutions (the ''First Notice'') shortly after the application was initially filed. The Applicants state that, upon effectiveness of the post-effective amendment to the registration statement of EQAT with respect to the New Funds and publications of notice by the Commission with respect to the application, they will send the Policy owners further detailed notice concerning the proposed substitutions (the ''Second Notice''). The Second Notice will state the anticipated date of the Substitution, describe each of the New Funds, identify each Current Fund that is being replaced, and disclose the impact of the substitutions on fees and expenses at the underlying fund level. The Applicants state that copies of the prospectuses for the New Funds will be sent to Policy owners with the Second Notice. Confirmation of the substitutions will be mailed to affected Policy owners within five days after the substitutions are effected.

13. The Applicants state that the substitutions will be effected by redeeming shares of the Current Funds on the effective date of the substitutions proposed in the application and proposed in the Equitable Application (''Substitution Date'') at net asset value and using the proceeds to purchase shares of the New Funds at net asset value on the same date. No transfer or similar charges will be imposed by the Applicants and, on the Substitution Date, all Policy values will remain unchanged and fully invested. The Applicants expect that the substitutions will be effected by redeeming the shares of each Current Fund in-kind. Those assets will then be contributed in-kind to the corresponding New Fund to purchase shares of that New Fund. Redemptions and contributions in-kind will reduce the brokerage costs that otherwise would be incurred in connection with the proposed substitutions and will ensure that Policy values remain fully invested. In-kind redemptions and contributions will be done in a manner consistent with the investment objectives, policies and diversification requirements of each corresponding New Fund. All assets subject to in-kind redemption and purchase will be valued based on the normal valuation procedures of the redeeming and purchasing Funds, as set forth in the HRT and EQAT registration statements.

14. The significant terms of the substitutions described above include:

a. The New Funds have investment objectives, investment strategies, and anticipated risks that are identical in all material respects to those of the Current Funds. In this regard, the Applicants note that the New Funds will continue to employ the same portfolio managers currently employed by the Current Funds and are intended to mirror the investment options provided by the Current Funds.

b. The fees and expenses of the New Funds will in all cases be substantially similar to those of the Current Funds, assuming that the asset levels of the New Funds do not decrease significantly from the Current Funds' present asset levels. Again, the Applicants note in this regard that given the substantial similarity of the Current Funds and the New Funds, Applicants do not expect there to be a reduction in the asset levels of the New Funds as a result of the substitutions.

c. Policy owners may transfer assets from one variable investment division to another variable investment division available under their Policy without the imposition of any fee, charge, or other penalty that might otherwise be imposed from the date of the First Notice through a date at least thirty days following the Substitution Date.

d. The substitutions, in all cases, will be effected at the net asset value of the respective shares of the Current Fund and the corresponding New Fund in conformity with Section 22(c) of the 1940 Act and rule 22c–1 thereunder, without the imposition of any transfer or similar charge by the Applicants, and with no change in the amount of any Policy owner's Policy value or in the dollar value of his or her investment in such Policy.

e. Policy owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or American Franklin's obligations under the Policies be altered in any way. Equitable will bear all expenses incurred in connection with the proposed substitutions and related filings and notices, including legal, accounting and other fees and expenses. The proposed substitutions will not cause the Policy fees and charges currently being paid by existing Policy owners to be greater after the proposed substitutions than before the proposed substitutions.

f. Redemptions in-kind and contributions in-kind will be done in a manner consistent with the investment objectives, policies and diversification requirements of the applicable Current and New Funds. Consistent with Rule 17a–7(d) under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid in connection with the in-kind transactions.

g. The substitutions will not be counted as new investment selections in determining the limit, if any, on the total number of funds that policy owners can select during the life of a Policy.

h. The substitutions will not alter in any way the tax benefits, life insurance and other policy benefits, or any Policy obligations of the Applicants, under the Policies.

i. Policy owners may withdraw amounts under the Policies or terminate their interest in a Policy, under the

conditions that currently exist, including payment of any applicable withdrawal or surrender charge.

j. Policy owners affected by the substitutions will be sent written confirmation of the substitutions that identify each substitution made on behalf of that Policy owner within five days following the Substitution Date.

k. Before a New Fund may rely on the Multi-Manager Order, the operation of that New Fund as a multi-manager fund as described in the application for the Multi-Manager Order will be approved, following the substitutions proposed in the application and the substitutions proposed in the Equitable Application, by a majority of that New Fund's outstanding voting securities in a manner consistent with the EQAT Shared Funding Order.

15. The Applicants state that they will not complete the substitutions as described in the application unless all of the following conditions are met:

a. The Commission will have issued an order approving the substitutions under Section 26(b) of the 1940 Act.

b. The Commission will have issued an order approving the Equitable Application.

c. The amendments to the registration statement for EQAT adding the New Funds shall have become effective.

d. Each Policy owner will have been mailed the First Notice, and, at least thirty days prior to the Substitution Date, the Second Notice and effective prospectuses for the New Funds.

e. The Applicants will have satisfied themselves, based on advice of counsel familiar with insurance laws, that the Policies allow the substitution of portfolios as described in the application, and that the transactions can be consummated as described herein under applicable insurance laws and under the Policies.

f. The Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Policies have been qualified for sale.

## Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. Section 26(b) further provides that the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

2. The Applicants submit that the Policies expressly reserve to the Applicants the right, subject to compliance with applicable law, to change or add investment companies and add or remove investment divisions, and that appropriate disclosure of this right of substitution is contained in the prospectuses describing the Policies. The Applicants assert that they have reserved this right of substitution both to protect themselves and the Policy owners in situations where either might be harmed by events affecting the issuer of the securities held by the American Franklin Account and to preserve the opportunity to replace such shares in situations where a substitution could benefit itself and its Policy owners.

3. The Applicants maintain that the proposed substitutions protect the Policy owners who have allocated Policy value to the Current Funds by: (1) Providing an underlying investment option that is essentially identical in all material aspects to the current investment option; and (2) eliminating Current Funds that will not be viable due to the low level of assets following the proposed substitutions by Equitable.

4. The Applicants further submit that the proposed substitutions meet the standards that the Commission and its staff generally have applied to other substitutions that have been approved. In addition, the Applicants contend that none of the proposed substitutions is the type of substitution that Section 26(b) was designed to prevent. Unlike traditional unit investment trusts, the Policies provide each Policy owner with the right to exercise his own judgment and transfer Policy values into any other available variable and/or fixed investment options. Additionally, Applicants state that the proposed substitutions will not, in any manner, reduce the number, nature or quality of the available investment options. The Applicants assert that the Policy owners will be offered the opportunity to transfer amounts out of the affected subaccounts without any cost or penalty that may otherwise have been imposed until thirty days after the Substitution Date. For these reasons, the Applicants maintain that the proposed substitutions will not result in the type of costly forced redemption that Section 26(b) was designed to prevent.

5. The Applicants further submit that the proposed substitutions also are unlike the type of substitution that Section 26(b) was designed to prevent in that by purchasing a Policy, Policy owners select much more than a particular underlying fund in which to invest their Policy values. The Policy owners also select the specific type of insurance coverage offered by the Applicants under the applicable Policy, as well as numerous other rights and privileges set forth in the Policy. The Applicants state that, in choosing to buy a Policy from American Franklin, the Policy owner also may have considered American Franklin's size, financial condition, and reputation for service, and that none of those considerations and factors will change as a result of the proposed substitutions.

6. The Applicants submit that, for all reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

## Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the substitutions should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99–22839 Filed 9–1–99; 8:45 am]

BILLING CODE 8010–01–M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–23980; File No. 812–11676]**

## Integrity Life Insurance Company, et al.

August 27, 1999.

**AGENCY:** Securities and Exchange Commission (the ''Commission'' or ''SEC'').

**ACTION:** Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the ''1940 Act'') approving certain substitutions of securities.

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain registered unit investment trusts to substitute shares of EQ Advisors Trust, a registered open-end investment company, for shares of The Hudson River Trust, another registered open-end investment company, currently held by those unit investment trusts.

*Applicants:* Integrity Life Insurance Company, National Integrity Life Insurance Company, Separate Account VUL of Integrity Life Insurance Company, and Separate Account VUL of National Integrity Life Insurance Company (collectively, the ''Applicants'').

*Filing Date:* The application was filed on July 1, 1999, and amended and restated on August 17, 1999.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission 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 21, 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 Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants: c/o Integrity Life Insurance Company, 515 West Market Street, 8th Floor, Louisville, Kentucky 40202, Attn: Kevin L. Howard, Esq.

**FOR FURTHER INFORMATION CONTACT:** Kevin P. McEnery, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

## Applicants' Representations

1. Integrity Life Insurance Company (''Integrity'') is an Ohio stock life insurance company. Integrity sells flexible premium variable annuity contracts, fixed single premium annuity contracts, and flexible premium annuity contracts offering both traditional fixed guaranteed interest rates along with equity indexed options. Integrity serves as depositor for Separate Account VUL of Integrity Life Insurance Company (''Integrity Account'').

2. Integrity is an indirect wholly owned subsidiary of ARM Financial Group, Inc., a publicly traded corporation specializing in providing retail and institutional customers with products and services designed for long-term savings and retirement planning.

3. National Integrity Life Insurance Company (''National Integrity,'' and together with Integrity, the ''Insurance Companies'') is a New York stock life insurance company. National Integrity sells flexible premium variable annuity contracts, fixed single premium annuity contracts, and flexible premium annuity contracts offering traditional fixed guaranteed interest rates. National Integrity serves as depositor for Separate Account VUL of National Integrity Life Insurance Company (''National Integrity Account,'' and together with the Integrity Account, the ''Insurance Company Accounts''). National Integrity is a wholly owned subsidiary of Integrity.

4. Each of the Insurance Company Accounts is a segregated asset account of its Insurance Company sponsor and is registered with the Commission under the 1940 Act as a unit investment trust. The Insurance Company Accounts fund the variable benefits available under certain variable life insurance policies issued by their respective Insurance Company sponsors (collectively, the ''Policies''). The Policies are flexible premium individual variable life insurance policies. Integrity and National Integrity have not offered the Policies since 1990, but the Policies that they issued are still outstanding.[1]

5. The Hudson River Trust (''HRT'') is organized as a Massachusetts business trust. It is registered as an open-end management investment company under the 1940 Act, and its shares are registered under the Securities Act of 1933 (the ''1933 Act'') on Form N–1A. HRT is a series investment company, as defined by Rule 18f–2 under the 1940 Act, and currently offers shares of 14 separate portfolios, six of which (''Current Funds'') would be involved in the proposed substitutions. HRT sells shares to the Insurance Company Accounts to serve as an investment medium for the Policies.[2] Sales of HRT shares to the Insurance Company Accounts currently account for less than 1% of HRT's total assets. HRT currently offers two classes of shares, Class IA and Class IB shares, which differ only in that Class IB shares are subject to a distribution plan adopted and administered pursuant to Rule 12b–1 under the 1940 Act. The Insurance Company Accounts hold only Class IA shares. Each Current Fund is advised by Alliance Capital Management L.P. (''Alliance''), an investment adviser registered under the Investment Advisers Act of 1940, as amended (''Advisers Act'').

6. EQ Advisors Trust (''EQAT'') is organized as a Delaware business trust. It is registered as an open-end management investment company under the 1940 Act, and its shares are registered under the 1933 Act on Form N–1A. EQAT is a series investment company, as defined by Rule 18f–2 under the 1940 Act, and currently offers 25 separate portfolios of shares EQAT currently sells shares to certain registered and unregistered separate accounts (''Equitable Separate Accounts'') used as the underlying investment options for certain variable annuity contracts and/or variable life insurance policies issued by The Equitable Life Assurance Society of the United States (''Equitable''). EQAT currently offers two classes of shares, Class IA and IB shares, which differ only in that Class IB shares are subject to a distribution plan adopted and administered pursuant to Rule 12b–1 under the 1940 Act. EQ Financial Consultants, Inc. (''EQ Financial''), an indirect wholly-owned subsidiary of Equitable, serves as investment manager of each of the current 25 portfolios of EQAT under an investment management agreement with EQAT.[3] EQ Financial is an investment adviser registered under the Advisers Act and a broker-dealer registered under the Securities Exchange Act of 1934, as amended. Pursuant to the investment management agreement, the investment manager (''Manager'') is responsible for the general management and administration of EQAT, including selecting the investment advisers for each of EQAT's portfolios (''Advisers''), monitoring their investment programs and results, reviewing brokerage matters, overseeing compliance issues, and carrying out the directives of the

[1] Applicants represent that, in reliance on the relief in Great-West Life Insurance Company (pub. avail. Oct. 23, 1990) (''Great-West''), they provide certain information to Policy owners about the policies, the relevant Insurance Company, and the underlying fund in lieu of filing post-effective amendments to the registration statements relating to those Policies or delivering updated prospectuses to those Policies owners.

[2] An exemptive order was issued by the Commission granting exemptions from the 1940 Act to permit shares of HRT to be offered to separate accounts of affiliated and unaffiliated insurance companies that offer either variable life insurance policies or variable annuity contracts. *See* Equitable Variable Life Insurance Company, Investment Company Act Rel. Nos. 14899 (Jan. 14, 1986) (order) and 14860 (Dec. 18, 1985) (notice). An exemptive order also was issued by the Commission granting exemptions from the 1940 Act to permit shares of EQ Advisors Trust to be offered to separate accounts of affiliated and unaffiliated insurance companies that offer either variable life insurance policies or annuity contracts (''EQAT Shared Funding Order''). *See* EQ Advisors Trust, Investment Company Act Rel. Nos. 22651 (April 30, 1997) (order) and 22602 (April 4, 1997) (notice).

[3] During 1999, EQ Financial plans to change its name to AXA Advisors, Inc. On July 12, 1999, the Board of trustees of EQAT approved a transfer of the Investment Management Agreement to Equitable. That transfer of the Investment Management Agreement is expected to occur prior to October 1, 1999.

Board of Trustees. EQAT has received an exemptive order from the Commission (''Multi-Manager Order'') that permits EQ Financial, or any entity controlling, controlled by, or under common control (within the meaning of Section 2(a)(9) of the 1940 Act) with EQ Financial, subject to certain conditions, including approval of the Board of Trustees of EQAT, and without the approval of shareholders, to (a) Employ a new Adviser or Advisers for any portfolio pursuant to the terms of a new Investment Advisory Agreement, in each case either as a replacement for an existing Adviser or as an additional Adviser; (b) change the terms of any Investment Advisory Agreement; and (c) continue the employment of an existing Adviser on the same contract terms where a contract has been assigned because of a change of control of the Adviser.[4] In such circumstances, owners would receive notice of any such action, including information concerning any new Adviser, that normally is provided in proxy materials.

7. EQAT has filed a post-effective amendment to its registration statement on Form N–1A in order to register 14 new portfolios, including the six portfolios (''New Funds'') that the Applicants propose to substitute for the Current Funds. Alliance will serve as the Adviser to each of the 14 new portfolios (the ''Alliance Portfolios''), including the New Funds. EQAT intends to sell shares of the Alliance Portfolios to the Equitable Separate Accounts, as well as to the Insurance Company Accounts.

8. The Policies expressly reserve to the Applicants the right, subject to compliance with applicable law, to substitute shares of another portfolio for shares of the Current Funds held by the Insurance Company Accounts. The prospectuses describing the Policies contain appropriate disclosure of this right of substitution.

9. Applicants represent that they are not affiliates of HRT, EQAT or Equitable.

10. The Applicants propose to substitute Class IA shares issued by the six New Funds for the Class IA shares issued by six Current Funds. Equitable and each Equitable Separate Account that is registered under the 1940 Act and that currently invests in HRT (collectively, the ''Equitable Accounts'') have filed an application with the Commission (''Equitable Application'') requesting, inter alia, an order pursuant to Section 26(b) of the 1940 Act, approving the substitution of securities issued by the Alliance Portfolios for the securities issued by the 14 portfolios of HRT and currently used as the investment options for the contracts issued by Equitable through the Equitable Accounts.[5] If approved, Equitable will redeem more than 99% of HRT's assets in connection with those substitutions. Applicants state that it is their belief that it is reasonable to conclude that, following the proposed substitutions by Equitable: (i) The expense level of the Current Funds will increase dramatically as a percentage of net assets due to the smaller asset base, which is highly unlikely to increase; (ii) the Current Funds will be difficult to manage in conformity with the applicable diversification regulations under the Internal Revenue Code of 186, as amended (''Code''); and (iii) the asset levels of the Current Funds will be small enough to raise concern as to whether the Current Funds will remain viable investment options. By contrast, none of these concerns will be associated with investments in EQAT. Applicants submit that, under these circumstances, the substitution of the New Funds for the Current Funds is in the best interest of Policy owners.

11. The Applicants represent that the Manager of the 25 current portfolios of EQAT will also serve as Manager of the New Funds, that Alliance will serve as the Adviser to each of the Alliance Portfolios, and that each of the New Funds will have the same portfolio manager(s) as those of the corresponding Current Fund. The Applicants also state that each of the New Funds will have investment objectives, investment strategies and anticipated risks that are identical in all material respects to those of the corresponding Current Fund. The investment objectives of each Current Fund and the corresponding New Fund are as follows:

| Current fund | Investment objective | New fund | Investment objective |
|---|---|---|---|
| Alliance Aggressive Stock Portfolio | Seeks to achieve long-term growth of capital. | Alliance Aggressive Stock Portfolio. | Seeks to achieve long-term growth of capital. |
| Alliance Balanced Portfolio | Seeks to achieve a high return through both appreciation of capital and current income. | Alliance Balanced Portfolio | Seeks to achieve a high return through both appreciation of capital and current income. |
| Alliance Common Stock Portfolio | Seeks long-term growth of its capital and increase in income. | Alliance Common Stock Portfolio | Seeks long-term growth of its capital and increase in income. |
| Alliance Global Portfolio | Seeks long-term growth of capital | Alliance Global Portfolio | Seeks long-term growth of capital. |
| Alliance High Yield Portfolio | Seeks to achieve a high return by maximizing current income and, to the extent consistent with that objective, capital appreciation. | Alliance High Yield Portfolio | Seeks to achieve a high return by maximizing current income and, to the extent consistent with that objective, capital appreciation. |
| Alliance Money Market Portfolio | Seeks to obtain a high level of current income, preserve its assets and maintain liquidity. | Alliance Money Market Portfolio | Seeks to obtain a high level of current income, preserve its assets and maintain liquidity. |

12. The Applicants state that it is expected that: (i) The management fees (*i.e.*, the total management fees paid to the Manager and from which the Manager will compensate the Adviser) with respect to each New Fund will be the same as the management fees currently applicable to the corresponding Current Funds; and (ii) there may be a slight increase in the total expense ratios of each of the New Funds as compared to those of the corresponding Current Fund. The Applicants also represent that the chart below shows: (i) The Management fees

[4] *See* EQ Advisors Trust and EQ Financial Consultants, Inc., Investment Company Act Rel. Nos. 23128 (April 24, 1998) (order) and 23093 (March 30, 1998) (notice). Before a New Fund may rely on the Multi-Manager Order, the operation of that New Fund as a multi-manager fund, as described in the application for the Multi-Manager Order, will be approved, following the substitutions proposed in the application, by a majority of that New Fund's outstanding voting securities in a manner consistent with the EQAT Shared Funding Order.

[5] File No. 812–11602 (filed Apr. 30, 1999).

and total expenses for Class IA shares of each of the Current Funds for the year ending December 31, 1998; and (ii) the estimated management fees and total expenses of Class IA shares of each of the New Funds following the proposed substitutions. Estimated management fees and total expenses of Class IA shares of each of the New Funds are based on pro forma expenses of the New Funds following the proposed substitutions and are based upon the audited financial statements of HRT for the year ending December 31, 1998.

| Year ending December 31, 1998 | | | Pro forma | | |
|---|---|---|---|---|---|
| Current fund class IA | Advisory fees (as percentage of average daily net assets) | Total expenses (as percentage of average daily net assets) | New fund class IA | Managemet and advisory fees (as percentage of average daily net assets) | Total expenses (as percentage of average daily net assets) |
| Alliance Aggressive Stock Portfolio | 0.54 | 0.56 | Alliance Aggressive Stock Portfolio | 0.54 | 0.57 |
| Alliance Balanced Portfolio | 0.41 | 0.45 | Alliance Balanced Portfolio | 0.41 | 0.46 |
| Alliance Common Stock Portfolio | 0.36 | 0.39 | Alliance Common Stock Portfolio | 0.36 | 0.40 |
| Alliance Global Stock Portfolio | 0.64 | 0.71 | Alliance Global Stock Portfolio | 0.64 | 0.72 |
| Alliance High Yield Portfolio | 0.60 | 0.63 | Alliance High Yield Portfolio | 0.60 | 0.64 |
| Alliance Money Market Portfolio | 0.35 | 0.37 | Alliance Money Market Portfolio | 0.35 | 0.38 |

13. The Applicants state that they provided their respective Policy owners with detailed notice disclosing the proposed substitutions shortly after the application was initially filed. The Applicants state that, upon effectiveness of the post-effective amendment to the registration statement of EQAT with respect to the New Funds and publication of notice by the Commission with respect to the application, they will send the Policy owners further detailed notice concerning the proposed substitutions, together with a prospectus for the New Funds. The notices will describe each of the New Funds, identify each Current Fund that is being replaced, and disclose the impact of other substitutions on fees and expenses at the underlying fund level. The Applicants state that copies of the prospectuses for the New Funds will be sent to Policy owners with the notice. The notice period will be at least thirty days after the notice is sent to affected Policy owners. Confirmation of the substitutions will be sent to affected Policy owners within five days after the substitutions are effected.

14. The Applicants state that the substitutions will be effected by redeeming shares of the Current Funds on the effective date of the substitutions proposed in the application and proposed in the Equitable Application (''Substitution Date'') at net asset value and using the proceeds to purchase shares of the New Funds at net asset value on the same date. No transfer or similar changes will be imposed by the Applicants and, on the Substitution Date, all policy values will remain unchanged and fully invested. The Applicants expect that the substitutions will be effected by redeeming the shares of each Current Fund in-kind. Those assets will then be contributed in-kind to the corresponding New Fund to purchase shares of that New Fund. Redemptions and contributions in-kind will reduce the brokerage costs that otherwise would be incurred in connection with the proposed substitutions and will ensure that Policy values remain fully invested. In-kind redemptions and contributions will be done in a manner consistent with the investment objectives, policies and diversification requirements of each corresponding New Fund. The Manager of each New Fund will review the in-kind transactions to assure that the assets are suitable for the New Fund. All assets subject to in-kind redemption and purchase will be valued based on the normal valuation procedures of the redeeming and purchasing Funds, as set forth in the HRT and EQAT registration statements.

15. The significant terms of the substitutions described above include:

a. The New Funds have investment objectives, investment strategies, and anticipated risks that are identical in all material respects to those of the Current Funds. In this regard, the Applicants note that the New Funds will continue to employ the same portfolio managers currently employed by the Current Funds and are intended to mirror the investment options provided by the Current Funds.

b. The fees and expenses of the New Funds will in all cases be substantially similar to those of the Current Funds, assuming that the asset levels of the New Funds do not decrease significantly from the Current Funds' present asset levels. Again, the Applicants note in this regard that given the substantial similarity of the Current Funds and the New Funds, Applicants do not expect there to be a reduction in the asset levels of the New Funds as a result of the substitutions.

c. Policy owners may transfer assets from the Current or New Funds to another fund available under their Policy without the imposition of any fee, charge, or other penalty that might otherwise be imposed from the date of the initial notice through a date at least thirty days following the Substitution Date.

d. The substitutions, in all cases, will be effected at the net asset value of the respective shares of the Current Fund and the corresponding New Fund in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder, without the imposition of any transfer or similar charge by the Applicants, and with no change in the amount of any Policy owner's Policy value or in the dollar value of his or her investment in such Policy.

e. Policy owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or the obligations of the relevant Insurance Company under the Policies be altered in any way. Equitable will bear all expenses incurred in connection with the proposed substitutions and related filings and notices, including legal, accounting and other fees and expenses. The proposed substitutions will not cause the Policy fees and charges currently being paid by existing Policy owners to be greater after the proposed substitutions than before the proposed substitutions.

f. Redemptions in-kind and contributions in-kind will be done in a manner consistent with the investment objectives, policies and diversification requirements of the applicable Current and New Funds, and the Manager will review the in-kind transactions to assure that the assets are suitable for the New

Fund. Consistent with Rule 17a–7(d) under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid in connection with the in-kind transactions.

g. The substitutions will not be counted as new investment selections in determining the limit, if any, on the total number of funds that Policy owners can select during the life of a Policy.

h. The substitutions will not alter in any way the life benefits, tax benefits, or any Policy obligations of the Applicants, under the Policies.

i. Policy owners may withdraw amounts under the Policies or terminate their interest in a Policy, under the conditions that currently exist, including payment of any applicable withdrawal or surrender charge.

j. Policy owners affected by the substitutions will be sent written confirmation of the substitutions that identify each substitution made on behalf of that Policy owner within five days following the Substitution Date.

k. Before a New Fund may rely on the Multi-Manager Order, the operation of that New Fund as a multi-manager fund as described in the application for the Multi-Manager Order will be approved, following the substitutions proposed in the application and the substitutions proposed in the Equitable Application, by a majority of that New Fund's outstanding voting securities in a manner consistent with the EQAT Shared Funding Order.

16. The Applicants state that they will not complete the substitutions as described in the application unless all of the following conditions are met:

a. The Commission will have issued an order approving the substitutions under Section 26(b) of the 1940 Act.

b. The Commission will have issued an order approving the Equitable Application.

c. The amendments to the registration statement for EQAT adding the New Funds shall have become effective.

d. Each Policy owner will have been mailed effective prospectuses for the New Funds and relevant information about the proposed substitutions for the applicable Policies at least 30 days prior to the Substitution Date. In conjunction with this mailing, each Policy owner will have been sent a notice that describes the terms of the proposed substitutions and the Policy owners' rights in connection with them.

e. The Applicants will have satisfied themselves, based on advice of counsel familiar with insurance laws, that the Policies allow the substitution of portfolios as described in the application, and that the transactions can be consummated as described herein under applicable insurance laws and under the various Policies.

f. The Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Policies have been qualified for sale.

## Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. Section 26(b) further provides that the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

2. The Applicants submit that the Policies expressly reserve to the Applicants the right, subject to compliance with applicable law, to substitute shares of another portfolio for shares of the Current Funds held by the Insurance Company Accounts, and that appropriate disclosure of this right of substitution is contained in the prospectuses describing the Policies. The Applicants assert that they have reserved this right of substitution both to protect themselves and their Policy owners in situations where either might be harmed by events affecting the issuer of the securities held by the Insurance Company Account and to preserve the opportunity to replace such shares in situations where a substitution could benefit itself and its Policy owners.

3. The Applicants maintain that the proposed substitutions protect the Policy owners who have allocated Policy value to the Current Funds by: (1) Providing an underlying investment option that is substantially similar in all material aspects to the current investment option; and (2) eliminating Current Funds that will not be viable due to the low level of assets following the proposed substitutions by Equitable.

4. The Applicants further submit that the proposed substitutions meet the standards that the Commission and its staff generally have applied to other substitutions that have been approved. In addition, the Applicants contend that none of the proposed substitutions is the type of substitution that Section 26(b) was designed to prevent. Unlike traditional unit investment trusts, the Policies provide each Policy owner with the right to exercise his own judgment and transfer Policy values into any other available variable and/or fixed investment options. Additionally, Applicants state that the proposed substitutions will not, in any manner, reduce the number, nature or quality of the available investment options. The Applicants assert that the Policy owners will be offered the opportunity to transfer amounts out of the affected subaccounts without any cost or other penalty that may otherwise have been imposed until thirty days after the Substitution Date. For these reasons, the Applicants maintain that the proposed substitutions will not result in the type of costly forced redemption that Section 26(b) was designed to prevent.

5. The Applicants further submit that the proposed substitutions also are unlike the type of substitution that Section 26(b) was designed to prevent in that by purchasing a Policy, Policy owners select much more than a particular underlying fund in which to invest their Policy values. The Policy owners also select the specific type of insurance coverage offered by the Applicants under the applicable Policy, as well as numerous other rights and privileges set forth in the Policy. The Applicants state that, in choosing to buy a Policy from one of the Insurance Companies, it is likely that the Policy owner also may have considered that Insurance Company's size, financial condition, and reputation for service, and that none of those considerations and factors will change as a result of the proposed substitutions.

6. The Applicants submit that, for all reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

## Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the substitutions should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99–22942 Filed 9–1–99; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–23982; File No. 812–11664]**

## London Pacific Life & Annuity Company, et al., Notice of Application

August 27, 1999.

**AGENCY:** Securities and Exchange Commission (''SEC'' or ''Commission'').

**ACTION:** Notice of application for an order under Section 26(b) of the Investment Company Act of 1940 (''1940 Act'') approving the proposed substitution of securities.

**SUMMARY OF APPLICATION:** Applicants seek an order pursuant to Section 26(b) of the 1940 Act approving the substitution of shares of the Federated Fund for U.S. Government Securities II (''U.S. Government Securities Portfolio'') of Federated Insurance Series (''Fund'') for shares of the Berkeley U.S. Quality Bond Portfolio (''U.S. Quality Bond Portfolio'') of LPT Variable Insurance Series Trust (''Trust'').

**APPLICANTS:** London Pacific Life & Annuity Company (''London Pacific'') and LPLA Separate Account One (''Separate Account One'') (collectively, ''Applicants'').

**FILING DATE:** The application was filed on June 15, 1999.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission 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 21, 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 requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–6500. Applicants, c/o Lynn K. Stone, Esquire, Blazzard, Grodd & Hasenauer, P.C., P.O. Box 5108, Westport, Connecticut, 06881. Copies to George C. Nicholson, London Pacific Life & Annuity Company, 3109 Poplarwood Court, Raleigh, North Carolina 27604.

**FOR FURTHER INFORMATION CONTACT:** Ann Vlcek, Senior Counsel, or Susan Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW, Washington DC 20549–0102 (tel. (202) 942–8090).

### Applicants' Representations

1. London Pacific was organized in 1927 in North Carolina as a stock life insurance company. London Pacific was acquired from Liberty Life in 1989 and was formerly named Southern Life Insurance Company. London Pacific is authorized to sell life insurance and annuities in forty states and the District of Columbia. London Pacific's ultimate parent is London Pacific Group Limited, an international fund management firm chartered in Jersey, Channel Islands. London Pacific is the depositor for Separate Account One.

2. Separate Account One is a separate account of London Pacific Life which was authorized by the London Pacific Board of Directors on November 21, 1994 and established in accordance with North Carolina law. Separate Account One is registered under the 1940 Act as a unit investment trust (File No. 811–8890) for the purpose of funding the Contracts which invest in the Trust and Fund, among other investment options. Security interests under the Contracts have been registered under the Securities Act of 1933 (''1933 Act'') (File Nos. 33–87150 and 333–1779).

3. Separate Account One is currently divided into sub-accounts, each of which reflects the investment performance of a corresponding portfolio of the Trust, the Fund or other underlying mutual funds.

4. The U.S. Quality Bond Portfolio's primary investment objective is to seek to obtain a high level of current income. The Portfolio invests at least 65% of its total assets in higher quality bonds or securities that represent an interest in pools of higher quality debt obligations such as mortgages. Shares of the U.S. Quality Bond Portfolio are purchased, without sales charge, by the Berkeley U.S. Quality Bond Sub-Account (the ''U.S. Quality Bond Sub-Account'') of Separate Account One at the net asset value per share next determined following receipt of a purchase payment by the U.S. Quality Bond Sub-Account. Any dividend or capital gain distributions received from the U.S. Quality Bond Portfolio are reinvested in additional shares of the U.S. Quality Bond Portfolio and retained as assets of the U.S. Quality Bond Sub-Account. The U.S. Quality Bond Portfolio's shares are redeemed without any charge or fee to Separate Account One to the extent necessary for London Pacific to make annuity or other payments under the Contracts.

5. LPIMC Insurance Marketing Services (''LPIMC''), a registered investment adviser and wholly-owned subsidiary of London Pacific, as investment adviser to the Trust, provides overall management of the investment strategies and policies of the U.S. Quality Bond Portfolio. The subadviser of the Portfolio is Berkeley Capital Management. Effective January 25, 1999, shares of the U.S. Quality Bond Portfolio are no longer available for sale.

6. LPIMC receives the following amounts as an annual investment advisory fee with respect to the U.S. Quality Bond Portfolio, accrued daily and payable monthly based on a percentage of the Portfolio's average daily net assets:

.55% of first $50 million of average daily net assets;

.525% of next $100 million of average daily net assets;

.50% of next $150 million of average daily net assets;

.45% of next $200 million of average daily net assets; and

.425% over and above $500 million of average daily net assets.

7. On June 4, 1999, the U.S. Quality Bond Portfolio had approximately $263,329 in net assets. The total expenses of the U.S. Quality Bond Portfolio for the year ended December 31, 1998 were 3.60% of its average net assets without regard to any expense reimbursement by London Pacific.

8. Prior to May 1, 1999, London Pacific reimbursed the U.S. Quality Bond Portfolio for certain expenses. Effective May 1, 1999, this arrangement was terminated. For the year ending December 31, 1999, total annual portfolio expenses are estimated to be 3.30%.

9. The investment objective of the U.S. Government Securities Portfolio is to seek current income. The U.S. Government Securities Portfolio pursues its objective by investing primarily in U.S. government securities, including mortgage backed securities issued by U.S. government agencies.

10. Federated Investment Management Company, a registered investment adviser, is the investment adviser of the U.S. Government Securities Portfolio. Federated Investment Management Company receives an annual investment advisory

fee of .60% of the Portfolio's average daily net assets.

11. On June 4, 1999, the U.S. Government Securities Portfolio had approximately $119,525,394 in net assets. For the period ended December 31, 1998, the U.S. Government Securities Portfolio's total expenses were .93% of its average net assets without regard to a waiver of fees or reimbursement of expenses undertaken by Federated Investment Management Company for the year ended December 31, 1998. This fee waiver and expense reimbursement arrangement is voluntary and may be terminated at any time without notice.

12. The total returns of the U.S. Quality Bond Portfolio and the U.S. Government Securities Portfolio are as follows:

*U.S. Quality Bond Portfolio*

Total Return for the period 1.31.96 (commencement of operations) to 12/31/96: 2.27%.

Total Return for the year ended 12/31/97: 9.45%.

Total Return for the year ended 12/31/98: 7.87%.

*U.S. Government Securities Portfolio*

Total Return for the period 3/29/94 (commencement of operations) to 12/31/94: 2.62%.

Total Return for the year ended 12/31/95: 8.77%.

Total Return for the year ended 12/31/96: 4.20%.

Total Return for the year ended 12/31/97: 8.58%.

Total Return for the year ended 12/31/98: 7.66%.

13. Applicants propose that London Pacific on its own behalf and on behalf of Separate Account One effect a substitution of shares of the U.S. Government Securities Portfolio for all shares of the U.S. Quality Bond Portfolio attributable to the Contracts (''Substitution''). For those owners of Contracts (''Contract Owners'') who continue to have any of their Contract values invested in shares of the U.S. Quality Bond Portfolio on the effective date of the Substitution, the Company proposes to substitute shares of the U.S. Government Securities Portfolio for shares of the U.S. Quality Bond Portfolio on the following basis. As of the effective date of the Substitution, the shares of the U.S. Quality Bond Portfolio representing Contract values would be redeemed by London Pacific. On the same day, London Pacific would use the proceeds to purchase the appropriate number of shares of the U.S. Government Securities Portfolio. The Substitution will be a cash transaction (i.e., no securities will be exchanged in the transaction). The Substitution will take place at relative net asset values of the Portfolios, with no change in the amount of any Contract Owner's Contract values or in the dollar value of his or her investment in Separate Account One.

14. On June 8, 1999, London Pacific supplemented the prospectuses for Separate Account One to relect the proposed Substitution (''Supplement''). The Supplement also informed Contract Owners that prior to the date of the Substitution, an owner may transfer his or her Contract value in the Berkeley U.S. Quality Bond Sub-Account to any sub-account without any limitation or charge being imposed.

15. Applicants state that Contract Owners will not incur any fees or charges as a result of the proposed Substitution nor will their rights under the Contracts be altered in any way. London Pacific will pay all expenses and transaction costs of the Substitution, including legal and accounting expenses, any applicable brokerage commissions, and other fees and expenses. In addition, the Substitution will not impose any tax liability on Contract Owners. The Substitution will not cause the Contract fees and charges currently being paid by existing Contract Owners to be greater after the Substitution than before the Substitution. London Pacific will schedule the Substitution to occur as soon as practicable following the issuance of the order so as to maximize the benefits to be realized from the Substitution. Applicants state that, within five (5) days after the completion of the Substitution pursuant to the order of the Commission approving the Substitution, London Pacific will send to the Contract Owners written notice of the Substitution (the ''Notice'') stating that shares of the U.S. Quality Bond Portfolio have been eliminated and that the shares of the U.S. Government Securities Portfolio have been substituted.

16. Applicants state that Contract Owners will be advised in the Notice that for a period of thirty (30) days from the mailing of the Notice, they may transfer all assets, as substituted, to any other available investment option, without limitation and without charge. The period from the date of the Supplement to thirty (30) days from the mailing of the Notice is referred to as the ''Free Transfer Period.'' Applicants state that, following the Substitution, Contract Owners will be afforded the same contract rights, including surrender and other transfer rights with regard to amounts invested under the Contracts, as they currently have. Currently there are no applicable surrender fees or redemption charges under the Contracts. Applicable contingent deferred sales charges, however, will be imposed.

17. Applicants state that the Contracts reserve to London Pacific the right to replace the shares of the U.S. Quality Bond Portfolio held by Separate Account One with shares of another portfolio, such as the U.S. Government Securities Portfolio, if (a) shares of the U.S. Quality Bond Portfolio should no longer be available for investment by Separate Account One, or (b) in the judgment of London Pacific's Board of Directors, further investment in the U.S. Quality Bond Portfolio should become inappropriate in view of the purpose of the Contracts, provided any such substitution is approved by the Commission and is in compliance with all applicable rules and regulations. London Pacific believes that further investment in shares of the U.S. Quality Bond Portfolio is no longer appropriate in view of the purposes of the Contracts.

**Applicants' Legal Analysis and Conditions**

1. Applicants request an order of the Commission pursuant to Section 26(b) of the 1940 Act in connection with the proposed substitution of shares of the U.S. Government Securities Portfolio of the Fund for shares of the U.S. Quality Bond Portfolio of the Trust which are currently held by Separate Account One.

2. Section 26(b) of the 1940 Act makes it unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. Section 26(b) provides that the Commission shall issue an order approving substitutions of securities if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. Applicants state that the purposes, terms and conditions of the Substitution are consistent with the principles and purposes of section 26(b) and do not entail any of the abuses that section 26(b) is designed to prevent. Applicants assert that the Substitution is an appropriate solution to the limited Contract Owner interest or investment in the U.S. Quality Bond Portfolio, described below, which is currently, and in the future may be expected to be, of insufficient size to promote

consistent investment performance or to reduce operating expenses.

4. Applicants state that London Pacific, on the basis of the following facts and circumstances summarized herein, has determined that it is in the best interests of Contract Owners to substitute shares of the U.S. government Securities Portfolio for shares of the U.S. Quality Bond Portfolio.

5. Applicants state that the U.S. Quality Bond Portfolio and the U.S. Government Securities Portfolio each have investment objectives and programs which are substantially the same. The U.S. quality Bond Portfolio will invest at least 65% of its total assets in higher quality bonds or securities that represent an interest in pools of higher quality debt obligations, such as mortgages. The U.S. Government Securities Portfolio invests primarily in U.S. Government securities, including mortgage backed securities issued by U.S. government agencies.

6. Applicants state that the total expense ratio of 3.6% for the U.S. quality Bond Portfolio for the year ended December 31, 1998, without regard to waiver or reimbursement of expenses by London Pacific, is relatively high for this type of Portfolio. A large portion of the U.S. Quality Bond Portfolio's expenses is fixed. Consequently, because the size of the U.S. Quality Bond Portfolio is relatively small, these fixed expenses represent and may continue to represent a relatively large percentage of the U.S. Quality Bond Portfolio's average daily net assets. Applicants assert that Contract Owners will not be exposed to higher expenses following the Substitution and should, in fact, benefit from the U.S. Government Securities Portfolio's lower total expense ratio which, for the year ended December 31, 1998, was .93% of its average daily net assets, without regard to waiver or reimbursement of expenses.

7. Applicants state that the U.S. Government Securities Portfolio accumulated approximately $119,525,394 in net assets as of June 4, 1999. The U.S. Quality Bond Portfolio accumulated approximately $263,329 in net assets as of June 4, 1999. Effective January 25, 1999, shares of the U.S. Quality Bond Portfolio are no longer available for investment. Therefore, Applicants state that the prospects for continued growth of the U.S. Government Securities Portfolio indicate that greater economies of scale would be expected for that fund than for the U.S. Quality Bond Portfolio.

8. Applicants state that, due to the relatively small asset size of the U.S. Quality Bond Portfolio, there are a limited number of attractive investments available for investment by the U.S. Quality Bond Portfolio. Thus, the ability to maintain optimal management of the Portfolio is reduced. The larger size of the U.S. Government Securities Portfolio lends itself to greater flexibility in purchasing attractive investments, and consequently the U.S. Government Securities Portfolio can more readily react to changes in market conditions. Applicants state that Contract Owners would benefit through the more effective management of a larger portfolio such as the U.S. Government Securities Portfolio.

9. Applicants state the Substitution will not result in the type of costly forced redemption that section 26(b) was intended to guard against and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act for the following reasons:

(a) The Substitution is of the U.S. Government Securities Portfolio shares whose objectives, policies, and restrictions are substantially similar to the objectives, policies, and restrictions of the U.S. Quality Bond Portfolio so as to continue fulfilling the Contract Owners' objectives and risk expectations;

(b) While the advisory fees for the U.S. Government Securities Portfolio are somewhat higher than those of the U.S. Quality Bond Portfolio, the total expenses (as of December 31, 1998) of the U.S. Government Securities Portfolio, without regard to any waiver or reimbursement, were .93%, while the total expenses for the U.S. Quality Bond Portfolio were 3.60%.

(c) If during the Free Transfer Period a Contract Owner requests, assets will be reallocated for investment in a Contract Owner-selected sub-account. The Free Transfer period is sufficient time for Contract Owners to reconsider the Substitution;

(d) The Substitution will in all cases, be effected at the net asset value of the respective shares in conformity with section 22(c) of the 1940 Act and rule 22c–1 thereunder, without the imposition of any transfer or similar charge;

(e) London Pacific has undertaken to assume the expenses and transaction costs, including among others, legal and accounting fees and any brokerage commissions, relating to the Substitution;

(f) The Substitution in no way will alter the insurance benefits to Contract Owners or the contractual obligations of London Pacific;

(g) The Substitution in no way will alter the tax benefits to Contract Owners; and

(h) Contract Owners may chose simply to withdraw amounts credited to them following the Substitution under the conditions that currently exist, subject to any applicable contingent deferred sales charge.

## Conclusion

Applicants submit, for all of the reasons stated herein, that the requested order approving the proposed substitution under section 26(b) of the 1940 Act is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99–22939 Filed 9–1–99; 8:45 am]

BILLING CODE 8010–01–M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–23981]**

## Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 27, 1999.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August, 1999. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW, Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 21, 1999, and should be accompanied by proof of service on the applicant, 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 Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC,

Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW, Washington, DC 20549–0506.

**The Premium Portfolios [File No. 811–7291]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On October 1, 1998, applicant made a liquidating distribution to its securityholders at net asset value per share. Expenses of approximately $10,175 were incurred in connection with the liquidation and were paid by Citibank, N.A., applicant's investment adviser.

*Filing Dates:* The application was filed on May 25, 1999, and amended on August 2, 1999.

*Applicant's Address:* Elizabethan Square, George Town, Grand Cayman, Cayman Islands, British West Indies.

**The Baird Funds, Inc. [File No. 811–6714]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 4, 1999, applicant made a liquidating distribution to its shareholders based on net asset value per share. Expenses of approximately $35,000 were incurred in connection with the liquidation and were paid by applicant.

*Filing Dates:* The application was filed on June 11, 1999, and amended on August 4, 1999.

*Applicant's Address:* 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

**Life Cycle Mutual Funds, Inc. [File No. 811–9058]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On December 30, 1998, applicant made a liquidating distribution to its shareholders at net asset value per share. Expenses incurred in connection with the liquidation were $107,796 and were allocated pro rata to each series of applicant.

*Filing Dates:* The application was filed on April 30, 1999, and amended on August 11, 1999.

*Applicant's Address:* c/o Joseph V. Del Raso, Esq., Pepper Hamilton LLP, 3000 Two Logan Square, Eighteenth and Arch Streets, Philadelphia, Pennsylvania 19103–2799.

**MAP-Equity Fund (Previously Known as Mutual Benefit Fund) [File No. 811–2046]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 8, 1999, applicant transferred its assets to MainStay MAP Equity Fund based on net asset value. Expenses of approximately $84,295 incurred in connection with the reorganization were paid by applicant.

*Filing Date:* The application was filed on July 30, 1999.

*Applicant's Address:* 520 Broad Street, Newark, New Jersey 07102.

**Security Capital EuroPacific Real Estate Shares Incorporated [File No. 811–8383], Security Capital European Real Estate Shares Incorporated [File No. 811–8533]**

*Summary:* Each applicant seeks an order declaring that it has ceased to be an investment company. Neither applicant has ever made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

*Filing Date:* Each application was filed on July 7, 1999, and amended on August 12, 1999.

*Applicant's Address:* 11 South LaSalle Street, Chicago, Illinois 60603.

**Hyperion Short Duration U.S. Government Fund II [File No. 811–6210], Short Duration U.S. Government Portfolio [File No. 811–6250], Hyperion Government Mortgage Trust [File No. 811–6262]**

*Summary:* Each applicant seeks an order declaring that it has ceased to be an investment company. On August 31, 1995, each applicant made a liquidating distribution to its shareholders at net asset value per share. Expenses of $93,325 were incurred in connection with each liquidation and were paid by the investment adviser to each applicant.

*Filing Dates:* Hyperion Short Duration U.S. Government Fund II and Short Duration U.S. Government Portfolio filed their applications on July 6, 1999, and Hyperion Government Mortgage Trust filed its application on July 9, 1999. Each application was amended on August 11, 1999.

*Applicant Address:* One Liberty Plaza, 165 Broadway, New York, New York 10006.

**AJL PEPS Trust [File No. 811–7341]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On February 15, 1999, applicant made a liquidating distribution to its shareholders at net asset value per share. Applicant has approximately 30 shareholders who have not surrendered their shares. Assets representing the aggregate liquidation value of applicant's remaining shares are being held by The Bank of New York. Expenses of approximately $30,958 incurred in connection with the liquidation were paid by Morgan Stanley & Co., Incorporated, as sponsor of applicant.

*Filing Dates:* The application was filed on May 10, 1999, and amended on August 13, 1999.

*Applicant's Address:* c/o The Bank of new York, 101 Barclay Street, New York, New York 10286.

**The New South Africa Fund, Inc. [File No. 811–8298]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 3, 1999, applicant made a liquidating distribution to its shareholders at net asset value per share. Applicant has 49 shareholders who have not surrendered their shares. Funds representing the aggregate liquidation value of applicant's remaining shares are being held by the Custodial Trust Company, applicant's custodian. Expenses of $430,250 incurred in connection with the liquidation were paid by applicant.

*Filing Dates:* The application was filed on July 28, 1999, and amended on August 19, 1999.

*Applicant's Address:* 101 Carnegie Center, Princeton, New Jersey 08540.

**Smith Hayes Trust, Inc. [File No. 811–5463]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 21, 1999, applicant transferred its assets to Great Plains Funds based on net asset value. Expenses of $28,400 were incurred in connection with the reorganization and were paid by SMITH HAYES Financial Services Corporation, applicant's distributor.

*Filing Dates:* The application was filed on July 29, 1999, and amended on August 18, 1999.

*Applicant's Address:* Centre Terrace, 1225 L Street, P.O. Box 83000, Lincoln, Nebraska 68501–3000.

**Scudder Spain and Portugal Fund, Inc. [File No. 811–5304]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On March 8, 1999, applicant made a liquidating distribution to its securityholders at net asset value. As of August 3, 1999, applicant had 48 securityholders who had not surrendered their shares. State Street Bank and Trust Company is holding funds representing the aggregate liquidation value of applicant's remaining shares. Expenses of approximately $77,600 were incurred in connection with the liquidation, of which applicant's investment adviser

paid approximately $25,800, and applicant paid the remaining expenses.

*Filing Dates:* The application was filed on June 30, 1999, and amended on August 17, 1999.

*Applicant's Address:* 345 Park Avenue, New York, New York 10154.

**AIM Investment Portfolios [File No. 811–3297]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On December 21, 1998, applicant transferred its assets to AIM Money Market Fund, a series of AIM Funds Group, based on net asset value. Expenses of $95,249 incurred in connection with the reorganization were paid by AIM Advisors Inc., applicant's investment adviser.

*Filing Date:* The application was filed on August 11, 1999.

*Applicant's Address:* 11 Greenway Plaza, Suite 100, Houston, Texas 77046.

**Franklin Life Variable Annuity Fund B [File No. 811–2110]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On April 8, 1999, the shareholders of applicant voted to approve the merger of applicant with two other investment companies. The name of the fund surviving the merger is Franklin Life Variable Annuity Fund, and its Investment Company Act file number 811–1990. Expenses of $287,065 were incurred in connection with the merger and were paid by The Franklin Life Insurance Company, which had been the investment adviser of applicant during the last five years.

*Filing Date:* The application was filed on June 4, 1999.

*Applicant's Address:* #1 Franklin Square, Springfield, Illinois 62713.

**Franklin Life Money Market Variable Annuity Fund C [File No. 811–3289]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On April 8, 1999, the shareholders of applicant voted to approve the merger of applicant with two other investment companies. The name of the fund surviving the merger is Franklin Life Variable Annuity Fund, and its Investment Company Act file number is 811–1990. Expenses of $287,065 were incurred in connection with the merger and were paid by The Franklin Life Insurance Company, which had been the investment adviser of applicant during the last five years.

*Filing Date:* The application was filed on June 4, 1999.

*Applicant's Address:* #1 Franklin Square, Springfield, Illinois 62713.

**The Sports Funds Trust [File No. 811–8563]**

*Summary:* Applicant seeks an order declaring that it has ceased to be in investment company. On February 26, 1999, applicant made a liquidating distribution to its securityholders at net asset value per share. Expenses of $6,289 incurred in connection with the liquidation were paid by applicant.

*Filing Date:* The applicant was filed on August 20, 1999.

*Applicant's Address:* 610 Pasteur Drive, Suite 2, Greensboro, NC 27403.

**Veredus Funds (Formerly Artemis Funds) [File No. 811–8771]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On December 4, 1998, applicant transferred all of its assets and liabilities to Allegheny/Veredus Aggressive Growth Fund (the ''Acquiring Fund'') based on net asset value. Expenses of $154,701 were incurred in connection with the reorganization, of which the investment advisers for applicant and the Acquiring Fund paid $119,207 and $35,494, respectively.

*Filing Dates:* The application was filed on May 12, 1999, and amended on August 24, 1999.

*Applicant's Address:* 6900 Bowling Boulevard, Suite 250, Louisville, Kentucky 40207.

**TCW/DW Global Telecom Trust [File No. 811–7591]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 28, 1999, applicant transferred its assets to Morgan Stanley Dean Witter Global Utilities Fund based on net asset value. Expenses of $145,000 incurred in connection with the reorganization were paid by applicant.

*Filing Date:* The application was filed on August 24, 1999.

*Applicant's Address:* Two World Trade Center, 70th Floor, New York, New York 10048.

**Pioneer Intermediate Tax-Free Fund [File No. 811–4768]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On March 31, 1999, applicant transferred all of its assets to Pioneer Tax-Free Income Fund (the ''Acquiring Fund'') based on net asset value per share. Expenses of $45,000 incurred in connection with the reorganization were allocated between applicant and the Acquiring Fund based on their respective net assets.

*Filing Date:* The application was filed on August 23, 1999.

*Applicant's Address:* 60 State Street, Boston, Massachusetts 02109.

**The United Kingdom Fund Inc. [File No. 811–5184]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 18, 1999, applicant distributed substantially all of its assets to shareholders at net asset value per share. Funds representing the aggregate liquidation value of applicant's remaining shares and a reserve to cover remaining liabilities are held in trust. Expenses of $153,646 incurred in connection with the liquidation were paid by applicant.

*Filing Dates:* The application was filed on July 27, 1999. Applicant has agreed to file an amendment during the notice period.

*Applicant's Address:* c/o Merrill Lynch Asset Management, 800 Scudders Mill Road, Legal Advisory–2A, Plainsboro, New Jersey 08536.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99–22941 Filed 9–1–99; 8:45 am]

BILLING CODE 8010–01–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

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

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

**DATES:** The meeting is scheduled for September 14 and 15, 1999, beginning at 8:30 a.m. on September 14. Arrange for oral presentations by September 7.

**ADDRESSES:** Boeing Commercial Airplane Group, 535 Garden Avenue, N., Building 10–16, Renton, WA.

**FOR FURTHER INFORMATION CONTACT:** Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of

an ARAC meeting to be held September 14–15 at the Boeing Commercial Airplane Group, 535 Garden Avenue, N., Building 10–16, Renton, WA.

The agenda will include:

*Tuesday, September 14*

- Opening Remarks
- FAA Report
- JAA Report
- Transport Canada Report
- Engine Harmonization Working Group (HWG) Report and Vote
- General Structures HWG Report
- Airworthiness Assurance Working Group Report
- Powerplant Installation HWG Report
- Flight Guidance System HWG Report
- Systems Design and Analysis HWG Report
- Seat Test HWG Report

*Wednesday, September 15*

- Avionics Systems HWG Report
- Aging Systems Update
- Emergency Evacuation Issues Report
- Flight Test HWG Report
- Ice Protection HWG Report
- Human Factors HWG Report
- Electromagnetic Effects HWG Report
- Loads and Dynamics HWG Report
- Flight Control HWG Report
- Mechanical Systems HWG Report
- Electrical Systems HWG Report

The Engine Harmonization Working Group plans to request a vote to submit a technical standard order (TSO) for formal legal review. The TSO prescribes the minimum performance standards that gas turbine auxiliary power units must meet to be identified with the applicable TSO marking.

Attendance is open to the public, but will be limited to the space available. The public must make arrangements by September 7 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine issues or by providing copies at the meeting. Copies of the documents to be voted upon may be made available by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. In addition, sign and oral interpretation as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on August 27, 1999.

**Anthony F. Fazio,**

*Executive Director, Aviation Rulemaking Advisory Committee.*

[FR Doc. 99–22896 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application 99–08–U–00–PHL To Use the Revenue From a Passenger Facility Charge (PFC) at Philadelphia International Airport, Philadelphia, PA

**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 use the revenue from a PFC at Philadelphia 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) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before October 4, 1999.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Ms. Roxane Wren, Harrisburg Airports District Office, 3911 Hartzdale Drive, Suite 1100, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Alfred Testa, Jr., Director of Aviation of the City of Philadelphia at the following address: Division of Aviation, Terminal ''E'', Philadelphia, PA 19153.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Philadelphia, Department of Commerce, Division of Aviation under § 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Ms. Roxane Wren, Administrative Support Assistant, Airports District Office, 3911 Hartzdale Drive, Suite 1100, Camp Hill, PA 17011, 717–730–2830. 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 use the revenue from a PFC at Philadelphia 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) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 13, 1999, the FAA determined that the application to use the revenue from a PFC submitted by City of Philadelphia was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 13, 1999.

The following is a brief overview of the application.

*PFC Application No.:* 99–08–U–00–PHL.

*Level of the proposed PFC:* $3.00.

*Proposed charge effective date:* January 1, 1999.

*Proposed charge expiration date:* July 1, 2011.

*Total estimated PFC revenue:* $672,000,000.

*Brief description of proposed project(s):*

—Terminal One Building (New International Terminal)
—Terminal F Building (New Commuter Terminal)
—Aircraft Parking Apron for Terminal One
—Aircraft Parking Apron for Terminal F
—Airport Roadway Modifications—Phase II
—Acquisition of Property—West of Terminal One
—Planning & Design of New Highway Access Ramps from I–95

*Class or classes of air carriers which the public agency has requested not be required to collect PFCs:* Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: Fitzgerald Federal Building #111, Airports Division, AEA–610, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Philadelphia, Division of Aviation.

Issued in Camp Hill, Pennsylvania on August 18, 1999.

**Sharon A. Daboin,**

*Manager, Harrisburg ADO, Eastern Region.*

[FR Doc. 99–22891 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Reports, Forms and Recordkeeping Requirements

### Agency Information Collection Activity Under OMB Review

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 1, 1999 [64 FR 10060].

**DATES:** Comments must be submitted on or before October 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Longo, (202) 366–0456, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:00 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* No-Zone Campaign Assessment.

*Type of Request:* Approval of a new information collection.

*Affected Public:* Approximately 1,100 adult licensed drivers randomly selected from the public.

*Abstract:* ''No-Zone'' is a highway safety term used to describe danger areas around trucks and buses where crashes are more likely to occur. The purpose of the No-Zone campaign is to help reduce the number of car-truck crashes, injuries, fatalities, and property loss by increasing motorists' awareness of the No-Zone. The FHWA will conduct a quantitative analysis of the No-Zone campaign and its messages by developing and administering a baseline evaluation study designed to quantify respondents' knowledge of truck and bus limitations; their knowledge of ''share the road'' issues; and their knowledge of the No-Zone campaign and its messages. It is anticipated that a sample of 4,000 respondents will be drawn in order to complete 1,100 interviews in households with telephones using a national random digit dial.

*Frequency:* The survey will be conducted now for a baseline analysis and again in approximately three to five years to assess improvements.

*Estimated Burden:* The estimated total annual burden is 92 hours (1,100 responses x 5 minutes per response).

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this Notice.

Issued on: August 30, 1999.

**Michael J. Vecchietti,**

*Director, Office of Information and Management Services.*

[FR Doc. 99–22924 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–22–P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement; Aroostook County, Maine

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared to improve transportation efficiency in Aroostook County, Maine. The EIS will examine highway infrastructure improvements to enhance transportation mobility and accessibility to and from Aroostook County, as well as within the County. These improvements are being considered as a means to improve the region's economy by improving access to jobs and services and by reducing travel time to markets outside Maine's northern-most County. The purpose of this study is to identify a Preferred Corridor only.

**FOR FURTHER INFORMATION CONTACT:** Mr. James F. Linker, Manager, Right of Way and Environmental Programs, Maine Division, Federal Highway Administration, 40 Western Ave., Augusta, Maine 04330, Tel. 207/622–8355, ext. 23; Ray Faucher, Project Manager, Maine Department of Transportation, State House Station 16, Augusta, Maine 04333–0016, Tel. 207/287–3172.

**SUPPLEMENTARY INFORMATION:** The purpose of this EIS is to establish a one-half mile wide corridor for future highway development. The area under consideration, from the towns of Smyrna Mills to Madawaska, is quite large and bounded on the west by Route 11, on the south by I–95, and on the north and east by the Canadian border. The enclosed area is roughly twice the size of the state of Rhode Island.

The EIS will study up to seven corridors alternatives, including upgrades within existing highway corridors and corridors on new location. The seven corridors, plus the no-action alternative, will be selected through a screening process of up to 20 preliminary corridors. The corridors will be selected for review based on their ability to provide transportation benefits and their environmental impacts. It is anticipated that highway segments with logical termini and independent utility will be constructed in the future within the selected corridor. Each segment will be supported by a separate environmental document in the later construction phase.

An 18-member public advisory committee has been established to represent the interests within the study area and to assist in the preparation of the EIS. Public scoping meetings will be held at the following locations: the Frenchville Community Center in Frenchville, September 14, 1999; the Northern Maine Technical College in Presque Isle, September 15, 1999; and the Miller Civic Center in Houlton on September 16, 1999.

**Authority:** 23 U.S.C. 315; 49 CFR 1.48.

Issued on: August 27, 1999.

**Paul L. Lariviere,**

*Division Administrator, Federal Highway Administration, Augusta, Maine.*

[FR Doc. 99–22862 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–22–M

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Major Investment Study/Draft Environmental Impact Statement for the Metro-North Penn Station Access Study

**AGENCY:** Federal Transit Administration (FTA)

**ACTION:** Notice of intent to prepare a Major Investment Study/Draft Environmental Impact Statement (MIS/DEIS).

**SUMMARY:** The Federal Transit Administration (FTA) and the Metro-North Commuter Railroad Company (Metro-North) intend to prepare a Major

Investment Study/Draft Environmental Impact Statement (MIS/DEIS) to study transportation access improvements from the Metro-North service territory on the New Haven, Harlem, and Hudson Lines (north of Manhattan) to Pennsylvania Station, New York (Penn Station) on the West Side of Manhattan in the City of New York. Current Metro-North service terminates at Grand Central Terminal (GCT) on the East Side of Manhattan, necessitating as many as two transfers on additional modes to reach destinations on the West Side. The MIS/DEIS is being prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, and implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508), the FTA/Federal Highway Administration's Environmental Impact regulations (23 CFR Part 771), and the FTA/FHWA Statewide Planning/Metropolitan Planning regulations (23 CFR Part 450). This study will also comply with the requirements of the National Historic Preservation Act of 1966, as amended, Section 4(f) of the 1966 U.S. Department of Transportation Act, the 1990 Clean Air Act Amendments, the Executive Order 12898 on Environmental Justice, and other applicable rules, regulations, and guidance documents.

The Penn Station Access MIS/DEIS will examine alternative strategies for improving access from the Metro-North service territory to the West Side of Manhattan (Penn Station). New York-bound, Metro-North trains currently terminate at GCT on Manhattan's East Side. The study will also evaluate the possibility of station stops in Co-Op City in the Bronx and on the West Side of Manhattan, and a new rail yard. Consideration will also be given to other modes.

The Penn Station Access MIS/DEIS will develop alternatives for study that could lead to a project which would (1) Be a feasible, cost-effective, and beneficial transportation improvement that would enhance connections to other regional rail services; (2) increase Metro-North ridership and provide service flexibility for its customers; and (3) support the region's economic vitality and quality of life. The MIS/DEIS will evaluate a No-Build Alternative, a Transportation System Management (TSM) Alternative, and Build Alternatives. Build alternatives will take into consideration the use of Metro-North's Hudson, Harlem, and New Haven Lines to provide access to Penn Station, potential new stations on the West Side of Manhattan (somewhere from approximately 57th Street to 86th Street) and at Co-Op City in the Bronx, as well as other reasonable alternatives suggested through the scoping process. The type, location and need for ancillary facilities (such as new yards or shops) will also be considered for each alternative.

**DATES:** *Comment Due Date:* Written comments on the scope of the MIS/DEIS should be sent to Metro-North by October 22, 1999. See **ADDRESSES** below.

*Scoping Meeting:* Public scoping meetings for the Penn Station Access MIS/DEIS will be held on:

*September 28, 1999*

6 pm–9 pm (sign-in begins at 5:30), MTA Headquarters, 5th Floor Board Room, 347 Madison Avenue (btwn 44th St. & 45th St.), New York, New York

*September 30, 1999*

7 pm–10 pm (sign-in begins at 6:30), Einstein Community Center; 135 Einstein Loop, Co-Op City, New York

*October 5, 1999*

7 pm–10 pm (sign-in begins at 6:30), The Warner Library, (corner of Broadway St. and Wildey St.) Tarrytown, New York

*October 7, 1999*

7 pm–10 pm (sign-in begins at 6:30), Stamford Government Center, 888 Washington Blvd., 2nd Floor (Senior Center), Stamford, Connecticut

People with special needs should contact Todd DiScala at Metro-North at the address below or by calling the study hotline at 1–877–MNR–PENN. The buildings are accessible to people with disabilities. A sign language interpreter will be available for the hearing impaired.

Scoping material will be available at the meetings and may also be obtained in advance of the meetings by contacting Todd DiScala at the address below or by calling the study hotline above. Oral and written comments may be given at the scoping meetings; a stenographer will record all comments.

**ADDRESSES:** Written comments on the project scope should be sent to Todd DiScala, Project Manager, Metro-North Railroad, 420 Lexington Avenue, 9th Floor, New York, New York 10017. The scoping meetings will be held at the locations identified above.

**FOR FURTHER INFORMATION CONTACT:** If you wish to be placed on the mailing list to receive further information as the study develops, contact Todd DiScala at the above address or call the study hotline at 1–877–MNR–PENN. For further information you may also contact: Ms. Nancy Danzig, Community Planner, Federal Transit Administration, Region II, One Bowling Green, Room 429, New York, New York, 10004–1415; phone: 212–668–2170.

**SUPPLEMENTARY INFORMATION:**

## I. Scoping

The FTA and Metro-North invite all interested individuals and organizations, and federal, state, and local agencies to provide comments on the scope of the study. During the scoping process, comments should focus on identifying specific social, economic, or environmental issues to be evaluated and suggesting alternatives, which may be less costly or have less environmental impacts, while achieving the transportation objectives of enhancing regional connectivity, providing service flexibility, and supporting the region's economic vitality and quality of life. Comments should focus on the issues and alternatives for analysis and not on a preference for a particular alternative. Scoping materials will be available at the meetings or in advance of the meetings by contacting Todd DiScala at Metro-North, as indicated above.

The Penn Station Access Study will be closely coordinated with major regional initiatives and studies that are related to this effort. These include:

- **HUDSON LINE EXTENSION MIS/DEIS**, a study by Metro-North to examine extending Hudson Line service further north in Dutchess County from its current terminus in Poughkeepsie, New York;
- **ACCESS TO THE REGION'S CORE STUDY (ARC)**, a joint study by New Jersey Transit, Port Authority of New York and New Jersey, and the Metropolitan Transportation Authority (MTA). The ARC study continues to study access to Midtown Manhattan from points east and west;
- **EAST SIDE ACCESS STUDY**, a study by MTA Long Island Rail Road of access to the East Side of Manhattan via Grand Central Terminal;
- **LOWER MANHATTAN ACCESS ALTERNATIVES STUDY**, a study by the MTA to determine feasible alternatives for improving access to Lower Manhattan;
- **MANHATTAN EAST SIDE ALTERNATIVES**, a study by MTA New York City Transit to examine alternatives for improving access in the north-south corridor on the East Side of Manhattan;
- **AMTRAK HIGH SPEED RAIL**, projects to (1) improve service in the Northeast Corridor between Washington and Boston and (2) to provide improved service in the Empire Corridor.
- **AMTRAK SERVICE TO THE FARLEY POST OFFICE BUILDING**, a project which will move Amtrak's New York City passenger operations to the Farley Post Office Building; and
- **CONRAIL/CSX/NORFOLK SOUTHERN MERGER**, a change in the ownership of the freight network, dividing the former Conrail holdings between CSX and Norfolk Southern.

Following the public scoping process, public outreach activities will include meetings with a Community Liaison Committee (CLC) established for the study and comprised of community leaders, and with Community Boards; public meetings and hearings; distribution of study fact sheets and newsletters; and use of other outreach mechanisms. Every effort will be made to ensure that the widest possible range of public participants has the opportunity to attend general public meetings (e.g., scoping meetings and public hearing(s)) held by Metro-North to solicit input on the Penn Station Access MIS/DEIS. Attendance will be sought through mailings, notices, advertisements, and press releases.

## II. Description of Study Area and Transportation Needs

The study area includes: (1) The Penn Station vicinity on the West Side of Manhattan, (2) the corridors of Metro-North's service territory, including the Hudson Line (76 miles), Harlem Line (82 miles [including Wassaic Extension]), and New Haven Line (132 miles) [including the New Canaan Branch, Danbury Branch, and the Waterbury Branch) extending through Dutchess, Putnam, Westchester, Bronx, and New York (Manhattan) Counties in New York, and Fairfield and New Haven Counties in Connecticut; and (3) the corridors of Amtrak's Empire Line south of Spuyten Duyvil to Penn Station on the West Side of Manhattan, and Amtrak's Hell Gate Line south of New Rochelle and through Sunnyside, Queens. The study area also includes the vicinity of possible new stations and storage yards on the Hudson and New Haven Lines. Possible new station locations include the West Side of Manhattan from 57th Street to 86th Street, and Co-Op City in the Bronx. This study area description is generalized and considered flexible, subject both to the outcome of the scoping process and the locations of the alternatives studied in detail.

The purpose of the Penn Station Access MIS/DEIS is to thoroughly examine the demand for, and the opportunities and constraints related to, improving access to Penn Station from the Metro-North service territory to the West Side of Manhattan, and to identify a preferred study alternative that addresses the forecasted demand in a cost-effective, environmentally sound, and equitable way. The MIS/DEIS will be conducted in coordination with a regional framework of transportation studies; it will consider the findings, conclusions, and recommendations of other recent and ongoing regional transportation studies. The MIS/DEIS will examine and document the social, economic, and environmental impacts of implementing identified study alternatives.

Provision of service to the Penn Station area would address the following needs:

- Commutation to Manhattan's West Side (Penn Station and Upper West Side areas);
- Commutation to Long Island and New Jersey (via transfer at Penn Station to Long Island Rail Road (LIRR) or New Jersey Transit (NJT) service);
- Commutation to workplaces in the vicinity of possible new stations on the West Side of Manhattan and Co-Op City in the Bronx.
- Reverse commutation from the West Side and Co-Op City to communities in the Metro-North service area;
- Discretionary (non-work-related) travel to Long Island and New Jersey in peak periods, off-peak periods, and on weekends; and
- Discretionary (non-work-related) travel to Manhattan's West Side in peak periods, off-peak periods, and on weekends for visits to shops, shows and museums.

## III. Alternatives

The alternatives proposed for evaluation include: (1) The No-Build Alternative, which involves the current infrastructure of highways, train, bus, and subway service, in addition to all ongoing, committed and funded roadway and transit projects outlined in the State Transportation Improvement Program (STIP); (2) the Transportation System Management (TSM) Alternative, which includes all elements of the No-Build alternative in addition to roadway and traffic improvements and improvements to existing transit services that address the defined purpose and need for Penn Station access. The TSM Alternative is a low cost alternative that uses existing facilities to the greatest extent possible to meet the study area needs. The TSM Alternative also provides the baseline against which the cost-effectiveness of other capital transit investments can be evaluated; and (3) the Build Alternatives, which include commuter rail service between Penn Station and stations on the Hudson, Harlem, and/or New Haven Lines; shuttle train service between key Metro-North stations and Penn Station, enabling riders from Grand Central Terminal-bound trains to transfer to Penn Station trains; potential new intermediate stations on the West Side of Manhattan (from 57th Street to 86th Street) and at Co-Op City in the Bronx; and potential new yard locations for storage of equipment.

Rail alternatives using the Hudson and New Haven Lines to provide access to Penn Station would use existing rail infrastructure by connecting to Amtrak's Empire Connection and Hell Gate Line, respectively. Alternatives using the Harlem Line to provide access to Penn Station may require track reconstruction at potential merge locations (e.g. Spuyten Duyvil in the Bronx).

Additional reasonable Build alternatives suggested during the scoping process, including those involving other modes, may be considered.

## IV. Probable Effects

The FTA and Metro-North will evaluate all potential changes to the social, economic, and physical environment, including land acquisition and displacements; land use, zoning and economic development; parklands; community disruption; aesthetics; historic and archeological resources; traffic and parking; air quality; noise and vibration; water quality; wetlands; ecologically sensitive areas; endangered species; energy requirements and potential for conservation; hazardous waste; environmental justice; safety and security; and cumulative impacts. Key areas of environmental concern would be in the areas of potential new construction (e.g. new stations, track connections, etc.). The impacts will be evaluated both for the construction period and for the long-term period of operation of each alternative. Measures to mitigate any significant adverse impacts will be identified.

## V. FTA Procedures

The DEIS will be prepared in conjunction with a major investment study and will document the results of that study, including an evaluation of the potential social, economic, and environmental impacts of the alternatives. Upon completion, the MIS/DEIS will be available for public and agency review and comment. Public hearing(s) will be held within the study area. On the basis of the MIS/DEIS and the public and agency comments received, a locally preferred alternative will be selected, to be further detailed in the final EIS.

Issued On: August 30, 1999.

**Letitia Thompson,**

*Regional Administrator, TRO–II, Federal Transit Administration.*

[FR Doc. 99–22926 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–57–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–99–5461; Notice 2]**

### Grant of Application for Determination of Inconsequential Noncompliance With Federal Motor Vehicle Safety Standard 108, Lamps, Reflective Devices and Associated Equipment

General Motors Corporation (GM) determined that some GM 1997 EV1 electric passenger cars fail to meet the turn signal requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108—*Lamps, reflective devices and associated equipment.* Pursuant to 49 U.S.C. 30118 and 30120, GM applied to us for a decision that the noncompliance is inconsequential to motor vehicle safety. In accordance with 49 CFR 556.4(b)(6), GM also submitted a 49 CFR part 573 noncompliance notification to the agency.

We published notice of receipt of application in the **Federal Register** (64 FR 22897) on April 28, 1999. Opportunity was afforded for comments until May 28, 1999, but none were received.

GM stated that the EV1 is equipped with an electronic turn signal module that controls turn signal operation. A subset of the module population can be affected by random inputs that cause the internal timing of the electronic circuit to become un-synchronized. If this occurs, it can cause the left turn signal circuit on affected vehicles to operate improperly and not be in compliance with FMVSS No. 108. The left front turn signal lamp may flash at a rapid rate while the left rear turn signal lamp illuminates but does not flash. These conditions can continue after the turn signal lever automatically returns to the off position, but stop if the driver manually cancels the turn signal or turns the ignition off. The right turn signal is not affected.

GM believes that this noncompliance is inconsequential to motor vehicle safety for these reasons:

- The potential for this condition is confined to a very small population of vehicles, 558.
- The condition is not found on every vehicle. Only a subset of vehicles is affected, based on the build variation of the turn signal module.
- GM knows of only eight customers who have reported the condition. The turn signal module in these vehicles has been replaced.
- While GM has not been able to determine the exact percentage of affected vehicles (the anomaly is not readily repeatable in the laboratory, and the small production run has severely limited the number of parts available for testing), the likelihood of experiencing the condition is extremely rare. The worst case part, found in laboratory testing, exhibited the anomaly 16 times in 40,000 cycles (0.0004 times per cycle). Other tested parts did not exhibit the condition as often, or at all.
- The left turn signal does not fail completely. An oncoming driver would see the front turn signal flashing at a rapid rate. A following driver would see the left turn signal lamp on, although it would not be flashing. Both of these results are similar to a vehicle that has a burned-out turn signal lamp.
- Like a vehicle with a burned out lamp, a driver experiencing this condition is alerted that the turn signal system is not functioning properly because the turn signal indicator light does not flash.
- A turn signal with this condition does not self-cancel, but it can easily be canceled manually.
- GM knows of no crashes or injuries associated with this condition.

We have concluded that the few vehicles affected by this noncompliance, as well as the fact that the turn signals show the driver that they have failed, warrant a finding that this noncompliance is inconsequential with regard to motor vehicle safety.

In consideration of the foregoing, we have decided that the applicant has met its burden of persuasion that the noncompliance described above is inconsequential to motor vehicle safety. Accordingly, its application is granted, and GM is exempted from providing the notification of the noncompliance required by 49 U.S.C. 30118, and remedy, required by 49 CFR 30120.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 30, 1999.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 99–22919 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–98–4430; Notice 2]**

### Denial of Application for Decision of Inconsequential Noncompliance; Federal Motor Vehicle Safety Standard 108—Lamps, Reflective Devices, and Associated Equipment

General Motors Corporation (GM), determined that approximately 15,300 1998 GMC Sonoma and Chevrolet S–10 pickup trucks, and GMC Jimmy and Chevrolet Blazer sport utility vehicles, equipped with the ''ZR2'' option package, fail to meet a requirement of Federal Motor Vehicle Safety Standard (FMVSS) 108—Lamps, Reflective Devices and Associated Equipment. Specifically, these vehicles are equipped with daytime running lamps (DRLs) mounted higher than the maximum height allowed by S5.5.11(a)(1)(ii) of FMVSS 108. Pursuant to 49 U.S.C. 30118 and 30120, GM has applied to us, the National Highway Traffic Safety Administration (NHTSA) for a decision that the noncompliance is inconsequential to motor vehicle safety. GM also submitted a 49 CFR part 573 noncompliance notification to the agency in accordance with 49 CFR 556.4(b)(6).

We published a notice of receipt of the application in the **Federal Register** (64 FR 27032) on May 18, 1999. Opportunity was afforded for comments until June 17, 1999. No comments were received.

The DRLs on the noncompliant vehicles are provided by the upper beam headlamps operating at reduced intensity, with a maximum output of approximately 6,700 candela per lamp (according to GM). As such, FMVSS 108 requires the DRL be mounted not higher than 34 inches (864 mm) from the road surface. Base-level GMC Sonomas and Jimmys and Chevrolet S–10 pickups and Blazers comply with the DRL height limitation of FMVSS 108. However, the ZR2 option package gives the vehicles a stiffer suspension and larger tires, which results in an overall increase in the height of the vehicle, including the DRL mounting height. The mean mounting height of DRLs on the noncompliant vehicles is 36 inches above the ground, with a maximum height of 37 inches. As a result, they fail to meet S5.5.11(a)(1)(ii) of FMVSS 108.

GM believes that this noncompliance is inconsequential to motor vehicles safety for the following reasons:

1. Research conducted by the University of Michigan Transportation

Research Institute (UMTRI) on the changes in glare caused by varying mounting height of high beam DRLs confirms that the DRLs on the subject vehicles do not produce significantly more glare than compliant DRLs.

2. In addition to the UMTRI research, GM conducted subjective evaluations that confirmed that the DRLs on the noncomplying vehicles do not cause a consequential increase in glare relative to complying vehicles with lamps at or just below the maximum permitted mounting height.

3. The driver of a preceding vehicle will not see more light in the rearview mirror than NHTSA intended when it adopted the DRL requirements in January, 1993. GM evaluated light from the noncomplying vehicles with the DRL mounted at 37 inches, which is in the most extreme build condition and worst case, for purposes of this analysis. The light from this condition striking a mirror mounted 44 inches above the ground and 20 feet in front of the DRL, would be below the 2,600 candela limit established by the agency in the final DRL rule.

4. The mounting height of the DRLs on the noncomplying vehicles complies with the requirements of Canada Motor Vehicle Safety Standard (CMVSS) 108.

5. GM has not identified any accidents, injuries or warranty reports that are associated with this condition on the noncomplying vehicles.

For all of the above reasons, GM argued that this noncompliance is inconsequential to motor vehicle safety, and applied for a decision that it be exempted from the notification and remedy provisions of 49 U.S.C 30118 and 30120.

We have received hundreds of letters from citizens about excessive glare from headlamp-derived DRLs and particularly upper beam-derived DRLs. Partially in response to those complaints, on August 7, 1998, we issued a proposed amendment to FMVSS 108 to reduce the intensity permitted for DRLs, starting with the upper beam DRLs such as the ones found on these vehicles (63 FR 42348). As we stated in the proposed amendment, we found that the actual intensities of some of these headlamp DRLs on vehicles were as much as 1.35 times the intensities measured when the lamps are photometrically tested in the laboratory—because vehicle voltages up to 14 volts are found on some vehicles (compared to the 12.8 volt lab test voltage). This may help explain why there are so many reports by the public of glare from DRLs.

GM submitted this application after we had issued the 1998 proposed amendments to reduce glare from DRLs and was aware that we consider glare from DRLs, even at legal mounting heights, to be a problem. We recognize that the noncompliance here is due to a small height increase, resulting in relatively small increases in glare, as reported by the test subjects GM used. However, real world experience reflecting potential safety concerns, demonstrates that an unprecedented number of citizens are complaining of glare from DRLs. We believe therefore, that manufacturers should be held to the existing location requirements so as not to exacerbate the problem of glare. The DRL intensity requirements in existence since February 10, 1993, were a significant relaxation (i.e., increase in intensity) from that originally proposed on August 12, 1991 (56 FR 38100). Even then, DRL glare was an important issue. Today, public concerns have caused NHTSA to re-examine the intensity limits for DRLs. Given these circumstances, we cannot find that a noncompliance that increases DRL glare is inconsequential to safety. This application is therefore denied.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 30, 1999.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 99–22938 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–59–P

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## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

**[Docket No. BTS–99–5696]**

### Agency Information Collection Activity Under OMB Review; American Travel Survey

**AGENCY:** Bureau of Transportation Statistics, DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that BTS has forwarded the Information Collection Request for the American Travel Survey (ATS) to the Office of Management and Budget (OMB) for review. The ATS provides information on the travel patterns of the American public and how travel is changing over time. On May 21, 1999, BTS published a **Federal Register** notice proposing this submission and asking for public comment (64 FR 27852). BTS did not receive any comments in response to that notice.

**DATES:** Please submit comments by October 4, 1999.

**ADDRESSES:** Please send comments to both (1) the Office of Information and Regulatory Affairs (OIRA), OMB, 725 17th Street, NW., Washington, DC 20503, attention: DOT Desk Officer; and (2) the Docket Clerk, Docket No. BTS–99–5696, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590. Comments must include the OMB Control Number, 2139-new.

If you wish to file comments to DOT using the Internet, you may use DOT's Dockets Management System website at http://dms.dot.gov. Please follow the instructions online for more information. This website can also be used to read comments received.

**FOR FURTHER INFORMATION CONTACT:** Ms. Heather Contrino, Office of Statistical Programs and Services, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590, phone: (202) 366–6584, fax: (202) 366–3640, heather.contrino@bts.gov.

**SUPPLEMENTARY INFORMATION:**

*Title:* American Travel Survey (ATS).

*OMB Control Number:* 2139-New.

*Type of Request:* Reinstatement of expired information collection.

*Form:* American Travel Survey.

*Abstract:* Under 49 U.S.C. 111, BTS is authorized to and responsible for collecting data related to the performance of the nation's transportation systems. The American Travel Survey provides data on the interregional flows of passenger travel. BTS and DOT will use the information to analyze the volumes and patterns of travel, the safety risks associated with travel, the role of travel in economic productivity, and the accessibility of transportation services. The data are also used in a number of ways by other Federal agencies, State and local governments, transportation-related associations, private businesses, and consumers to better understand the amount and nature of personal travel by the American public.

*Estimated Annual Burden Hours:* The estimated burden is 33,816 hours annually.

### Public Comments Invited

BTS requests comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the Bureau of Transportation Statistics; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and

(4) ways to minimize the collection burden without reducing the quality of the collected information, including the use of automated collection techniques or other forms of information technology.

**Electronic Availability**

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** electronic bulletin board service (telephone number: 202–512–1661). Internet users may reach the **Federal Register**'s web site at http://www.access.gpo.gov/su__docs.

**Ashish Sen,**

*Director.*

[FR Doc. 99–22899 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–FE–P

## UNITED STATES INFORMATION AGENCY

### Office of Citizen Exchanges; Media Internship Program for Russia

**ACTION:** Request for proposals.

**SUMMARY:** The Europe/Eurasia Division of the Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. U.S. public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501 (c) may submit proposals to develop media internship programs. Grants are subject to the availability of funds.

**Goals/Objectives**

The Russian Media Internship Program has been created in response to Russia's current economic crisis that threatens the existence of its emerging free press. USIA hopes that, through participation in the Russian Media Internship Program, Russian media managers will survive the economic challenges they are facing and continue to provide non-biased and accurate reporting. The program has three objectives: (1) To help media managers address the difficult economic conditions they are currently facing by learning the techniques used by their American counterparts in overcoming similar difficulties; (2) to demonstrate that a fair and ethical media can contribute to a civil society despite economic hardships; and (3) to familiarize media managers with the unique relationship in America between the media and government.

**Overview**

USIA is interested in proposals that will provide hands-on internships to approximately 16 Russian mid-level managers from print media establishments with a circulation of not less than 10,000. The program should ideally be ten weeks in length and begin with a visit to Washington, DC. The Washington portion of the program should last 4–6 days and focus on the interaction and relationship between the U.S. Federal Government and the media. After completing the Washington-based component, participants will begin practical internships at medium-sized media establishments throughout the U.S. Up to three host sites for each participant may be arranged for the internship portion of the program. Proposals should list those media establishments willing to host and should describe why these media establishments have been chosen. Program format can include both individual placements as well as work in small groups (up to three at a time). If the small group format is used, the internships must have a practical program component, not just be site visits. Organizations may propose a debriefing session before participants return to Russia. The Bureau will give higher ranking to proposals that ensure lasting linkages between these participants and their American colleagues.

Organizations must demonstrate the capability to identify and recommend candidates for participation in the program. The narrative should describe how the identification process will be carried out and by whom. Recommendations for selection will be made to the Office of Public Diplomacy at the American Embassy in Moscow, which will make the final selection of participants.

Due to the interactive nature of the internship component, it is preferred that participants have a working knowledge of English, particularly a good understanding of the spoken language. If individuals with little or no English are recommended, organizations must clearly describe what provisions they would make to structure a program for those participants, including interpretation services for participants.

A strong proposal contains the following: A proven track record of conducting program activities; cost-sharing from American or in-country sources, including donations of air fares, hotel and/or housing costs, and experienced program staff with some Russian language skills.

On October 1, 1999, the Bureau of Educational and Cultural Affairs will become part of the U.S. Department of State. The integration will not affect the content of this announcement or the nature of the program described.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries. * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations. * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through the Freedom Support Act.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package.

**Announcement Title and Number**

All correspondence with the Agency concerning this RFP should reference the above title and number: E/PN–00–7

**Deadline for Proposals**

All copies must be received at the U.S. Department of State's Bureau of Educational and Cultural Affairs (formerly USIA's Bureau of Educational and Cultural Affairs) by 5 p.m. Washington, DC time, on Thursday, October 7, 1999. Faxed documents will not be accepted at any time. Documents postmarked on October 7, 1999 but received on a later date will not be accepted. It is the responsibility of each grant applicant to ensure that proposals are received by the deadline. A grant decision announcement should be made by December 1, 1999. The grant should begin in January 2000, and U.S.-based internships commencing in Spring 2000.

Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until after the Bureau program and project review process has been completed.

**FOR FURTHER INFORMATION, CONTACT:** The Europe/Eurasia Division, Office of Citizen Exchanges, (E/PN), Room 220, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, attn: Henry Scott, tel: 202–619–5327 and fax: 202–619–4350 or Internet address: <hscott@usia.gov>, to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions and standard guidelines for proposal preparation.

**To Download a Solicitation Package Via Internet**

The entire Solicitation Package may be downloaded from USIA's website at <http://e.usia.gov/education/rfps>. Please read all information before downloading.

**Submissions**

Applicants must follow all instructions in the Solicitation Package. The original and ten (10) copies of the application should be sent to: U.S. Information Agency, Ref.: E/PN–00–7, Office of Grants Management, E/XE, Room 336, 301 4th Street, SW., Washington, DC 20547.

Complete proposals should not exceed twenty (20) pages in length (excluding Tab F).

**Diversity, Freedom and Democracy Guidelines**

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support of Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

**Year 2000 Compliance Requirement (Y2K Requirement)**

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with USIA. The inability to process information in accordance with Federal requirements could result in grantees being required to return funds that have not been accounted for properly.

USIA therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for lean years.

Additional information addressing the Y2K issue may be found at the General Service Administration's Office of Information Technology website at <http://www.itpolicy.gsa.gov>.

**Visa Regulations**

Foreign participants on programs sponsored by the Office of Citizen Exchange Programs are granted J–1 Exchange Visitor visas by a U.S. embassy or consulate in the sending country. All programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

**Project Funding**

Applicants should submit proposals that do not exceed $225,000. Applicants are invited to provide both an all-inclusive budget as well as separate sub-budgets for each program component, phase, location or activity in order to facilitate Bureau decisions on funding. While a comprehensive line item budget based on the model in the Solicitation Package must be submitted, separate component budgets are optional.

Since Bureau grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other sources of financial and in-kind support. Proposals with substantial private sector support from foundations, corporations and other institutions will be considered highly competitive.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.

2. Per Diem. For the US program, organizations have the option of using a flat $160/day for program participants or the published U.S. Federal per diem rates for individual U.S. cities.

3. Book and cultural allowance. Participants are entitled to a one-time cultural allowance of $150 per person, plus a participant book allowance of $50.

4. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Daily honoraria should not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

5. Room rental. Room rental should not exceed $250 per day.

6. Materials development. Proposals may contain costs to purchase, develop and translate materials for participants.

7. One working meal per project per group. Per capita costs may not exceed $5–$8 for a lunch and $14–$20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one.

8. A return travel allowance of $70 may be provided to each participant to be used for incidental expenditures during international travel.

9. Interpreters, if needed, can be provided by the State Department's Language Services Division. If interpreters translate for groups, the number of participants should be limited to four (4) per interpreter. Grant proposal budgets should contain a flat $160/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter, plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget. Locally-arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter/participant ratio. Costs associated with using their services may not exceed the rate for Department of State interpreters. Bureau grants do not pay for foreign interpreters to accompany delegations from their home country.

10. All program participants will be covered under the terms of the Bureau-sponsored health insurance policy. The premium is paid by the Bureau directly to the insurance company.

11. Administrative Costs. Other costs necessary for the effective administration of the program including salaries for grant organization

employees, benefits and other direct and indirect costs as described in the detailed instructions in the application package. While this announcement does not proscribe a rigid ratio of administrative to program costs, in general, priority will be given to proposals whose administrative costs are less than twenty-five (25) percent of the total requested from USIA. Proposals should show cost-sharing, including both contributions from the applicant and from other sources.

Please refer to the Application Package for complete budget guidelines.

**Review Process**

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the Application Packet. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. All eligible proposals will also be reviewed by the program office, as well embassy or consular officers for advisory review, where appropriate. Proposals may also be reviewed by the Office of the Legal Advisor or by other offices in the Department of State. Funding decisions will be made at the discretion of the Assistant Secretary of State for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) will reside with a contracts officer with competency for Bureau programs.

**Review Criteria**

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered.

1. Program Planning and Ability to Achieve Objectives. Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the included countries. Objectives should be reasonable and attainable. A detailed work plan should explain step by step how objectives will be achieved, including a timetable for completion of major tasks and activities and an outline of the selection process. The substance of the seminars, presentations, workshops, consulting, internships and itineraries should be spelled out in detail. Responsibilities of any in-country partners should be clearly described. Contact information for any in-country partners should be included in the proposal.

2. Multiplier Effect/Impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

3. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

4. Institutional Capability: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The narrative should demonstrate proven ability to handle logistics. Proposals should reflect the institution's expertise in the subject area and knowledge of the conditions in the targeted region.

5. Follow-on Activities: Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau-supported programs are not isolated events.

6. Project Evaluation: Proposals should include a plan and methodology to evaluate the program's successes, both as activities unfold and at the end of the program. The Bureau recommends that the proposal include a draft survey questionnaire or other technique plus description and/or plan for use of another measurement technique (such as a focus group) to link outcomes to original project objectives.

7. Cost-effectiveness and Cost Sharing: Overhead and administrative costs in the proposal, including salaries, subcontracts for services and honoraria, should be kept low. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

**Notice**

The terms and conditions published in the RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements. Organizations will be expected to cooperate with the Bureau in evaluating their programs under the principles of the Government Performance and Results Act of 1993, which requires federal agencies to measure and report on the results of their programs and activities.

**Notification**

Final awards cannot be made until funds have been appropriated by Congress, allocated, and committed through internal Bureau procedures.

Dated: August 27, 1999.

**William Kiehl,**

*Acting Deputy Associate, Director for Bureau of Educational and Cultural Affairs.*

[FR Doc. 99–22886 Filed 9–1–99; 8:45 am]

BILLING CODE 8320–01–M

## UNITED STATES INSTITUTE OF PEACE

### Announcement of the 2000 Solicited Grant Competition Grant Program

**AGENCY:** United States Institute of Peace.

**ACTION:** Notice.

**SUMMARY:** The Agency announces its 2000 Solicited Grant Competition. The themes and topics for the 2000 Solicited competition are listed below.

- Solicitation A: Great Power Relations: United States, China, and Russia
- Solicitation B: Intervention and Humanitarian Assistance
- Solicitation C: Africa
- Solicitation D: Training

*Deadline for Receipt of Applications:* December 30, 1999.

*Notification of Awards:* March 2000.

*Applications Material:* Available upon request.

**ADDRESSES:** For Application Package: United States Institute of Peace, Grant Program, Solicited Grants-FR, 1200 17th Street, NW, Suite 200, Washington, DC 20036–3011, (202) 429–3842 (phone), (202) 429–6063 (fax), E-mail: grant__program@usip.org

Application material available on-line starting September 1: www.usip.org

**FOR FURTHER INFORMATION CONTACT:** The Grant Program: Phone (202) 429–3842.

Dated: August 27, 1999.

**Bernice J. Carney,**

*Director, Office of Administration.*

[FR Doc. 99–22838 Filed 9–1–99; 8:45 am]

BILLING CODE 6820–AR–M

federal register

Thursday
September 2, 1999

# Part II

# Department of Health and Human Services

## Centers for Disease Control and Prevention

## Proposed Revised Vaccine Information Materials for Polio Vaccines; Proposed Instructions for Use of Vaccine Information Materials; Notice

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Proposed Revised Vaccine Information Materials for Polio Vaccines; Proposed Instructions for Use of Vaccine Information Materials

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with Comment Period.

**SUMMARY:** Under the National Childhood Vaccine Injury Act (42 U.S.C. 300aa–26), the Centers for Disease Control and Prevention must develop vaccine information materials that all health care providers, both public and private, are required to give to patients/parents prior to administration of specific vaccines. CDC seeks written comment on proposed revised vaccine information materials for polio vaccines. These materials are being revised so that they will conform with the CDC's revised recommendation for use of polio vaccines effective January 1, 2000 when the recommendation will be to use only inactivated poliovirus vaccine (IPV), except in very limited circumstances.

In addition, the CDC seeks written comment on proposed instructions for use of these vaccine information materials and the other vaccine information materials mandated under 42 U.S.C. 300aa–26.

**DATES:** Written comments are invited and must be received on or before November 1, 1999.

**ADDRESSES:** Written comments should be addressed to Walter A. Orenstein, M.D., Director, National Immunization Program, Centers for Disease Control and Prevention, Mailstop E–05, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.

**FOR FURTHER INFORMATION CONTACT:** Walter A. Orenstein, M.D., Director, National Immunization Program, Centers for Disease Control and Prevention, Mailstop E–05, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, telephone (404) 639–8200.

**SUPPLEMENTARY INFORMATION:** The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Pub. L. 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers, both public and private, to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program.

Development and revision of the vaccine information materials have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella, and poliomyelitis vaccines. Since April 15, 1992, any health care provider who intends to administer one of the covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Effective June 1, 1999, health care providers were also required to provide copies of vaccine information materials for the following vaccines that have recently been added to the National Vaccine Injury Compensation Program: hepatitis B, Haemophilus influenzae type b (Hib), and varicella (chickenpox) vaccines.

### Revised Recommendations for Use of Polio Vaccines

Progress continues toward the goal of world-wide eradication of poliomyelitis by the year 2000. As the risk of polio infection has diminished, recommendations for use of polio vaccines in the United States have changed significantly during the last few years to move away from exclusive use of oral poliovirus vaccine (OPV) toward exclusive use of inactivated poliovirus vaccine (IPV) and toward an ultimate goal of being able to cease polio vaccination.

In February 1997, the CDC, in accepting the advice of its Advisory Committee on Immunization Practices (ACIP), revised its recommendation from a schedule of all OPV to a recommended sequential schedule of two doses of inactivated IPV followed by two doses of OPV as the preferred polio vaccination schedule for routine childhood immunization. At that time schedules using either all IPV or all OPV were also considered to be acceptable and preferred for some children in certain circumstances.

The CDC noted in a February 6, 1997 **Federal Register** notice (62 FR 5696) that the recommended schedules for polio immunization were expected to change further over time:

''The ACIP based their revised recommendations on a determination that the risk-benefit ratio associated with the exclusive use of OPV for routine immunization has changed because of rapid progress in global polio eradication efforts. In particular, the relative benefits of OPV to the United States population have diminished because of the elimination of wild-virus-associated poliomyelitis in the Western Hemisphere and the reduced threat of poliovirus importation into the United States. The risk for vaccine-associated poliomyelitis caused by OPV is now judged less acceptable because of the diminished risk for wild-virus-associated disease. Consequently, the ACIP recommended a transition policy that will increase use of IPV and decrease use of OPV during the next 3–5 years. Implementation of these recommendations should reduce the risk for vaccine-associated paralytic poliomyelitis and facilitate a transition to exclusive use of IPV following further progress in global polio eradication.''

Noting further progress toward global eradication of wild poliovirus and ongoing concern regarding the vaccine-associated paralytic poliomyelitis risks associated with administration of OPV vaccine prior to receipt of doses of IPV, the ACIP at its meeting on October 22, 1998, voted to further revise its recommendation for administration of the two polio vaccines to discourage use of OPV vaccine for the first two doses, except in limited circumstances. Interim polio vaccine information materials reflecting this revised recommendation were published by the CDC in the **Federal Register** on February 23, 1999 (64 FR 9040).

At its meeting on June 16, 1999, the ACIP voted to recommend an all IPV schedule as of January 1, 2000, stating:

''An all IPV schedule is recommended for routine childhood polio immunization as of January 1, 2000. All children will need to receive four doses of IPV at 2, 4, 6–18 months and 4–6 years of age.''

''OPV is acceptable only for the following special circumstances:

(1) Mass immunization campaigns to control outbreaks due to wild-type poliovirus;

(2) Unimmunized children where travel to polio-endemic areas is imminent (i.e. in less than four weeks) may receive OPV for the first dose;

(3) Children of parents who do not accept the recommended number of vaccine injections may receive OPV only for dose 3 or 4 or both. (OPV should be administered only after discussion of the risks of VAPP.)

''Limited availability of OPV is expected in the near future in the U.S.''

The CDC has adopted these recommendations. In addition, CDC accepts use of OPV when the vaccinee has a life-threatening allergy to any component of IPV.

With this notice, CDC proposes revised vaccine information materials to incorporate these revisions. CDC also intends to publish in a separate **Federal Register** notice proposed revised materials for use when OPV is being considered.

* * * * *

**Proposed Instructions for Use of Vaccine Information Materials**

As noted above, under section 2126 of the Public Health Service Act (42 U.S.C. 300aa–26), all health care providers are required to distribute CDC-developed vaccine information materials to patients/parents prior to administering any covered vaccine. This notice includes proposed instructions for implementing the statutory requirement. The proposed instructions specify the effective date for mandated use of each vaccine's information materials, note when the materials must be provided, delineate the edition dates of the current materials, delineate recordkeeping requirements, and include other related information. Under the proposed instructions, a health care provider would be required to note in the patient's medical record the date the vaccine information materials were provided and the edition date of the materials. The CDC considered various alternatives for documenting compliance with this statute, including requiring a patient/parent signature to acknowledge receipt of the materials. We concluded that a contemporaneous notation in the patient's medical record would be less burdensome than requiring a signature and would provide comparable evidence for purposes of establishing that the statutory mandate had been met, and as such should also meet the medico-legal needs of health care providers.

We invite written comment on the proposed instructions that follow which delineate required use of the vaccine information materials and recordkeeping to verify compliance.

* * * * *

**Instructions for Use of Vaccine Information Materials (Vaccine Information Statements)**

*Required Use*

As required under the National Childhood Vaccine Injury Act (42 U.S.C. 300aa–26), all health care providers in the United States who administer any vaccine containing diphtheria, tetanus, pertussis, measles, mumps, rubella, polio, hepatitis B, Haemophilus influenzae type b (Hib), or varicella (chickenpox) vaccine shall, prior to administration of each dose of the vaccine, provide a copy of the relevant current edition vaccine information materials that have been produced by the Centers for Disease Control and Prevention (CDC):

(a) to the parent or legal representative of any child to whom the provider intends to administer such vaccine, and

(b) to any adult to whom the provider intends to administer such vaccine.

The materials shall be supplemented with visual presentations or oral explanations, as appropriate.

''Legal representative'' is defined as a parent or other individual who is qualified under State law to consent to the immunization of a minor.

*Additional Recommended Use of Materials*

Health care providers may also want to give parents copies of all vaccine information materials prior to the first visit for immunization, such as at the first well baby visit.

**Use of Revised Polio Vaccine Information Materials**

Effective January 1, 2000, health care providers shall distribute copies of the IPV polio vaccine information materials, dated [insert edition date], and/or OPV polio vaccine information materials, dated [insert edition date], in place of the February 1, 1999 and February 6, 1997 versions of the polio materials.

**Current Editions of Other Vaccine Information Materials**

Diphtheria, Tetanus, Pertussis (DTP/DTaP/DT) Vaccine Information Materials, dated August 15, 1997

Tetanus, Diphtheria (Td) Vaccine Information Materials, dated June 10, 1994

Measles, Mumps, Rubella Vaccine Information Materials, dated December 16, 1998

Hepatitis B Vaccine Information Materials, dated December 16, 1998

Haemophilus influenzae type b (Hib) Vaccine Information Materials, dated December 16, 1998

Varicella (chickenpox) Vaccine Information Materials, dated December 16, 1998

**Recordkeeping**

Health care providers shall make a notation in each patient's permanent medical record at the time vaccine information materials are provided indicating (1) the edition date of the materials distributed and (2) the date these materials were provided.

This recordkeeping requirement supplements the requirement of 42 U.S.C. 300aa–25 that all health care providers administering these vaccines must record in the patient's permanent medical record (or in a permanent office log) the name, address and title of the individual who administers the vaccine, the date of administration and the vaccine manufacturer and lot number of the vaccine used.

**Applicability of State Law**

Health care providers should consult their legal counsel to determine additional State requirements pertaining to immunization. The Federal requirement to provide the vaccine information materials supplements any applicable State law.

**Availability of Copies**

Single camera-ready copies of the vaccine information materials are available from State health departments. Copies are also available on the Centers for Disease Control and Prevention's website at: http://www.cdc.gov/nip/publications/VIS/. Copies are available in English and in other languages. 00/00/00 (Proposed) 42 U.S.C. 300aa–26

* * * * *

**Proposed Revised Polio Vaccine Information Materials**

We invite written comment on the proposed revised vaccine information materials that follow, entitled ''Polio Vaccines: What You Need to Know.'' During the 60-day comment period, CDC also will consult with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. Comments submitted will be considered in finalizing these materials. We anticipate that the final version will be published

this November, with an effective date of January 1, 2000.

Proposed OPV polio vaccine information materials, for use when OPV is being considered, will be published in a separate **Federal Register** notice.

* * * * *

**Polio Vaccines: What You Need to Know**

*1. What is polio?*

Polio is a disease caused by a virus. It can get into a child's (or adult's) body, usually through the mouth. Sometimes it does not cause serious problems. But sometimes it causes paralysis (can't move arm or leg), and sometimes it kills its victims.

Polio used to be very common in the United States. It paralyzed and killed thousands of children a year before we had a vaccine for it.

*2. Why get vaccinated?*

Polio vaccine can prevent polio.

History: A 1916 polio epidemic in the Unites States killed 6,000 people and paralyzed 27,000 more. In the early 1950's there were more than 20,000 cases of polio each year. Polio vaccine was introduced in 1955. By 1960 the number of cases had dropped to about 3,000, and by 1979 there were only about 30. This change would not have been possible without polio vaccine.

Today: No wild polio has been reported in the United States for over 20 years. But the disease is still common in some parts of the world. It would only take one case of polio from another country to bring the disease back if we were not protected by vaccine. Until the disease is gone from the whole world, we should keep getting our children vaccinated.

Inactivated polio vaccine (IPV) is a shot, given in the leg or arm, depending on age.

*3. Who should get polio vaccine and when?*

Children

Most children should get 4 doses of IPV polio vaccine, at these ages:

- A dose at 2 months
- A dose at 4 months
- A dose at 6–18 months
- A booster dose at 4–6 years

Polio vaccine may be given at the same time as other childhood vaccines.

Adults

Most adults do not need polio vaccine because they are already immune. But some adults should consider polio vaccination. These adults include:

—People traveling to areas of the world where polio is common,

—Laboratory workers who might handle polio virus,

—Health care workers in contact with patients who could have polio.

Adults in these groups who have never been vaccinated against polio should get 3 doses:

√ The first dose at any time,

√ The second dose 1 to 2 months later,

√ The third dose 6 to 12 months after the second.

Adults in these groups who have had 1 or 2 doses of polio vaccine in the past should get the remaining 1 or 2 doses. It doesn't matter how long it has been since the earlier dose(s).

Adults in these groups who have received the complete series of polio vaccinations in the past may get a single dose of polio vaccine to make sure they are protected.

| Oral Polio Vaccine: No longer recommended |
|---|
| Until recently a live, oral polio vaccine (OPV) (drops that are swallowed) was recommended for most children in the United States. It was this oral vaccine that helped us rid the country of polio, and it is still used in many parts of the world.<br>The oral vaccine is very good at preventing outbreaks of polio. But sometimes it actually caused polio (about once for every 2.4 million doses). Since the risk of getting polio in the United States is now extremely low, experts decided that using oral vaccine is no longer worth the slight risk, except in very limited circumstances that can be described by your doctor. The polio shot (IPV) we now use can not cause polio.<br>If you or your child will be receiving oral polio vaccine (OPV), you should request a copy of the separate OPV vaccine information statement. |

*4. Some People Should Not Get Polio Vaccine or Should Wait*

People should not get polio shots (IPV) if they have ever had a life-threatening allergic reaction to the drugs neomycin, streptomycin or polymyxin B. Anyone who has a severe allergic reaction to a polio shot should not get another one. These people can get the oral polio vaccine.

People who are moderately or severely ill at the time the shot is scheduled should usually wait until they recover before getting polio vaccine.

Ask your doctor or nurse for more information.

*5. What are the risks from IPV polio vaccine?*

Some people who get IPV polio vaccine get a sore spot where the shot was given. The type of IPV used today has never been known to cause any serious problems, and most people don't have any problems at all with it.

However, a vaccine, like any medicine could cause serious problems, such as a severe allergic reaction. The risk of a polio shot (IPV) causing serious harm, or death, is extremely small.

*6. What if there is a serious reaction?*

What should I look for?

Look for any unusual condition, such as a serious allergic reaction, high fever, or behavior changes. If a serious allergic reaction occurred, it would happen within a few minutes to a few hours after the shot. Signs of a serious allergic reaction can include difficulty breathing, hoarseness or wheezing, hives, paleness, weakness, a fast heart beat or dizziness.

What should I do?

- Call a doctor, or get the person to a doctor right away.
- Tell your doctor what happened, the date and time it happened, and when the vaccination was given.
- Ask your doctor, nurse, or health department to file a Vaccine Adverse Event Reporting System (VAERS) form, or call VAERS yourself at 1–800–822–7967.

*7. The National Vaccine Injury Compensation Program*

In the rare event that you or your child has a serious reaction to a vaccine, there is a federal program that can help pay for the care of those who have been harmed.

For details about the National Vaccine Injury Compensation Program, call 1–800–338–2382 or visit the program's website at http://www.hrsa.gov/bhpr/vicp.

*8. How can I learn more?*

- Ask your doctor or nurse. They can give you the vaccine package insert or suggest other sources of information.
- Call your local or state health department's immunization program.
- Contact the Centers for Disease Control and Prevention (CDC):

—Call 1–800–232–2522 (English)

—Call 1–800–232–0233 (Español)

—Visit the National Immunization Program's website at http:/ www.cdc.gov/nip

U.S. Department of Health & Human Services, Centers for Disease Control and Prevention, National Immunization Program.

Vaccine Information Statement, Polio—IPV (1/1/2000) (Proposed), 42 U.S.C. § 300aa–26.

Dated: August 27, 1999.

**Joseph R. Carter,**

*Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99–22869 Filed 9–1–99; 8:45 am]

BILLING CODE 4163–18–P

# Reader Aids

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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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)

**Last List August 18, 1999**

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