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Monday
December 27, 1999

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI97

Prevailing Rate Systems; Abolishment of the Washington, MD, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim rule that will abolish the Washington, MD, nonappropriated fund (NAF) Federal Wage System (FWS) wage area, and establish a new Frederick, MD, NAF FWS wage area. The abolishment of the Washington, MD, wage area and the establishment of a new Frederick wage area is necessary because of the closure of the Washington, MD, wage area's host installation, Fort Ritchie. This closure has left the Department of Defense without an installation in the survey area capable of hosting annual local wage surveys. In addition, there are no longer any NAF FWS employees stationed in Washington County.

DATES: *Effective date:* This interim rule is effective on December 31, 1999. Comments must be received by January 26, 2000.

ADDRESSES: Send or deliver written comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins by phone at (202) 606–2848, by FAX at (202) 606–0824, or by email at jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: The Washington, MD, nonappropriated fund (NAF) Federal Wage System (FWS) wage area is presently composed of one survey county, Washington County, and two area of application counties, Frederick County, MD, and Berkeley County, WV. The closure of the Washington, MD, wage area's host activity, Fort Ritchie, left the Department of Defense (DOD) without an activity in the survey area with the capability to conduct annual local NAF wage surveys. Fort Ritchie ceased operations on October 1, 1998. Since this closure, there are no longer any NAF FWS employees stationed in Washington County. However, the area of application counties, Frederick and Berkeley, continue to have NAF FWS employment. Under section 5343(a)(1)(B)(i) of title 5, United States Code, NAF wage areas ''shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed.'' Therefore, Washington County should not be defined as part of an NAF wage area. DOD recommended that the Office of Personnel Management (OPM) abolish the Washington, MD, NAF wage area and establish a new Frederick, MD, NAF wage area. The new Frederick, MD, NAF wage area will be composed of one survey county, Frederick County, MD, and one area of application county, Berkeley County, WV.

Under section 532.219(b) of title 5, Code of Federal Regulations, NAF wage areas are established when there are a minimum of 26 NAF wage employees in the survey area, the local activity has the capability to host annual local wage surveys, and there are within the survey area a minimum of 1,800 private enterprise employees in establishments within survey specifications. Frederick County meets the regulatory requirements to be established as a separate NAF survey area. There are approximately 36 NAF FWS employees stationed in Frederick County, and a local Federal installation, Fort Detrick, has the capability to host annual local wage surveys. Furthermore, Frederick County has more than the required minimum number of private enterprise employees in establishments within survey specifications. There are approximately 10 NAF FWS employees stationed in Berkeley County, WV, which does not meet the criteria to be established as a separate NAF wage area. Therefore, the county must be defined as an area of application.

When defining NAF wage areas, OPM evaluates several factors under section 532.219 of title 5, Code of Federal Regulations. OPM considers the following criteria when defining NAF wage area boundaries:

(i) Proximity of largest activity in each county;

(ii) Transportation facilities and commuting patterns; and

(iii) Similarities of the counties in:

(A) Overall population;

(B) Private employment in major industry categories; and

(C) Kinds and sizes of private industrial establishments.

The closest major Federal installation to Fort Ritchie is Fort Detrick. Fort Ritchie is approximately 42 km (26 miles) from Fort Detrick. Commuting patterns indicate that 9 percent of the Washington County resident workforce commutes to Frederick County. Transportation facilities consist of major interstate and State highways and do not favor one county more than another. Also, a review of the similarities of the counties in terms of overall population, employment, and kinds and sizes of industrial establishments does not favor one county more than another.

The closest major Federal installation to the Department of Veterans Affairs Medical Center, Martinsburg, located in Berkeley County, WV, is Fort Detrick. The VA Medical Center is approximately 70 km (42 miles) from Fort Detrick. Commuting patterns indicate that approximately 2 percent of the Berkeley County resident workforce commutes to Frederick County and approximately 2 percent of the Berkeley County resident workforce commutes to the Prince George—Montgomery County survey area. Transportation facilities consist of major interstate and State highways and do not favor one county more than another. Also, a review of the similarities of the counties in terms of overall population, employment, and kinds and sizes of industrial establishments does not favor one county more than another.

Based on an analysis of these regulatory criteria, OPM proposes to establish Frederick, MD, as a new NAF wage area and define Berkeley County, WV, as an area of application. Full-scale wage surveys will be ordered in the

Frederick, MD, NAF wage area in January of even fiscal years, with the first full-scale wage survey for the Frederick wage area beginning in January 2000. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has reviewed and concurred by consensus with these changes.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days because the Washington, MD, NAF wage survey would have been ordered in January 2000.

By issuing the interim rule, the new Frederick, MD, NAF wage area will be ordered in January 2000, and preparations for the wage survey must begin immediately.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 532

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

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

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

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

2. Appendix B to subpart B of part 532 is amended for the State of Maryland by removing the entry for ''Washington'' and by adding alphabetically a new entry for ''Frederick'' with a beginning survey month of ''January'' and a fiscal year of full-scale survey of ''Even''.

3. Appendix D to subpart B is amended by removing the wage area listing for Washington, Maryland, and by adding alphabetically a new entry for Frederick, Maryland, to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

Maryland

* * * * *

Frederick

Survey Area

Maryland:
Frederick

Area of Application. Survey area plus:

West Virginia:
Berkeley

[FR Doc. 99–33363 Filed 12–23–99; 8:45 am]

BILLING CODE 6325–01–U

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

RIN 3206–AI03

Emergency Leave Transfer Program

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations governing the establishment of an emergency leave transfer program. These regulations permit Federal employees to transfer their unused annual leave to other Federal employees adversely affected by a major disaster or emergency, as declared by the President. This program provides Federal employees with a special opportunity to help their fellow workers in times of need.

EFFECTIVE DATE: The regulations are effective on December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Kevin Kitchelt, (202) 606–2858, FAX: (202) 606–0824, or email to payleave@opm.gov.

SUPPLEMENTARY INFORMATION: Section 9004 of Public Law 105–18, June 12, 1997, added section 6391 to title 5, United States Code, to provide that in the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management (OPM) to establish an emergency leave transfer program under which an employee in any Executive agency may donate annual leave for transfer to employees of his or her agency or to employees in other agencies who are adversely affected by such disaster or emergency. The Act also permits agency leave banks established under 5 U.S.C. 6362 to donate leave under an emergency leave transfer program established by OPM.

The emergency leave transfer program is in addition to the voluntary leave transfer and leave bank programs established under 5 U.S.C. 6332 and 6362. Under the current voluntary leave transfer program, an employee may donate unused annual leave for transfer to other Federal employees who have medical emergencies and who have exhausted their own leave. In contrast, the emergency leave transfer program will permit an employee to donate annual leave to employees who have been adversely affected by disasters or emergencies, such as a flood or an earthquake that has destroyed an employee's property, or by an emergency situation such as that created by the bombings of the Alfred P. Murrah Federal Building in Oklahoma City and the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. In addition, an employee approved as an emergency leave recipient may use donated annual leave without having to exhaust his or her own leave.

On November 3, 1997, OPM published proposed regulations (62 FR 59301) to establish the emergency leave transfer program. Under the proposed regulations, OPM would be responsible for establishing and administering an emergency leave bank for each disaster or emergency declared by the President. Each emergency leave bank would contain the aggregate amount of annual leave donated by emergency leave donors throughout the Government for a specific disaster or emergency. OPM would facilitate the transfer of donated annual leave from the emergency leave bank to agencies with employees affected by the disaster or emergency for distribution to their approved emergency leave recipients.

We received comments from 9 agencies, 1 labor organization, and 1 individual, for a total of 11 comments. A summary of the comments received and the changes made in the regulations is presented below.

OPM's Role

One agency recommended that individual agencies be responsible for administering an emergency leave transfer program. After the proposed regulations were published, the President directed OPM to establish an emergency leave transfer program to assist employees affected by the

bombing of the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania; Hurricane Georges in Puerto Rico and the U.S. Virgin Islands; and the tornadoes in Oklahoma and Kansas. The experience gained from these emergencies led us to the conclusion that while the President must direct OPM to establish an emergency leave transfer program, OPM should delegate responsibility for administering an emergency leave transfer program to the agencies with employees affected by the emergency. The affected agencies are in the best position to determine whether, and how much, donated annual leave is needed by their employees and can quickly facilitate the transfer of donated annual leave within their agencies. Therefore, in the final regulations, OPM has delegated responsibility for administering an emergency leave transfer program to the affected agencies.

OPM remains committed to providing effective and efficient customer service to the Federal Government community. Staff of OPM's Workforce Compensation and Performance Service (WCPS) will be available to assist agencies in administering an emergency leave transfer program and coordinating efforts among affected agencies. WCPS staff may be reached on (202) 606–2858, by fax on (202) 606–0824, or by email at payleave@opm.gov. In addition, when a Federal agency notifies OPM that the amount of annual leave donated by its employees is not sufficient to meet the needs of its approved emergency leave recipients, we will coordinate a Governmentwide transfer of annual leave from donating agencies to affected agencies for crediting to their emergency leave recipients. OPM will make the determination to solicit and accept donated annual leave from agencies Governmentwide for this purpose.

The Agency's Role

To expedite the transfer of leave in disaster situations, each agency will be responsible for—

(1) Determining whether, and how much, donated annual leave is needed by affected employees;

(2) Approving leave donors and/or leave recipients within the agency; and

(3) Facilitating the distribution of donated annual leave from approved leave donors to approved leave recipients within the agency.

Agencies are authorized to distribute donated annual leave to approved emergency leave recipients as they see fit. It would not be productive for OPM to attempt to regulate the many needs and situations that may occur as a result of a major disaster or emergency. Individual agencies are best suited to make determinations on the hardship faced by each employee based on evidence administratively acceptable to the agency. Agencies may wish to establish committees or emergency leave boards to administer emergency leave donations. However, this is not an OPM requirement. OPM's final regulations provide agencies with maximum flexibility in approving donated annual leave for those individuals in need.

If an agency does not receive sufficient donated annual leave to meet the needs of its approved emergency leave recipients, the agency's designated emergency leave transfer coordinator should contact OPM for assistance. OPM will solicit and coordinate the transfer of donated annual leave from other Federal agencies to affected agencies who may have a shortfall of donated emergency leave. (See § 630.1107(a).)

Emergency Leave Recipient

Two agencies asked for clarification as to whether an emergency leave recipient must exhaust his or her own leave before receiving donated annual leave from an emergency leave transfer program. Emergency leave recipients are not required to exhaust their accrued annual or sick leave before receiving donated annual leave under an emergency leave transfer program. This is an important distinction from the voluntary leave transfer and leave bank programs, which require leave recipients to use all their available paid leave before using donated leave. Therefore, § 630.1105(d) of the final regulations provides that an emergency leave recipient is not required to exhaust his or her accrued annual or sick leave before receiving donated annual leave under the emergency leave transfer program.

Family Member

One agency asked whether donated annual leave received from the emergency leave transfer program can be used to assist family members adversely affected by a major disaster or emergency. Section 630.1104(b) of the final regulations permits an emergency leave recipient to use donated annual leave to care for a family member who has been adversely affected by a major disaster or emergency. Section 630.1102 of the final regulations includes a definition of ''family member.'' The definition of ''family member'' is the same definition used in the voluntary leave transfer and leave bank programs. Employees may use donated annual leave to assist a family member adversely affected by a major disaster or emergency, provided the family member has no reasonable access to other forms of assistance. Agencies are responsible for ensuring that annual leave donated under the emergency leave transfer program is used appropriately. (See § 630.1106(i) of the final regulations.)

Limitations on Donating Annual Leave

The proposed regulations provide that an emergency leave donor may not contribute more than 104 hours of annual leave in a leave year. An agency questioned why the limit was fixed at 104 hours, while the limitation for the existing leave transfer program varies based on the leave donor's annual leave accrual rate (*i.e.*, 4, 6, or 8 hours). Another agency suggested abolishing all limitations on donating annual leave. OPM believes the 104-hour limitation provides each potential emergency leave donor with the opportunity to make a significant annual leave donation. Completely eliminating the limitation on the donation of annual leave may create additional costs to the Federal Government by allowing annual leave to be donated that might otherwise be forfeited. This suggestion was not adopted. However, § 630.1106(b) of the final regulations permits each agency to establish written procedures for waiving the 104-hour limitation on donating annual leave in appropriate circumstances.

Under the proposed regulations, an emergency leave donor could not donate annual leave directly to a specific emergency leave recipient. Two agencies suggested that emergency leave donors be permitted to donate annual leave directly to an employee adversely affected by a major disaster or emergency. This suggestion was not adopted. The intent of the emergency leave transfer program is to allow an employee to assist his or her fellow Federal employees in the event of a major disaster or emergency. The program has been designed to provide mass transfers of leave to affected employees. This is the quickest and most efficient way to provide relief to all those in need. If an employee wishes to donate annual leave directly to an individual, he or she may contact the local personnel office to inquire about donating annual leave under his or her agency's voluntary leave transfer program, if the recipient meets eligibility requirements for that program.

One agency requested that OPM provide an estimate of the amount of leave needed for an emergency before any donated annual leave is actually transferred between agencies. In the

event there is a need to transfer emergency donated leave between agencies, OPM will attempt to quickly obtain estimates from agency representatives concerning the amount of donated annual leave an agency may need. We believe this will reduce the administrative burden of unnecessarily transferring leave when specific needs have not been identified.

Under the proposed regulations, the minimum amount of annual leave that an employee could donate is 1 hour. An agency requested that the minimum donation limit be raised to 8 hours for administrative convenience. We believe an 8-hour minimum is too high and would reduce the potential pool of leave donors. This suggestion was not adopted. Section 630.1106(b) of the final regulations imposes a minimum donation of 1 hour of annual leave under the emergency leave transfer program.

Limitations on Receiving Donated Leave

The proposed regulations provided that an emergency leave recipient could receive no more than 240 hours of donated annual leave at any one time from an emergency leave transfer program for each disaster or emergency. An agency asked to waive the 240-hour limit on the receipt of donated leave. A waiver is not necessary. An agency may authorize additional donated annual leave whenever needed, as long as an emergency leave recipient receives no more than 240 hours at any one time. In contrast, another agency commented that the 240-hour limit was too high. OPM's regulations do not guarantee that an emergency leave recipient adversely affected by a major disaster or emergency will receive 240 hours of donated annual leave. Each employing agency must make a determination based on administratively acceptable evidence as to how much donated annual leave each approved emergency leave recipient may receive.

Distributing Donated Leave

Three agencies asked whether OPM will issue additional guidance for administering and distributing donated annual leave to affected individuals. We believe the final regulations provide agencies with broad guidance on administering an emergency leave transfer program. In addition, staff of OPM's Workforce Compensation and Performance Service stand ready to serve as advisors, facilitators, and/or coordinators in any emergency affecting Federal employees.

Retroactive Substitution of Donated Leave

The proposed regulations provided that donated annual leave could be substituted retroactively for any period of annual leave, sick leave, or leave without pay used as a result of a disaster or emergency. However, in OPM's recent guidance on establishing an emergency leave transfer program for Hurricane Georges and the tornadoes in Oklahoma and Kansas, an emergency leave recipient could not retroactively substitute donated annual leave for periods of annual and sick leave used during the disaster or emergency. An agency asked for clarification of OPM's policy.

The legislation establishing the emergency leave transfer program (5 U.S.C. 6391) does not authorize the substitution of donated annual leave retroactively for periods of annual and sick leave. However, under the voluntary leave transfer and leave bank programs, Congress did permit the substitution of donated annual leave retroactively for any period of leave without pay used as a result of the emergency or to liquidate an indebtedness incurred by an employee for advance annual or sick leave used as a result of the emergency. Based on this precedent, § 630.1106(f) of the final regulations provides that an emergency leave recipient may substitute donated annual leave retroactively (beginning no earlier than the date of the disaster or emergency) for any period of *leave without pay* used as a result of the emergency or to liquidate an indebtedness incurred by an employee for advance annual or sick leave used as a result of the emergency.

For the immediate emergency, affected employees typically will be granted excused absence. To further assist employees, the final regulations provide that agencies may advance annual leave or sick leave, as appropriate, to approved emergency leave recipients (even if an employee has available annual and sick leave), so that the emergency leave recipient is not forced to use his or her accrued leave before donated annual leave becomes available. Affected employees may then substitute donated annual leave retroactively for advance annual or sick leave.

Further, § 630.1104(e) of the final regulations provides that agencies may administratively determine a time period by which employees must apply to become an emergency leave recipient after the occurrence of a major disaster or emergency.

Restoration of Unused Donated Leave

The proposed regulations provided that any annual leave donated to the emergency leave transfer program that is not used by an approved emergency leave recipient must be returned to the emergency leave donor(s). Two agencies and one organization suggested that the proposed regulations be changed to permit unused donated leave to remain in the emergency leave transfer program for future use in the event that another major disaster or emergency occurs. One agency suggested that unused donated leave be restored only to those employees currently employed by the agency from which they donated leave. Another agency suggested that unused donated leave be restored in 1-hour increments.

Although these suggested changes might relieve some of the administrative burden of returning unused donated leave to emergency leave donors, we believe it would be unfair to the employees who generously donated their annual leave to have the leave remain in the emergency leave transfer program indefinitely and without purpose. Also, it would be inappropriate to retain unused donated leave simply because the leave donor has transferred to another Federal agency. Therefore, § 630.1108(b) of the final regulations provides that the amount of unused donated annual leave to be restored to the emergency leave donor(s) will be proportional to the amount of annual leave donated by the employee to the emergency leave transfer program for each disaster or emergency. The unused donated annual leave must be restored to the leave donor(s) in the lowest increment that the agency payroll system can accommodate.

Under the proposed regulations, emergency leave donors would be permitted to elect to have any unused donated annual leave restored in the current leave year or on the first day of the first leave year beginning after the date of election. One agency requested clarification of the phrase ''date of election'' as described above. We agree that clarification is needed. Therefore, § 630.1108(c)(2) of the final regulations permits the emergency leave donor to elect to have his or her unused donated annual leave restored in the current leave year or on the first day of the following leave year.

Family and Medical Leave

An agency asked whether OPM's regulations in 5 CFR part 630, subpart L, on the Family and Medical Leave Act of 1993 (FMLA) could be expanded to

permit the use of FMLA leave for cleanup or recovery efforts for a major disaster or emergency situation. The purposes for which FMLA leave may be used are cited in law, and include caring for a spouse, son, daughter, or parent with a serious health condition. OPM does not have authority to expand the purposes for which FMLA leave may be used.

Forms for Donating/Receiving Annual Leave

OPM has developed the following forms to facilitate the transfer of donated annual leave under the emergency leave transfer program:

(1) OPM Form 1637, ''Application to Become a Leave Recipient Under the Emergency Leave Transfer Program'';

(2) OPM Form 1638, ''Request to Donate Annual Leave Under the Emergency Leave Transfer Program''; and

(3) OPM Form 1639, ''Transfer of Donated Annual Leave To/From the Emergency Leave Transfer Program''.

These forms can be accessed on OPM's internet web site at *http://www.opm.gov/forms/html/emerg.htm*.

Voluntary Leave Transfer and Leave Bank Programs

One agency recommended merging the emergency leave transfer program established for emergencies or major disasters with the existing voluntary leave transfer and leave bank programs established for medical emergencies. A separate law was enacted to establish the emergency leave transfer program, and the program provides benefits for different purposes and with fewer requirements. It would not be feasible to merge the emergency leave transfer program with the voluntary leave transfer and leave bank programs.

Miscellaneous

One agency noted that the word ''voluntary'' is not used in the Emergency Leave Transfer Program. Participation in the emergency leave transfer program is strictly voluntary. Section 630.1109 of the final regulations provides that an employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using donated annual leave.

One agency perceived an inequity for Federal employees in small rural areas because disasters that may occur in these areas may not receive a Presidential emergency declaration and employees in these areas therefore may not receive donated annual leave from an emergency leave transfer program.

If an emergency leave transfer program is not established in a small rural area, employees affected by a major disaster may continue to participate in their agency's existing voluntary leave transfer and leave bank programs. We believe these programs will be sufficient to cover the needs of most employees in the event of a major disaster or emergency. Further, the existing voluntary leave transfer program permits agencies to receive donations of annual leave from employees in other agencies when it is determined that such a transfer of leave would further the purpose of the program. (See § 630.906(f)(3).)

One individual suggested that employees be allowed to ''cash out'' donated leave to use for expenses related to emergency situations. There is no legal authority to provide cash to employees in lieu of donated annual leave.

One agency asked whether the emergency leave transfer program applies to Foreign Service employees. The law governing the emergency leave transfer program defines ''agency'' as an Executive agency and ''employee'' as an employee covered by chapter 63 of title 5, United States Code. Therefore, the emergency leave transfer program applies to any member of the Senior Foreign Service or any Foreign Service officer (other than a member or officer serving as chief of mission or in a position that requires appointment by and with the advice and consent of the Senate) and any member of the Foreign Service commissioned as a diplomatic or consular officer, or both, under section 312 of the Foreign Service Act of 1980. (See 5 U.S.C. 6391(a)(2) and 6301(2).)

Recordkeeping

Two agencies suggested that OPM establish a Governmentwide tracking system to identify and track annual leave donations under the emergency leave transfer program. Since payroll systems vary from agency to agency, a uniform tracking and record maintenance system is not feasible.

Technical Corrections

We are also taking advantage of the publication of these final regulations to correct two erroneous citations in § 630.310 concerning the scheduling of annual leave by employees deemed necessary for year 2000 computer conversion efforts.

E.O. 12866, Regulatory Review

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 630 of title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for part 630 is revised to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 105–18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 102–25, 105 Stat. 92.

Subpart C—Annual Leave

§ 630.310 [Amended]

2. In § 630.310(b), ''630.208'' is corrected to read ''630.308.''

3. In § 630.310(d), ''630.308'' is corrected to read ''630.306.''

[Subpart K—Redesignated as Subpart M]

4. In part 630, subpart K (consisting of §§ 630.1101 through 630.1109) is redesignated as subpart M (consisting of §§ 630.1301 through 630.1309), and a new subpart K (consisting of §§ 630.1101 through 630.1109) is added to read as follows:

Subpart K—Emergency Leave Transfer Program

Sec.

630.1101 Purpose, applicability, and administration.
630.1102 Definitions.

630.1103 Establishment of an emergency leave transfer program.
630.1104 Application to become an emergency leave recipient.
630.1105 Approval of application to become an emergency leave recipient.
630.1106 Limitations on donation and use of annual leave.
630.1107 Governmentwide transfer of emergency leave.
630.1108 Termination of disaster or emergency.
630.1109 Prohibition of coercion.

§ 630.1101 Purpose, applicability, and administration.

(a) *Purpose.* This subpart provides regulations to implement section 6391 of title 5, United States Code, and must be read together with section 6391. Section 6391 of title 5, United States Code, provides that in the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management (OPM) to establish an emergency leave transfer program under which an employee may donate unused annual leave for transfer to employees of his or her agency or to employees in other Executive agencies who are adversely affected by such disaster or emergency.

(b) *Applicability.* This subpart applies to any individual who is defined as an ''employee'' in 5 U.S.C. 6331(1) and who is employed in an Executive agency.

(c) *Administration.* The head of each agency having employees subject to this subpart is responsible for the proper administration of this subpart. Each Federal agency must establish and administer procedures to permit the voluntary transfer of annual leave consistent with this subpart.

§ 630.1102 Definitions.

In this subpart—

Agency means an ''Executive agency,'' as defined in 5 U.S.C. 105.

Disaster or emergency means a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees (e.g., loss of life or property, serious injury, or mental illness as a result of a direct threat to life or health).

Emergency leave donor means a current employee whose voluntary written request for transfer of annual leave to an emergency leave transfer program is approved by his or her employing agency.

Emergency leave transfer program means a program established by OPM that permits Federal employees to transfer their unused annual leave to other Federal employees adversely affected by a disaster or emergency, as declared by the President.

Emergency leave recipient means a current employee for whom the employing agency has approved an application to receive annual leave from an emergency leave transfer program.

Employee has the meaning given that term in 5 U.S.C. 6331(1).

Family member has the meaning given that term in § 630.902.

Leave year has the meaning given that term in § 630.201.

Paid leave status under subchapter I has the meaning given that term in § 630.902.

§ 630.1103 Establishment of an emergency leave transfer program.

(a) When directed by the President, OPM will establish an emergency leave transfer program that permits an employee to donate his or her accrued annual leave to employees of the same or other Executive agencies who are adversely affected by such a disaster or emergency.

(b) OPM will notify agencies of the establishment of an emergency leave transfer program for a specific disaster or emergency, as declared by the President. Once notified, each agency affected by the disaster or emergency is authorized to do the following:

(1) Determine whether, and how much, donated annual leave is needed by affected employees;

(2) Approve leave donors and/or leave recipients in their agencies, as appropriate;

(3) Facilitate the distribution of donated annual leave from approved leave donors to approved leave recipients within their agencies; and

(4) Determine the period of time for which donated annual leave may be accepted for distribution to approved leave recipients.

(c) A leave bank established under subchapter IV of chapter 63 of title 5, United States Code, and subpart J of part 630 may, with the concurrence of the leave bank board established under § 630.1003, donate annual leave to an emergency leave transfer program administered by the leave bank's employing agency.

§ 630.1104 Application to become an emergency leave recipient.

(a) An employee who has been adversely affected by a disaster or emergency may make written application to his or her employing agency to become an emergency leave recipient. If an employee is not capable of making written application, a personal representative of the potential leave recipient may make written application on his or her behalf.

(b) An employee who has a family member who has been adversely affected by a disaster or emergency may also make written application to his or her employing agency to become an emergency leave recipient. An emergency leave recipient may use donated annual leave to assist an affected family member, provided such family member has no reasonable access to other forms of assistance.

(c) For the purpose of this subpart, an employee will be considered to be adversely affected by a major disaster or emergency if the disaster or emergency has caused severe hardship to the employee or a family member of the employee to such a degree that the employee's absence from work is required.

(d) The employee's application must be accompanied by the following information concerning each potential leave recipient:

(1) The name, position title, and grade or pay level of the potential emergency leave recipient;

(2) A statement describing his or her need for leave from the emergency leave transfer program;

(3) Any additional information that may be required by the potential leave recipient's employing agency.

(e) Agencies may administratively determine a time period by which employees must apply to become an emergency leave recipient after the occurrence of a major disaster or emergency.

§ 630.1105 Approval of application to become an emergency leave recipient.

(a) The potential emergency leave recipient's employing agency will review the application to become a leave recipient under procedures established by the employing agency for the purpose of determining that the potential leave recipient is or has been affected by the major disaster or emergency.

(b) If the application is approved, the employing agency must notify the leave recipient (or his or her personal representative) within 10 calendar days (excluding Saturdays, Sundays, and legal public holidays) after the date the application was received (or the date the employing agency established its administrative procedures, if that date is later).

(c) If the application is not approved, the employing agency must notify the applicant (or the personal representative who made application on behalf of the potential emergency leave recipient) within 10 calendar days (excluding

Saturdays, Sundays, and legal public holidays) after the date the application was received (or the date the employing agency establishes its administrative procedures, if that date is later). The agency must give the reasons for its disapproval.

(d) An approved emergency leave recipient is not required to exhaust his or her accrued annual and sick leave before receiving donated leave under the emergency leave transfer program.

§ 630.1106 Limitations on donation and use of annual leave.

(a) An employee may voluntarily submit a written request to his or her employing agency that a specified number of hours of his or her accrued annual leave, consistent with the limitations in paragraph (b) of this section, be transferred from his or her annual leave account to an emergency leave transfer program established under § 630.1103(b). An emergency leave donor may not donate annual leave for transfer to a specific emergency leave recipient under this subpart.

(b) An emergency leave donor may not contribute less than 1 hour nor more than 104 hours of annual leave in a leave year. Each agency may establish written criteria for waiving the 104-hour limitation on donating annual leave in a leave year.

(c) Annual leave donated under this subpart may not be applied against the limitations on the donation of annual leave under the voluntary leave transfer or leave bank programs established under 5 U.S.C. 6332 and 6362, respectively.

(d) An emergency leave recipient may receive a maximum of 240 hours of donated annual leave at any one time from an emergency leave transfer program for each disaster or emergency.

(e) Each emergency leave recipient must use the donated annual leave for purposes related to the disaster or emergency for which the emergency leave recipient was approved.

(f) Annual leave transferred under this subpart may be—

(1) Substituted retroactively for any period of leave without pay used because of the adverse effects of the disaster or emergency; or

(2) Used to liquidate an indebtedness incurred by the emergency leave recipient for advance annual or sick leave used due to the adverse effects of the disaster or emergency. An agency may advance an emergency leave recipient annual or sick leave, as appropriate (even if the employee has available annual and sick leave), so that the emergency leave recipient is not forced to use his or her accrued leave before donated annual leave becomes available.

(g) While an emergency leave recipient is using donated annual leave from an emergency leave transfer program, annual and sick leave will accrue to the credit of the employee at the same rate as if the employee were in a paid leave status under subchapter I of chapter 63 of title 5, United States Code, and will be subject to the limitations imposed by 5 U.S.C. 6304(a), (b), (c), and (f) at the end of the leave year in which the transferred annual leave is received.

(h) Annual leave transferred under this subpart may not be—

(1) Included in a lump-sum payment under 5 U.S.C. 5551 or 5552;

(2) Made available for recredit under 5 U.S.C. 6306 upon reemployment by a Federal agency; or

(3) Used to establish initial eligibility for immediate retirement or acquire eligibility to continue health benefits into retirement under 5 U.S.C. 6302(g).

(i) Agencies are responsible for ensuring that annual leave donated under the emergency leave transfer program is used appropriately.

§ 630.1107 Governmentwide transfer of emergency leave.

(a) If an agency does not receive sufficient amounts of donated annual leave to meet the needs of approved emergency leave recipients within the agency, the agency may contact OPM for assistance. The agency must notify OPM of the total amount of donated annual leave needed for transfer to its approved emergency leave recipients. OPM will solicit and coordinate the transfer of donated annual leave from other Federal agencies to affected agencies who may have a shortfall of donated annual leave. OPM will determine the period of time for which donations of accrued annual leave may be accepted for transfer to affected agencies.

(b) Each Federal agency contacted by OPM for the purpose of providing donated annual leave to an agency in need will—

(1) Approve leave donors under the conditions specified in § 630.1106(a) and (b) and determine how much donated annual leave is available for transfer to an affected agency;

(2) Maintain records on the amount of leave donated by each emergency leave donor to the emergency leave transfer program (for the purpose of restoring unused transferred annual leave under § 630.1108(c));

(3) Report the total amount of annual leave donated to the emergency leave transfer program to OPM; and

(4) When OPM has accepted the donated annual leave, debit the amount of annual leave donated to the emergency leave transfer program from each emergency leave donor's annual leave account.

(c) OPM will notify each affected agency of the aggregate amount of donated annual leave that will be credited to the agency for transfer by the agency to its approved emergency leave recipient(s). The affected agency will determine the amount of donated annual leave to be transferred to each emergency leave recipient (an amount that may vary according to individual needs).

(d) The affected agency must credit the annual leave account of each approved emergency leave recipient as soon as possible after the date OPM notifies the agency of the amount of donated annual leave that will be credited to the agency under paragraph (b) of this section.

(e) Any annual leave donated to an emergency leave transfer program that is not used by the approved emergency leave recipients will be returned by OPM to the donating agencies for restoring to their emergency leave donors under § 630.1108(b). The donating agencies must determine the amount of donated annual leave to be returned to each of their emergency leave donors consistent with the provisions in § 630.1108(c).

§ 630.1108 Termination of disaster or emergency.

(a) The disaster or emergency affecting an emergency leave recipient terminates—

(1) When the employing agency or OPM determines that the disaster or emergency has terminated;

(2) When the emergency leave recipient's Federal service terminates;

(3) At the end of the biweekly pay period in which the emergency leave recipient, or his or her personal representative, notifies the employing agency that he or she is no longer affected by such disaster or emergency;

(4) At the end of the biweekly pay period in which the employing agency determines, after written notice from the agency and an opportunity for the emergency leave recipient or his or her personal representative to answer orally or in writing, that the emergency leave recipient is no longer affected by such disaster or emergency; or

(5) At the end of the biweekly pay period in which the emergency leave recipient's employing agency receives notice that OPM has approved an application for disability retirement for the emergency leave recipient under the

Civil Service Retirement System or the Federal Employees' Retirement System, as appropriate.

(b) When a disaster or emergency affecting an emergency leave recipient is terminated, any annual leave donated to an emergency leave transfer program that is not used by an approved emergency leave recipient must be returned to the emergency leave donors. The amount of remaining annual leave to be returned to each emergency leave donor must be proportional to the amount of annual leave donated by the employee to the emergency leave transfer program for such disaster or emergency. Annual leave donated to an emergency leave transfer program for a specific disaster or emergency may not be transferred to another emergency leave transfer program established for a different disaster or emergency.

(c) Under procedures established by the donating agency, the agency will determine the amount of annual leave returned under paragraph (b) of this section to be restored to each of the emergency leave donors who, on the date leave restoration is made, is employed by a Federal agency. At the election of the emergency leave donor, unused transferred annual leave restored to the emergency leave donor may be restored by—

(1) Crediting the restored annual leave to the emergency leave donor's annual leave account in the current leave year; or

(2) Crediting the restored annual leave to the emergency leave donor's annual leave account effective as of the first day of the following leave year.

§ 630.1109 Prohibition of coercion.

(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave under this subpart.

(b) For the purpose of paragraph (a) of this section, the term ''intimidate, threaten, or coerce'' includes promising to confer or conferring any benefit (such as appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

5. In the newly redesignated subpart M, for each section indicated in the left column, the citations in the middle column are removed wherever they appear in the section, and the citations in the right column are added to read as follows:

§§ 630.1304, 630.1308, and 630.1309 [Amended]

Section	Remove	Add
630.1304	§ 630.1109(b)(1)	§ 630.1309(b)(1)
630.1308	§ 630.1107	§ 630.1307
630.1309	§ 630.1104(c)	§ 630.1304(c)
630.1309	§ 630.1103(b)	§ 630.1303(b)

[FR Doc. 99–33361 Filed 12–23–99; 8:45 am]
BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206–A125

Retirement; Technical Amendment

AGENCY: Office of Personnel Management.

ACTION: Amendment to interim regulations.

SUMMARY: The Office of Personnel Management (OPM) is amending the October 4, 1999, interim regulations concerning voluntary early retirement authority. The amendment removes paragraphs from 5 CFR 831.114 and 842.213 which were inadvertently retained when the interim regulations were published.

DATES: These regulations are effective October 4, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Gray at (202) 606–0960, FAX (202) 606–2329, e-mail cwgray@opm.gov.

SUPPLEMENTARY INFORMATION

Background

On October 4, 1999, OPM published interim regulations (64 FR 53581) which (1) Removed the September 30, 1999, sunset date for agencies to request voluntary early retirement authority, and (2) Made the regulations at 5 CFR 831.114 and 842.213 permanent. Comments on these interim regulations are due on December 3, 1999. However, 5 CFR 831.114(i) and 842.213(i), were inadvertently retained. They make reference to the September 30, 1999, sunset date.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations only affect Federal employees.

Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this amendment effective in less than 30 days. The general notice of proposed rulemaking and delay in the effective date are being waived because the technical amendment to these regulations allows OPM to fully implement statutory language in Sec. 651 of the Treasury and General Government Appropriations Act for Fiscal Year 2000 governing voluntary early retirements which was effective May 1, 1998, and to give full effect to benefits extended by that statute.

List of Subjects in 5 CFR Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending parts 831 and 842 of title 5, Code of Federal Regulations, as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also

issued under 5 U.S.C. 552a; § 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105–174, 112 Stat. 58, as amended by section 651 of Pub. L. 106–58, 113 Stat. 430; § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105–274, 112 Stat. 2419; § 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; § 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp. P. 317; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; § 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; subpart L also issued under 5 U.S.C. 8337; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart A—Administration and General Provisions

§ 831.114 [Amended]

2. In § 831.114, paragraph (i) is removed.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

3. The authority citation for part 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.104 also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 842.107 also issued under section 7(b) of Pub. L. 105–274, 112 Stat. 2419; § 842.108 also issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; § 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105–174, 112 Stat. 58, as amended by section 651 of Pub. L. 106–58, 113 Stat. 430; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; § 842.707 also issued under section 6001 of Pub. L. 100–203, 101 Stat. 1300; § 842.708 also issued under section 4005 of Pub. L. 101–239, 103 Stat. 2106 and section 7001 of Pub. L. 101–508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104.

Subpart B—Eligibility

§ 842.213 [Amended]

4. In § 842.213, paragraph (i) is removed.

[FR Doc. 99–33365 Filed 12–23–99; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

RIN 0584–AB19

Child and Adult Care Food Program: Overclaim Authority and Technical Changes to the Meal Pattern Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Child and Adult Care Food Program (CACFP) regulations to explicitly authorize the Department and State agencies to assess overclaims against institutions that fail to abide by CACFP recordkeeping requirements. This authority has been successfully challenged in past judicial rulings on the grounds that such authority was not specifically established in program regulations. This rule affirms the Department's authority to assess overclaims for recordkeeping infractions, and clarifies any regulatory ambiguities or inconsistencies regarding overclaims authority. In addition, this rule makes minor changes to the meal pattern requirements. These changes include a technical correction to the supper meal pattern for adults; a modification to the egg and meat/meat alternate equivalencies in the meal patterns to conform to the standards used in the National School Lunch Program and the School Breakfast Program; and a correction to the infant meal pattern to remove an erroneous footnote for breakfast for infants 8 through 11 months.

EFFECTIVE DATE: The amendment to § 226.20(b)(4) is effective December 15, 1999. The remaining provisions are effective January 26, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie or Ms. Melissa Rothstein, 703–305–2620.

SUPPLEMENTARY INFORMATION:

Background

The CACFP is authorized by section 17 of the National School Lunch Act (42 U.S.C. 1766). As discussed in the preamble to the proposed rule published in the **Federal Register** on December 5, 1995 (60 FR 62227), section 17(m) of that Act stipulates that ''States and institutions participating in the program under this section shall keep accounts and records as may be necessary to enable the Secretary (of Agriculture) to determine whether there has been compliance with the requirements of this section.''

Furthermore, the current CACFP regulations at 7 CFR Part 226 include a number of requirements relating to recordkeeping: § 226.7(m) requires State agencies to establish standards for institutional recordkeeping; § 226.15(e) prescribes the minimum recordkeeping requirements for institutions in the CACFP; § 226.10(c) requires institutions to certify that records are available to support reimbursement claims; and § 226.10(d) establishes timeframes for record retention. In addition, § 226.6(f)(1) requires that the Program agreement between the State agency and each institution stipulate that the institution must agree to comply with all regulatory requirements, including these recordkeeping requirements. Finally, the importance with which the Department views an institution's recordkeeping responsibilities is found in § 226.6(c)(4), where failure to maintain adequate records is specifically listed as a serious deficiency for which termination of an institution's participation may be appropriate.

The December 5, 1995, rulemaking proposed to amend various sections of the CACFP regulations to clarify that failure to adhere to CACFP recordkeeping requirements may be used as a basis for State agencies to assess overclaims against institutions. The Department received a total of 12 comments from the public on the proposed rule. Eleven comments were from State administering agencies; one

was from a sponsoring organization of Head Start centers that participate in the CACFP. Four State agencies provided comments supporting the proposal without changes. The remaining commenters were generally in support of the proposal with minor recommended changes. These comments and the Department's responses to them are discussed in further detail in this preamble.

Response to Comments on Proposed Rule

The December 5, 1995, rulemaking proposed to amend § 226.15(e) to require that ''Each institution shall establish procedures to collect and maintain all necessary program records.'' One commenter suggested that the phrase be changed to ''* * * all necessary program and financial records'' in order to alleviate uncertainties as to the type of records required. Another commenter indicated that the use of the word ''necessary'' is subjective and open to interpretation by program participants, State agencies, appeals officers and the courts, and recommended clarifying language to minimize the need for interpretation of what records are needed.

In response to these comments, we are adding language to the regulation to clarify that necessary Program records include all records required under Part 226, as well as any additional records required by the State agency. This would include financial records.

Proposed § 226.15(e) further stated that, ''Failure to maintain such records shall be grounds for denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records.'' One State agency expressed concern that use of the word ''shall'' in this section, and similarly in §§ 226.16(e), 226.17(c), 226.19(c) and 226.19a(c), would require a State agency to recover funds for missing documents, such as training documentation, that do not directly influence a claim for reimbursement. The commenter recommended that the word ''may'' be substituted for the word ''shall'' in the proposed sections mentioned. Our intent in using the word ''shall'' in the proposed language was to provide State agencies with very clear authority to assess an overclaim when an institution's records do not support its claim for reimbursement. We believe that a State agency's authority to assess overclaims could be diminished if these suggested changes are made. Therefore, this final rule retains the proposed language in §§ 226.16(e), 226.17(c), 226.19(c) and 226.19a(c).

In addition, proposed § 226.14(a) stated that ''State agencies may consider claims for reimbursement not properly payable if an institution does not comply with the recordkeeping requirements contained in this part.'' This proposed revision was intended to provide State agencies with the needed flexibility to determine the grounds for assessing an overclaim against an institution. Taken together, this proposed revision and the proposed revisions to §§ 226.16(e), 226.17(c), 226.19(c) and 226.19a(c) discussed above were meant to provide State agencies with both the authority and the flexibility to assess overclaims against institutions when they determine it is appropriate to do so. Nevertheless, we believe that the proposed language in § 226.14(a) may not provide enough specificity with regard to situations in which State agencies must assess overclaims. Therefore, this final rule adds a sentence to § 226.14(a) to require State agencies to assess overclaims in situations in which institutions fail to comply with recordkeeping requirements for records that pertain to records directly supporting claims for reimbursement. These records include, but are not limited to, daily meal counts, documentation of compliance with meal patterns, and enrollment and attendance records.

The December 5 rulemaking proposed to amend § 226.15(e) by adding new paragraphs (e)(10) and (e)(12) to the list of the minimum records that must be collected and maintained by institutions. These paragraphs were previously located in § 226.16(e)(1) and (2), ''Sponsoring Organization Provisions.'' One commenter questioned the proposed language for paragraph (e)(10), which states that institutions must collect and maintain ''Information concerning the dates and amounts of disbursement to each child care facility or adult day care facility with which it has a program agreement.'' The commenter correctly pointed out that current regulations do not explicitly require sponsoring organizations to enter into program agreements with the day care centers that they sponsor, though many do. Rather, only sponsoring organizations of day care homes, in accordance with § 226.18(b), must enter into these program agreements. To correct this oversight, this final rule amends § 226.15(e)(10) by clarifying that the information must be collected and maintained by the institution for ''each child care facility or adult day care facility under its auspices.''

Another commenter pointed out that proposed paragraphs (e)(10) and (e)(12) of § 226.15 do not pertain to all institutions, but only to sponsoring organizations. To provide the necessary clarification, this final rule adds the words ''If applicable'' before each of these paragraphs.

Accordingly, § 226.15(e) is amended in this final rule as discussed above.

Proposed § 226.16(e) stated that, ''Each sponsoring organization shall comply with the recordkeeping requirements established in § § 226.10(d) and 226.15(e) and any recordkeeping requirements established by the State agency * * *'' One commenter indicated that the proposed language is not strong enough to establish the authority of a State agency to set definitive and enforceable recordkeeping requirements. The commenter suggested clarifying this section to emphasize in § 226.16(e) that all of the additional recordkeeping requirements established by a State agency as part of its financial management responsibilities are covered under this section. However, an amendment to § 226.16(e) is unnecessary since authority for a State agency to establish additional recordkeeping requirements that exceed the minimum requirements in Part 226 already exists in current regulations under § 226.25(b). Therefore, no change is being made to § 226.16(e) in this final rule.

Proposed § 226.18(g) indicated that day care homes ''shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section.'' One commenter correctly pointed out that day care homes are not subject to the requirements of § 226.15, ''Institution provisions,'' since day care homes do not meet the definition of an ''institution.'' Rather, sponsoring organizations of day care homes are ''institutions'' which are subject to the requirements of § 226.15. As suggested by the commenter, the intent of the proposed change, to ensure that the regulations underscore State agencies' authority to assess overclaims against day care homes that do not comply with all recordkeeping requirements, is still accomplished by deleting reference to this section. Accordingly, this final rule removes the inappropriate reference to § 226.15(e) in § 226.18(g), but retains the remainder of the paragraph as proposed.

Similarly, proposed §§ 226.17, 226.19 and 226.19a contain language requiring that child care centers, outside-school-hours care centers, and adult day care centers comply with the recordkeeping

requirements of § 226.15(e). However, the requirements of § 226.15, ''Institution provisions,'' would not be applicable to those centers operating under the auspices of a sponsoring organization. Accordingly, this final rule amends §§ 226.17(c), 226.19(c), and 226.19a(c) to add the words ''if applicable'' to the requirement to comply with § 226.15(e). As a general comment, a State agency commenter recommended that, in addition to requiring maintenance of records, the regulations be further amended to require institutions to make records available upon request. This change is unnecessary since § 226.10(d) of current regulations already requires that ''All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the State agency, of the Department, and of the U.S. General Accounting Office for audit or review, at a reasonable time and place.''

Proposed § 226.14(a) indicates that a claim for reimbursement can be considered ''not properly payable'' if an institution does not comply with program recordkeeping requirements. Similarly, proposed §§ 226.15(e), 226.16(e), 226.17(c), 226.18(g), 226.19(c), and 226.19a(c) indicate that ''Failure to maintain such records shall be grounds for the denial of reimbursement * * *'' For clarification, one commenter recommended amending the proposed language of § 226.14(a) to include after the words ''not properly payable,'' the words ''or assessed as an overclaim.'' The commenter also recommended adding similar language to the end of each of the sections listed above. We believe the proposed regulations are sufficiently clear and that the suggested rewording is unnecessary. Therefore, we are not making the suggested change in this final rule.

One commenter was opposed to State agencies having the authority to assess overclaims for meals already served to income-eligible children. We want to point out, however, that the service of meals to eligible children cannot be demonstrated unless institutions and facilities maintain the records necessary to document such service.

Finally, a commenter remarked that State agencies would benefit from the authority to recover funds for undocumented, allowable costs claimed and reimbursed. This authority already exists, and is contained in 7 CFR Part 3015 and OMB Circulars A–87 and A–122, which require all costs claimed be properly documented.

Other Comments on the Proposed Rule

The Department also received several comments which are generally related to recordkeeping, but that fall outside the scope of this rulemaking. For example, one commenter recommended that, in addition to assessment of an overclaim, another possible consequence of insufficient recordkeeping should be denial of application renewal. Another commenter suggested that CACFP should have an overpayment disregard amount consistent with the National School Lunch Program, and that meal production records should be required of institutions and facilities to enable monitoring of food quantities as well as components. We cannot address these issues as part of this final rule. However, a forthcoming proposed rule on Improving Management and Program Integrity in CACFP may address them.

Technical Corrections to the Adult Meal Pattern

This rule amends § 226.20(c)(3) to restore 8 footnotes under the supper meal pattern chart that were inadvertently eliminated in a previous final rulemaking on the CACFP adult meal pattern requirements.

We published a proposed rule on August 27, 1990 (55 FR 34935) that introduced separate meal patterns for lunch and for supper for adults. The proposed meal pattern requirements were developed based on the Department's evaluation of the nutritional requirements specific to adults attending adult day care centers participating in CACFP. The proposed meal pattern requirements were to replace those that had been established in an earlier interim rulemaking.

The final rule published on July 14, 1993 (58 FR 37847) adopted without change the adult meal patterns from the 1990 proposed rule. (We encourage readers to consult the July 14, 1993, publication for a complete discussion on the comments received concerning the proposed adult meal.) Unfortunately, the final rule inadvertently eliminated all footnotes for the supper meal pattern due to a technical error in the amendatory language. This final rule restores the eight footnotes for the supper meal pattern as set forth in the 1990 proposed rule.

Changes to the Meal Patterns for Egg and Meat/Meat Alternate Equivalencies

Finally, minor adjustments are made in this rulemaking to the equivalencies for eggs and meat/meat alternates in the lunch, supper, and supplemental meal pattern requirements in § 226.20(c), and to the additional food allowed to be served at breakfast, described in § 226.20(d).

These changes are made to reduce confusion and establish consistency among the meal pattern requirements for the Child Nutrition Programs. As currently provided in the regulations for the National School Lunch Program (NSLP) at § 210.10(k)(2), and the School Breakfast Program (SBP) regulations at § 220.8(g)(iii)(B)(2), the equivalencies for egg and meat/meat alternates for the CACFP will be: one large egg meets the requirement for 2 ounces of meat/meat alternate; one-half large egg meets the requirement for 1 ounce or less of meat/meat alternate. In addition to the changes made to the equivalency amounts, the size of the egg (large) as specified in the NSLP and SBP regulations will also be specified in the CACFP meal patterns. Similar conforming changes will also be made to the Summer Food Service Program in the near future. We believe that this change, though minor in scope, increases consistency in the standards across Child Nutrition Programs. It should also eliminate any confusion that variable equivalencies among the Child Nutrition Programs may have caused.

Correction to the Infant Meal Pattern

This final rule also amends the CACFP infant meal pattern at § 226.20(b)(4) to correct an error that occurred in the interim rule, ''National School Lunch Program, School Breakfast Program and Child and Adult Care Food Program: Amendments to the Infant Meal Pattern,'' published in the **Federal Register** on November 15, 1999 (64 FR 61770). The table that appeared in the **Federal Register** erroneously included a footnote which indicated that infant cereal is an optional component for breakfast for infants 8 through 11 months. This final rule removes this erroneous footnote to ensure that there is no confusion regarding the requirement that infant cereal be included as a component for breakfast for infants 8 through 11 months. We want to emphasize that no change was made in the interim rule to § 226.20(b)(3)(i), where the requirement to serve infant cereal to these children is established.

Executive Order 12866

This proposed 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 action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Samuel Chambers, Jr., Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. There will be no significant impact because this rule represents only a clarification of current procedures, or only minor changes or corrections in the case of the technical amendments to the meal pattern requirements.

Executive Order 12372

CACFP is listed in the Catalog of Federal Domestic Assistance under No. 10.558. For the reasons set forth in the final rule in 7 CFR 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.

Paperwork Reduction Act

This final rule contains no new information collection requirements. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), current reporting and recordkeeping requirements for Part 226 were approved by the Office of Management and Budget under Control Number 0584–0055.

Executive Order 12988

This 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 **EFFECTIVE DATE** section. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments. In the CACFP, the administrative procedures are set forth at: (1) 7 CFR 226.6(k), which establishes institution appeal procedures; and (2) 7 CFR 226.22 and 7 CFR 3015, which address administrative appeal procedures for disputes involving procurement by State agencies and institutions.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the Food and Nutrition Service generally must prepare a written statement, including 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 the Food and Nutrition Service 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 UMRA) for State, local, or 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 UMRA.

List of Subjects in 7 CFR Part 226

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs—health, Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR part 226 is amended as follows:

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.14, the introductory text of paragraph (a) is amended by adding three new sentences after the first sentence to read as follows:

§ 226.14 Claims against institutions.

(a) * * * State agencies may consider claims for reimbursement not properly payable if an institution does not comply with the recordkeeping requirements contained in this part. In addition, except with approval from the appropriate FNSRO, State agencies shall consider claims for reimbursement not payable when an institution fails to comply with the recordkeeping requirements that pertain to records directly supporting claims for reimbursement. Records that directly support claims for reimbursement include, but are not limited to, daily meal counts, menu records, and enrollment and attendance records, as required by § 226.15(e). * * *

* * * * *

3. In § 226.15:

a. The introductory text of paragraph (e) is revised;

b. Paragraphs (e)(10), (e)(11) and (e)(12) are redesignated as paragraphs (e)(11), (e)(13) and (e)(14), respectively;

c. New paragraphs (e)(10) and (e)(12) are added;

d. Newly redesignated paragraph (e)(11) is amended by removing the word ''and'' at the end of the paragraph;

e. Newly redesignated paragraph (e)(13) is amended by adding the word ''and'' after the semicolon at the end of the paragraph; and

f. Newly redesignated paragraph (e)(14) is amended by removing the words ''Maintain documentation'' and adding the word ''Documentation'' in their place.

The additions and revision specified above read as follows:

§ 226.15 Institution provisions.

* * * * *

(e) *Recordkeeping.* Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained:

* * * * *

(10) If applicable, information concerning the dates and amounts of disbursement to each child care facility or adult day care facility under its auspices;

* * * * *

(12) If applicable, information concerning the location and dates of each child care or adult day care facility review, any problems noted, and the corrective action prescribed and effected;

* * * * *

4. In § 226.16, paragraph (e) is revised to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(e) Each sponsoring organization shall comply with the recordkeeping requirements established in § § 226.10(d) and 226.15(e) and any

recordkeeping requirements established by the State agency in order to justify the administrative payments made in accordance with § 226.12(a). Failure to maintain such records shall be grounds for the denial of reimbursement.

* * * * *

5. In § 226.17, a new paragraph (c) is added to read as follows:

§ 226.17 Child care center provisions.

* * * * *

(c) Each child care center shall comply with the recordkeeping requirements established in § 226.10(d), in paragraph (b) of this section and, if applicable, in § 226.15(e). Failure to maintain such records shall be grounds for the denial of reimbursement.

6. In § 226.18, a new paragraph (g) is added to read as follows:

§ 226.18 Day care home provisions.

* * * * *

(g) Each day care home shall comply with the recordkeeping requirements established in § 226.10(d) and in this section. Failure to maintain such records shall be grounds for the denial of reimbursement.

7. In § 226.19, a new paragraph (c) is added to read as follows:

§ 226.19 Outside-school-hours care center provisions.

* * * * *

(c) Each outside-school-hours care center shall comply with the recordkeeping requirements established in § 226.10(d), in paragraph (b) of this section and, if applicable, in § 226.15(e). Failure to maintain such records shall be grounds for the denial of reimbursement.

8. In § 226.19a, a new paragraph (c) is added to read as follows:

§ 226.19a Adult day care center provisions.

* * * * *

(c) Each adult day care center shall comply with the recordkeeping requirements established in § 226.10(d), in paragraph (b) of this section and, if applicable, in § 226.15(e). Failure to maintain such records shall be grounds for the denial of reimbursement.

9. In § 226.20:

a. The ''Child Care Infant Meal Pattern'' table in paragraph (b)(4) is revised.

b. The table in paragraph (c)(2) is amended by revising the entry for ''Eggs'';

c. The table in paragraph (c)(3) is amended by revising the headings and the entry for ''Eggs'', and by adding eight footnotes.

d. The table in paragraph (c)(4) is amended by revising the headings and the entry for ''Eggs''; and

e. Paragraph (d)(1) is amended by removing the words ''an egg'' and adding in their place the words ''one-half egg''.

The revisions and additions read as follows:

§ 226.20 Requirements for meals.

* * * * *

(b) * * *

(4) * * *

CHILD CARE INFANT MEAL PATTERN

	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast	4–6 fl.oz. formula [1] or breast milk [2, 3].	4–8 fl.oz. formula [1] or breast milk [2, 3];. 0–3 Tbsp. Infant cereal [1, 4]	6–8 fl.oz. formula [1] or breast milk [2, 3]; and 2–4 Tbsp. Infant cereal [1]; and 1–4 Tbsp. Fruit and/or vegetable
Lunch or supper	4–6 fl.oz. formula [1] or breast milk [2, 3].	4–8 fl.oz. formula [1] or breast milk [2, 3];. 0–3 Tbsp. Infant cereal [1, 4]; 0–3 Tbsp. Fruit and/or vegetable [4].	6–8 fl.oz. formula [1] or breast milk [2, 3]; and 2–4 Tbsp. Infant cereal [1]; and/or 1–4 Tbsp. Meat, fish, poultry, egg yolk, cooked dry beans, or peas; or ½–2 oz. Cheese; or 1–4 Tbsp. Cottage cheese, cheese food, or cheese spread; and 1–4 Tbsp. Fruit and/or vegetable
Supplement (snack)	4–6 fl.oz. formula [1] or breast milk [2, 3].	4–6 fl.oz. formula [1] or breast milk [2, 3].	2–4 fl.oz. formula [1], breast milk [2, 3], or fruit juice [5]; 0–½ bread [4, 6] or 0–2 crackers [4, 6]

[1] Infant formula and dry infant cereal shall be iron-fortified.
[2] It is recommended that breast milk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
[4] A serving of this component shall be optional.
[5] Fruit juice shall be full-strength.
[6] Bread and bread alternates shall be made from whole-grain or enriched meal or flour.

(c) * * *

(2) * * *

LUNCH

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 [1]	Adult participants
* * *				
Eggs (large)	½ egg	¾ egg	1 egg	1 egg
* * *				

* * * * *

(3) * * *

SUPPER

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 [1]	Adult participants
* * *	*	*	*	*
Eggs (large)	½ egg	¾ egg	1 egg	1 egg
* * *	*	*	*	*

[1] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 through 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[4] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with wholegrain or enriched meal or flour.
[5] Serving size equivalents to be published in guidance materials by FNS.
[6] Edible portion as served.
[7] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[8] No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For the purpose of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry, or fish.

SUPPLEMENTAL FOOD

(4) * * *

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 [1]	Adult participants
* * *	*	*	*	*
Eggs (large)	½ egg	½ egg	½ egg	½ egg
* * *	*	*	*	*

* * * * *

Dated: December 16, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–33180 Filed 12–23–99; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 353

[Docket No. 99–100–1]

Export Certification; Heat Treatment of Solid Wood Packing Materials Exported to China

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the export certification regulations to provide for the establishment of a program under which softwood (coniferous) packing materials used with goods exported from the United States may be certified as having been heat treated. This program is necessary because the Government of the People's Republic of China has established a requirement that coniferous packing materials exported to China must be accompanied by such certification. This change will affect persons who use coniferous packing materials to export goods from the United States to the People's Republic of China.

DATES: This interim rule is effective December 17, 1999. We invite you to comment on this docket. We will consider all comments that we receive by February 25, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–100–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–100–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Caplen, Economist/Policy Analyst, Policy and Program Development, APHIS, 4700 River Road Unit 119, Riverdale, MD 20737–1236; (301) 734–8537.

SUPPLEMENTARY INFORMATION:

Background

The export certification regulations contained in 7 CFR part 353 (referred to below as the regulations) set forth the procedures for obtaining certification for plants and plant products offered for export or reexport. Export certification is not required by the regulations; rather, it is provided by the Animal and Plant Health Inspection Service (APHIS) as a service to exporters who are shipping plants or plant products to countries that require phytosanitary certification as a condition of entry. After assessing the condition of the plants or plant products intended for export, relative to the receiving country's regulations, an inspector will issue an internationally recognized phytosanitary certificate (PPQ Form 577), a phytosanitary certificate for reexport (PPQ Form 579), or an export certificate for processed plant products (PPQ Form 578), if warranted.

Since 1975, APHIS has participated with State governments in the

Cooperative Phytosanitary Export Certification Program, which allows certain State and county officials, as well as APHIS officials, to issue phytosanitary certificates, phytosanitary certificates for reexport, or export certificates for processed plant products. Because the number of Federal inspectors is limited, the use of State and county inspectors is a considerable service to exporters of plants and plant products in terms of both time and convenience.

The Government of the People's Republic of China has established requirements concerning importation of softwood (coniferous) packing materials from the United States in order to prevent the introduction into China of plant pests, specifically the pinewood nematode. This nematode is indigenous to North America and has caused significant damage to conifer forests in Asia.

Effective January 1, 2000, the Government of the People's Republic of China will require goods from the United States to be accompanied either by a statement from the exporter that the shipment does not contain any coniferous packing material or by a certificate signed by a representative of the United States Department of Agriculture (USDA) attesting that the coniferous packing materials in the shipment have been heat treated by being subjected to a minimum core temperature of 56 °C for 30 minutes.

In response to this requirement, we have developed a new certificate of heat treatment and procedures for issuing it to exporters who need to heat treat their packing materials in order to ship goods to China. This new certificate of heat treatment, PPQ Form 553, is divided into two parts and serves as both a certification by the exporter that the required heat treatment was performed and USDA endorsement of industry compliance with the certification requirements.

In the first part of the form, the exporter provides the name and address of both the exporter and the consignee and a description of the consignment. The exporter also signs a statement on the form certifying that the coniferous packing material in the shipment has been heat treated by being subjected to a minimum core temperature of 56 °C for 30 minutes.

In the second part of the form, an inspector endorses the form by applying an official stamp and signing the form, dating it, and recording the work unit, city, and State where the form was endorsed. This work unit could be either an office of Plant Protection and Quarantine (PPQ), APHIS, or the office of a State or county plant protection cooperator that has been designated by the Secretary of Agriculture to certify shipments of plant products for export in accordance with 7 CFR part 353.

This two-part form is designed to simplify the process of obtaining certification of heat treatment and to minimize the paperwork burden for both exporters and inspectors. We plan to make PPQ Form 553 widely available, via the Internet and other means, so that exporters can obtain it without difficulty. We are also engaged in a public outreach to ensure that exporters are aware of the new certification requirement of the Government of the People's Republic of China and to inform exporters as to how they can obtain PPQ Form 553 and where to submit it to an inspector for endorsement. Persons interested in determining the locations of inspectors who can accept and process PPQ Form 553 can find a list of PPQ offices at http://www.aphis.usda.gov/travel/aqi and a list of cooperating State offices at http://www.aphis.usda.gov/npb/npbmemb.

It should be noted that the regulations prior to this interim rule have allowed for industry-issued certification that a plant product has been handled, processed, or inspected in a manner required by a foreign government to be used in lieu of PPQ certification forms. However, the certification requirements of the People's Republic of China do not recognize industry-issued certificates to certify that coniferous packing material has been heat treated. Only PPQ Form 553 will be accepted by the People's Republic of China for this purpose.

In § 353.1 of the regulations, we are defining *certificate of heat treatment* as ''A certificate (PPQ Form 553) issued by an inspector endorsing the statement of an exporter that the coniferous packing materials associated with a shipment for export have been heat treated by being subjected to a minimum core temperature of 56 °C for 30 minutes.''

Section 353.5 of the regulations describes how to apply for certification under part 353 and states that applicants must apply using PPQ Form 572. We are adding to this section that applicants for a certificate of heat treatment must submit PPQ Form 553 instead.

Section 353.7 of the regulations describes the processing procedures for the various certificates issued in accordance with part 353. We are adding a new paragraph (e) describing the procedures for the new certificate of heat treatment. This paragraph instructs the exporter or his or her representative to complete blocks 1 through 4 of PPQ Form 553 and submit the original form and one copy to an inspector, who will complete and sign both the original form and the copy. The original certificate of heat treatment will then be delivered or mailed to the applicant or a person designated by the exporter. One copy of each certificate will be kept on file in the office of the inspector who endorses it. The exporter or his or her representative must also keep on file at his or her office a copy of each certificate issued in his or her name, as well as documentation showing that heat treatment was performed on packing materials in the shipment referred to in the certificate. The exporter or his or her representative must make these documents available to an inspector upon request for a period of 1 year following the date of issuance of the certificate.

We anticipate that some exporters will apply for a certificate of heat treatment at APHIS or cooperating State offices at or near the port from which they intend to export their goods to China, while others will apply to offices located near the place of origin of the goods, or at intermediate locations where goods are packed and assembled for shipment. We intend to make inspectors available to issue certificates of heat treatment at many different locations in order to accommodate exporter needs and to avoid overwhelming our port offices with new work. Section 353.3 of the current regulations advises our customers on how to contact an APHIS regional office to learn where they can apply for export certificates. We have also established a web page, currently http://www.aphis.usda.gov/oa/chinaswp/hotbutton, where exporters can obtain copies of PPQ Form 553 and other information about this program.

Removal of Authority Citation

In the authority citation for part 553, we are removing the reference to 44 U.S.C. 35 because that section has been repealed.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to provide a means for U.S. exporters to obtain certificates that the Government of the People's Republic of China will require to accompany certain shipments of U.S. goods to China as of January 1, 2000.

Because prior notice and other public procedures with respect to this action

are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

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

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule will have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our final regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0147 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Docket No. 99–100–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. Please state that your comments refer to Docket No. 99–100–1, and send your comments within 60 days of publication of this rule.

This interim rule establishes regulations to provide for the establishment of a program under which softwood (coniferous) packing materials, used with goods exported from the United States to China, may be certified as having been heat treated. This program is necessary because the Government of the People's Republic of China has established a requirement that coniferous packing materials imported from the United States must be accompanied by such certification. Exporters shipping goods to China that are accompanied by coniferous packing materials will have to complete a new PPQ Form 553 and submit it to an inspector for endorsement and maintain for 1 year at their offices a copy of each certificate issued. Exporters or their agents will also have to keep on file for 1 year at their offices documentation from heat treatment facilities showing that the heat treatment certified by each certificate was performed. Each exporter or his or her representative will have to make copies of these documents available to inspectors upon request.

We are soliciting comments from the public concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden and recordkeeping for this collection of information is estimated to average 1 minute per response.

Respondents: Exporters and their representatives or brokers who export commercial shipments packed in coniferous solid wood packing materials to the People's Republic of China.

Estimated annual number of respondents: 6,500.

Estimated annual number of responses per respondent: 25.

Estimated annual number of responses: 162,500.

Estimated total annual burden on respondents: 2,808 hours.

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 7 CFR Part 353

Exports, Plant diseases and pests, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 353 is amended as follows:

PART 353—EXPORT CERTIFICATION

1. The authority citation for part 353 is revised to read as follows:

Authority: 7 U.S.C. 147a; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

2. In 353.1, a definition of *Certificate of heat treatment* is added, in alphabetical order, to read as follows:

353.1 Definitions.

* * * * *

Certificate of heat treatment. A certificate (PPQ Form 553) issued by an inspector endorsing the statement of an exporter that the coniferous packing materials associated with a shipment for export have been heat treated by being subjected to a minimum core temperature of 56 °C for 30 minutes.

* * * * *

§ 353.2 [Amended]

3. In § 353.2, the phrase ''or an export certificate for processed plant products (PPQ Form 578),'' is removed and the phrase ''an export certificate for processed plant products (PPQ Form 578), or a certificate of heat treatment (PPQ Form 553)'' is added in its place.

§ 353.5 [Amended]

4. Section 353.5 is amended as follows:

a. In paragraph (a), the phrase ''(PPQ Form 572)'' is removed and the phrase ''(PPQ Form 572, or, to obtain a certificate of heat treatment, PPQ Form 553)'' is added in its place, and the word ''certification.'' is removed and the phrase ''certification, except that, for

PPQ Form 553, the office of inspection need not be a port.'' is added in its place.

b. In paragraph (b), the phrase ''at the port of certification'' is removed.

5. In § 353.7, new paragraph (e) is added to read as follows:

§ 353.7 Certificates.

* * * * *

(e) *Certificate of heat treatment (PPQ Form 553).* For each consignment containing coniferous packing materials for which certification is requested, the exporter or his or her representative shall complete blocks 1 through 4 of PPQ Form 553 and submit the original form and one copy to an inspector. The inspector shall complete and sign both the original form and the copy.

(2) The original certificate of heat treatment shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by the applicant.

(3) One copy of each certificate shall be filed in the office of inspection.

(4) The exporter or his or her representative must keep on file at his or her office a copy of each certificate issued in his or her name, and documentation showing that heat treatment was perfomed on packing materials in the shipment referred to in the certificate, and make these documents available to an inspector upon request, for a period of 1 year following the date of issuance of the certificate.

(Approved by the Office of Management and Budget under control number 0579–0052)

Done in Washington, DC, this 17th day of December 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–33422 Filed 12–23–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. FV99–955–1 FIR]

Vidalia Onions Grown in Georgia; Fiscal Period Change

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule changing the fiscal period under the Vidalia onion marketing order (order) to January 1–December 31 from September 16–September 15. It also extends the current fiscal period which began September 16, 1998, through December 31, 1999. The order is administered locally by the Vidalia Onion Committee (Committee), which recommends its program expenses on a fiscal period basis. An assessment rate, levied on fresh Vidalia onion shipments, is established to pay those expenses. When the former fiscal period was established, it coincided with the Vidalia onion marketing season which ran from April through June. Due largely to the use of Controlled Atmosphere (CA) storage, Vidalia onions are now shipped through the fall. This action will continue to make the fiscal period consistent with the current marketing season.

EFFECTIVE DATE: December 28, 1999.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883–2276; telephone: (941) 299–4770, Fax: (941) 299–5169; 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 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.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 955 (7 CFR part 955) regulating the handling of Vidalia onions grown in Georgia, 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. This rule is not intended to have 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 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. A 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 continues in effect modifications to the language in the order's administrative rules and regulations which changed the fiscal period to January 1 through December 31, making it consistent with the current Vidalia onion marketing season. It also continues to extend the 1998–99 fiscal period, formerly September 16, 1998, through September 15, 1999, through December 31, 1999. Therefore, this rule better reflects current industry practice. These changes were unanimously recommended by the Committee at its November 19, 1998, meeting.

Section 955.40 of the order provides authority for the Committee to incur expenses that are reasonable and necessary to operate the program. The order also provides that these expenses be paid by assessments levied on fresh shipments of Vidalia onions. The Committee prepares an annual budget of expenses and recommends an appropriate assessment rate on a fiscal year basis. Section 955.13 of the order defines ''fiscal period'' to mean September 16 through September 15 of the following year, or such other period that may be recommended by the Committee and approved by the Secretary.

When the order was first issued in 1989, the harvesting and marketing season for Vidalia onions ran from April through June. The September 16 through September 15 fiscal period thus covered the entire marketing season and was appropriate for budget planning purposes. Over the past decade, changes in the industry have extended the marketing season. In particular, the adoption of Controlled Atmosphere (CA) storage by three-fourths of the handlers has allowed them to economically store Vidalia onions

through December. While there are some added storage costs and losses due to shrinkage, these costs are more than offset by prices received for Vidalia onions during the holiday season (November and December).

The Committee's budget for 1998–99 (September 16–September 15) was $373,577, and the assessment rate was set at 7 cents per 50-pound bag. Major expenses included $131,600 for marketing and promotion, $75,000 for research, $135,127 for administrative expenses, and $31,850 for compliance. It is appropriate that the Committee plan and finance its activities consistent with the Vidalia onion marketing season.

The Committee will begin operating under the revised fiscal period on January 1, 2000. This rule, therefore, also continues to extend the current fiscal period through December 31, 1999. This will provide for continuous operation of the program. Based on the interim final rule, the Committee increased its budgeted expenses from $373,577 to $475,577 to cover the 3½ months being added to the 1998–99 fiscal period. Budgeted expenses for the major expenditures during 1998–99 (including the 3½ month extension are $151,127 for administrative costs, $37,850 for compliance activities, $161,600 for promotional activities, and $125,000 for research projects.

The fiscal period change is designed to improve the functioning and operation of the program. The majority of handlers maintain their business records on a calendar year basis. Therefore, this rule will better reflect current industry practices.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, 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 91 handlers of Vidalia onions who are subject to regulation under the order and approximately 133 Vidalia onion producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (SBA) (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 change in the number of handlers from 86 listed in the interim final rule is based on more recent Committee data.

During the 1996–97 fiscal year, about 14 percent of the handlers shipped about 2,771,000 50-pound bags of Vidalia onions, for an average of about 197,930 bags. The remaining 86 percent of the handlers shipped about 1,262,940 bags, for an average of about 14,685 bags. Using an average f.o.b. price of $12.80 per bag, the majority of handlers could be considered small businesses under SBA's definition. Likewise, the majority of Vidalia onion growers may be classified as small businesses.

Section 955.40 of the order provides authority for the Committee to incur expenses that are reasonable and necessary to operate the program. The order also provides that these expenses be paid by assessments levied on fresh shipments of Vidalia onions. The Committee prepares an annual budget of expenses and recommends an appropriate assessment rate on a fiscal year basis. Section 955.13 of the order defines ''fiscal period'' to mean September 16 through September 15 of the following year, or such other period that may be recommended by the Committee and approved by the Secretary.

This rule continues in effect the action which changed the fiscal period to January 1 through December 31, making it consistent with the current Vidalia onion marketing season. It also continues to extend the 1998–99 fiscal period, formerly September 16, 1998, through September 15, 1999, through December 31, 1999. These changes were unanimously recommended by the Committee at its November 19, 1998, meeting.

When the order was first issued in 1989, the harvesting and marketing season for Vidalia onions ran from April through June. The September 16 through September 15 fiscal period thus covered the entire marketing season and was appropriate for budget and planning purposes. Over the past decade, changes in the industry have extended the marketing season. In particular, the adoption of Controlled Atmosphere (CA) storage by three-fourths of the handlers has allowed them to economically store Vidalia onions through December. While there are some added storage costs and losses due to shrinkage, these costs are more than offset by prices received for Vidalia onions during the holiday season (November and December).

The Committee's 1998–99 (September 16–September 15) budget was $373,577, and the assessment rate was set at 7 cents per 50-pound bag. Major expenses included $131,600 for marketing and promotion, $75,000 for research, $135,127 for administrative expenses, and $31,850 for compliance. Budgeted expenses for these items (including the 3–1/2 month extension for 1998–99) are $151,127 for administrative costs, $37,850 for compliance activities, $161,600 for promotional activities, and $125,000 for research activities. It is appropriate that the Committee plan and finance its activities consistent with the Vidalia onion marketing season.

The Committee will begin operating under the revised fiscal period on January 1, 2000. The interim final rule also extended the current fiscal period through December 31, 1999.

This rule continues in effect the change in the fiscal period which better reflects Committee and handler operations and would not impose any new requirements on Vidalia onion handlers. It could, on the other hand, simplify handler operations by putting the program fiscal period on the same basis as handlers' internal reporting and recordkeeping procedures.

The Committee discussed the alternative of leaving the fiscal period as it previously existed, but unanimously concluded that this change would improve program operations.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Vidalia onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Vidalia onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the November 19, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of nine members: eight producers and one public member.

An interim final rule concerning this action was published in the Federal Register on September 3, 1999. Copies of the rule were mailed by the Committee's staff to all Committee

members and Vidalia onion handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended November 2, 1999. No comments were received during the comment period.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 48243, September 3, 1999) 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: (1) The 1998–99 fiscal period which began on September 16, 1998, ends on December 31, 1999; and (2) Handlers are aware of this action and the interim final rule provided a 60-day comment period and no comments were received.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

Accordingly, the interim final rule amending 7 CFR part 955 which was published at 64 FR 48243 on September 3, 1999, is adopted as a final rule without change.

Dated: December 20, 1999.

James R. Frazier,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–33508 Filed 12–23–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. FV00–955 2 IFR]

Vidalia Onions Grown in Georgia; Changing the Term of Office and Nomination Deadlines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes the term of office for the Vidalia Onion Committee (Committee), and the time for conducting and submitting Committee nominations under the Vidalia onion marketing order. The marketing order regulates the handling of Vidalia onions grown in Georgia and is administered locally by the Committee. This rule changes the term of office from a 24-month period beginning September 16 and ending September 15, to a 24-month period beginning January 1 and ending December 31. It also changes the month for conducting and submitting Committee producer nominations from August to October of each year, and for the public member and alternate member from November 1 to February 15. These changes are expected to improve Committee and program operations.

DATES: Effective January 1, 2000; comments received by January 26, 2000 will be considered prior to issuance of a final rule.

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, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883–2276; telephone: (863) 299–4770, Fax: (863) 299–5169; 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 by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 955 (7 CFR part 955) regulating the handling of Vidalia onions grown in Georgia, 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. This rule is not intended to have 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 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. A 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.

Section 955.21 of the order provides that the term of office for Committee members and alternates begins on September 16, or such other period as the Committee may recommend and the Secretary approves. In addition, § 955.22 provides that the Committee shall hold or cause to be held not later than August 1 of each year, or such other date as may be specified by the Secretary, a meeting or meetings of growers for the purpose of designating one nominee for each position as member and for each position as alternate member of the Committee which is vacant, or which is about to become vacant. Nominations for members and alternates are required to be supplied to the Secretary in such manner and form as the Secretary may prescribe, not later than August 15 of each year, or by such date as may be specified by the Secretary. That section further provides that the producer members shall nominate the public member and alternate member at the first meeting following the selection of members for a new term of office. The members and alternates serve two-year terms of office and approximately one-half of the total Committee membership is nominated and selected each year.

Nominations for the public member and alternate member are required to be supplied to the Secretary in such manner and form as the Secretary may prescribe, not later than November 1, or such other date as may be specified by the Secretary.

An interim final rule was published in the **Federal Register** on September 3, 1999 (64 FR 48243), which changed the fiscal period established under the order to a calendar year basis (January 1–December 31) from September 16–September 15 to more closely coincide with the Vidalia onion marketing season. That interim final rule has been adopted, without change, in a final rule published in this issue of the **Federal Register**. The new fiscal is specified in § 955.113.

Over the past decade, technological changes in the industry, including the adoption of Controlled Atmosphere (CA) storage of Vidalia onions by three-fourths of the industry handlers, have extended the harvesting and marketing season from April through June to an almost year-round basis. While there are some added storage costs and losses due to shrinkage with CA storage, these costs are more than offset by prices received for Vidalia onions during the holiday season (November and December).

On September 30, 1999, the Committee unanimously recommended that the term of office continue to be established on the same basis as the fiscal period. This rule changes the term of office from a 24-month period beginning September 16 and ending September 15, to a 24-month period beginning January 1 and ending December 31. The new fiscal period is established in new § 955.121. Also, for the eight members and alternates whose terms of office were scheduled to end on September 15, 1999, their terms of office will continue through December 31, 1999, or until qualified successors are selected. Nominations for those expiring positions already have been submitted to the Department under existing regulations.

The Committee also recommended changes in the times for conducting and submitting Committee producer member and alternate member nominations to maintain the same approximate nomination deadlines as provided currently. The dates will be changed from August 1 and August 15 to October 1 and October 15, respectively, and are specified in new § 955.122. The deadline for submitting nominations to the Secretary for the public member and alternate will be changed from November 1 to February 15 to provide the same amount of time for submitting nominations as currently provided after the newly selected Committee's first meeting sometime after January 1. These changes are expected to improve Committee and program operations.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 133 producers of Vidalia onions in the production area and approximately 86 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 the Georgia Agricultural Statistical Service and committee data, the average price for fresh Vidalia Onions during the 1998–99 season was $15.45 per 50-pound bag, or equivalent and shipments totaled 3,617,017 bags. Many Vidalia onion handlers ship other vegetable products which are not included in the committee data, but would contribute further to handler receipts.

Using the average price, about 97.4 percent of Vidalia Onion handlers could be considered small businesses under the SBA definition. The majority of Vidalia Onion producers and handlers may be classified as small entities.

This rule adds § 955.121 to change the two-year term of office to January 1–December 31 from September 16–September 15 to keep the term of office on a fiscal year basis. It also adds § 955.122 to modify the deadlines when nominations are to be held and reports of the nominations are to be made to the Secretary. The new deadlines provide the same amount of time for conducting and submitting nominations for producer members and alternates and for the public member and alternate as are provided currently. For producer member and alternate members, the time for conducting nominations will be changed from August 1 to October 1, and the time for submitting the nominations to Secretary will be changed from August 15 to October 15. The time for submitting the public member and alternate public member nominations will be changed from November 1 to February 15 for a new term of office. Also, for the eight Committee members and alternates whose terms of office were scheduled to end on September 15, 1999, their terms of office will continue through December 31, 1999, or until qualified successors are selected.

The changes in the term of office and the nomination deadlines should not impose any additional costs on large or small firms in the Vidalia onion industry. The changes merely bring the term of office and the nomination deadlines into conformity with the recent change in the fiscal period which was changed to a calendar year basis (January 1–December 31) from September 16–September 15.

The Committee discussed the alternative of leaving the term of office and nomination deadlines as they are presently. However, the Committee believes that the term of office and nomination deadlines should continue to be based on the fiscal period, which now is established on a calendar year basis.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Vidalia onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Vidalia onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the September 30, 1999, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned

address in the **FOR FURTHER INFORMATION CONTACT** section.

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

This rule invites comments on a change to the term of office and nomination deadlines currently prescribed under the Vidalia onion marketing order. A comment period of 30 days is deemed appropriate because January 1, 2000, is the beginning of fiscal period established by a separate action and the term of office prescribed by this action corresponds with that date. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and 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 change in the term of office is January 1, 2000, to correspond with the beginning of the fiscal period recently established in a separate action; and (2) a 30-day comment period is provided and all comments received will be considered in finalizing this action.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 955.121 is added to read as follows:

§ 955.121 Change in term of office.

Pursuant to § 955.21, the term of office for the Committee shall be for two years beginning January 1 and ending December 31, except that, the term of office for members and alternates whose terms expired on September 15, 1999, shall end on December 31, 1999, or until qualified successors are selected.

3. A new § 955.122 is added to read as follows:

§ 955.122 Change in nomination deadlines.

Pursuant to § 955.22, the Committee shall hold or cause to be held not later than October 1 of each year a meeting or meetings of growers for the purpose of designating one nominee for each position as member and for each position as alternate of the Committee which is vacant, or about to become vacant. Such nominations shall be supplied to the Secretary in such manner and form as the Secretary may prescribe, not later than October 15 of each year. The grower members shall nominate the public member and alternate public member at the first meeting following the selection of members for a new term of office. Nominations for the public member and alternate public member shall be supplied to the Secretary in such manner and form as the Secretary may prescribe, not later than February 15.

Dated: December 20, 1999.

James R. Frazier,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–33509 Filed 12–23–99; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA is issuing a final rule that amends its regulation regarding secondary capital accounts in low-income designated credit unions to specify that interest on these accounts may be accrued in the account, paid directly to the investor, or paid into a separate account from which an investor may make withdrawals. The NCUA believes that these amendments will clarify the permissible alternatives and provide additional flexibility for low-income designated credit unions.

DATES: This rule is effective January 26, 2000.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

Federal credit unions that serve predominantly low-income members may be designated by NCUA as low-income credit unions (LICUs). LICUs play an important role in providing financial services to low-income individuals and communities for whom these services are often unavailable. LICUs often find it difficult, however, to accumulate capital due to the limited resources of their members. In response to this obstacle, § 701.34 of NCUA's regulations permits LICUs to offer secondary capital accounts to nonnatural person members and nonnatural person nonmembers.

Section 701.34 makes it clear that funds in the secondary capital account, including accrued interest paid into the account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings. Section 701.34 may not have clearly stated, however, that although interest paid into the secondary capital account must remain there until account maturity, credit unions have flexibility to use other permissible alternatives for disposing of accrued interest. To clarify this, NCUA issued a proposed rule that specified that in addition to depositing accrued interest into the secondary capital account, a credit union may pay the interest directly to the investor or deposit it into a separate account from which the investor could make withdrawals. 64 FR 40786 (July 28, 1999). The proposed rule also clarified that net available reserves and undivided earnings, as discussed above, are reserves and undivided earnings exclusive of allowance accounts for loan losses. Allowance accounts for investment losses used to be considered in determining net available reserves and undivided earnings, but are no longer as they are no longer recognized by generally accepted accounting principles or NCUA's regulatory accounting practices.

Summary of Comments

The NCUA Board received five comment letters in response to the proposed rule: four from credit union trade associations and one from a federal credit union. All of the commenters generally supported the proposed rule and made other specific recommendations.

Two commenters suggested that secondary capital accounts, or similar programs, should be made available to all credit unions not just LICUs. Secondary capital accounts are presently and have historically been intended to address the specific needs of LICUs, especially the difficulty many have in accumulating capital. Any change in this approach is not a matter

before the Board in consideration of this proposal.

One commenter suggested that credit unions and their investors with existing secondary capital account agreements should be able to voluntarily modify those agreements to alter the manner in which interest accrued in the future is treated. NCUA does not object to this so long as the secondary capital agreements are properly amended and it only applies to future interest to be accrued and not to interest already paid into the secondary capital account.

Two commenters stated that the disclosures and acknowledgment required in the Appendix to § 701.34 should be modified. Specifically, they suggested including language that would indicate which method of paying accrued interest has been agreed to by the LICU and its investor. We agree and have incorporated this suggestion into the Appendix to § 701.34.

One commenter stated that an investor should have the option of having interest payments directed to accounts outside of the LICU if it wishes. The proposed rule permits interest payments to be directed to a separate account from which an investor may make withdrawals. NCUA intends for this option to include accounts outside of the LICU.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions, meaning those under $1 million in assets.

The NCUA has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the amendments to § 701.34 only clarify the permissible alternatives LICUs have in disposing of accrued interest on secondary capital accounts. The amendments provide LICUs with additional flexibility without imposing any costs or significant regulatory requirements. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the amendments to § 701.34 do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: ''Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.'' This rule will not have a direct effect 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. NCUA has determined that this rule does not constitute a significant regulatory action for purposes of the executive order.

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on December 16, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set forth above 12 CFR part 701 is amended as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.34 is amended by revising paragraph (b)(7) to read as follows:

§ 701.34 Designation of low-income status; receipt of secondary capital accounts by low-income designated credit unions.

* * * * *

(b) * * *

(7) Funds deposited into the secondary capital account, including interest accrued and paid into the secondary capital account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings (*i.e.*, reserves and undivided earnings exclusive of allowance accounts for loan losses), and to the extent funds are so used, the credit union shall under no circumstances restore or replenish the account. The credit union may, in lieu of paying interest into the secondary capital account, pay interest accrued on the secondary capital account directly to the investor or into a separate account from which the secondary capital investor may make withdrawals. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time the losses are realized.

* * * * *

3. The Appendix to § 701.34 is amended by revising the second paragraph of the next to last bulleted section and adding a third paragraph to that section to read as follows:

Appendix to § 701.34

* * * * *

The funds committed to the secondary capital account and any interest paid into the account may be used by _____ (name of credit union) to cover any and all operating losses that exceed the credit union's reserves and undivided earnings exclusive of allowance accounts for loan losses, and in the event the funds are so used _____ (name of credit union) will under no circumstances restore or replenish those funds to _____ (name of institutional investor).

By initialing below, _____ (name of credit union) _____ and (name of institutional investor) agree that accrued interest will be:

_____ _____ paid into and become part of the secondary capital account;

_____ _____ paid directly to the investor;

_____ _____ paid into a separate account from which the investor may make withdrawals; or

_____ _____ any combination of the above provided the details are specified and agreed to in writing.

* * * * *

[FR Doc. 99–33274 Filed 12–23–99; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–05–AD; Amendment 39–11428; AD 99–24–04 C1]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88

airplanes. That AD currently requires a one-time visual inspection to determine whether self-aligning nuts are installed at certain locations of the aft pressure bulkhead tee; and corrective actions, if necessary. This document corrects a typographical error in a service bulletin reference. This correction is necessary to ensure that the appropriate service information is used to accomplish the AD.

DATES: Effective December 27, 1999.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of December 27, 1999. (64 FR 63187, November 19, 1999).

FOR FURTHER INFORMATION CONTACT: Carl Fountain, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5222; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 99–24–04, amendment 39–11428, applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, was published in the **Federal Register** on November 19, 1999 (64 FR 63187). That AD requires a one-time visual inspection to determine whether self-aligning nuts are installed at certain locations of the aft pressure bulkhead tee; and corrective actions, if necessary. That AD was prompted by reports of failures of certain Hi-Lok pin fasteners of the aft pressure bulkhead tee due to installation of non-self-aligning nuts. The actions required by that AD are intended to prevent failure of certain Hi-Lok pin fasteners and subsequent gouging of the aft pressure bulkhead tee, which could result in fatigue cracking and reduced structural integrity of the airplane.

Need for the Correction

Information obtained recently by the FAA indicates that paragraph (a) of AD 99–24–04 contains a typographical error. That paragraph references ''McDonnell Douglas Service Bulletin MD80–53–201, Revision 02, dated July 20, 1998, as revised by Information Notice MD90–53–201 RO2, dated October 21, 1998,'' as the appropriate source of service information for accomplishment of the general visual inspection required by paragraph (a) of the AD.

The FAA has determined that a correction to paragraph (a) of AD 99–24–04 is necessary. The correction will reference the appropriate Information Notice as ''* * * Information Notice MD80–53–201 * * *''.

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 27, 1999.

Since this action only a typographical error, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subject in 14 CFR Part 39

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

Adoption of the Correction

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

99–24–04 C1 McDonnell Douglas: Amendment 39–11428. Docket 99–NM–05–AD.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes, and Model MD–88 airplanes; as listed in McDonnell Douglas Service Bulletin MD80–53–201, Revision 02, dated July 20, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of certain Hi-Lok pin fasteners and subsequent gouging of the aft pressure bulkhead tee, which could result in fatigue cracking and reduced structural integrity of the airplane, accomplish the following:

Inspection

(a) Within 48 months after the effective date of this AD, perform a one-time general visual inspection to determine whether self-aligning nuts are installed at certain locations of the aft pressure bulkhead tee, in accordance with McDonnell Douglas Service Bulletin MD80–53–201, Revision 02, dated July 20, 1998, as revised by Information Notice MD80–53–201 R02, dated October 21, 1998.

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

(1) If all nuts installed are self-aligning, no further action is required by this AD.

(2) If any nut is determined to be non-self-aligning, prior to further flight, remove the existing nut and perform a one-time visual inspection to detect gouges in the aft pressure bulkhead tee on station Y=1338.000 and longeron end fitting, as applicable, in accordance with the service bulletin.

(i) If no gouge is detected, prior to further flight, install new self-aligning nuts in accordance with the service bulletin.

(ii) If any gouge is detected that is within the repair limits specified in the service bulletin, prior to further flight, repair the gouge and install new self-aligning nuts in accordance with the service bulletin.

(iii) If any gouge is detected that is outside the repair limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 3: Inspections, and repair of the aft pressure bulkhead tee longeron end fittings prior to the effective date of this AD, in accordance with McDonnell Douglas Service Bulletin MD80–53–201, dated July 6, 1988, or Revision 1, dated March 22, 1991, are considered acceptable for compliance with the actions required by paragraph (a) of this AD.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) 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.

Incorporation by Reference

(d) Except as provided by paragraph (a)(2)(iii) of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin MD80–53–201, Revision 02, dated July 20, 1998. This incorporation by reference was approved previously by the Director of the Federal Register as of December 27, 1999 (64 FR 63187, November 19, 1999). Copies may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) The effective date of this amendment remains December 27, 1999.

Issued in Renton, Washington, on December 20, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–33444 Filed 12–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 98F–1201]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, compd. with 1,1′,1″-nitrilotris[2-propanol] (1:1) (CAS Reg. No. 221281–21–6) as a pigment dispersant. This action is in response to a petition filed by GEO Specialty Chemicals.

DATES: This rule is effective December 27, 1999; written objections and requests for a hearing by January 26, 2000.

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

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 28, 1998 (63 FR 71492), FDA announced that a food additive petition (FAP 9B4636) had been filed by GEO Specialty Chemicals, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 178.3725 *Pigment dispersants* (21 CFR 178.3725) to provide for the safe use of the salt of dimethylolpropionic acid and triisopropanolamine as a dispersant for pigments intended for food-contact applications. Since the filing notice published, the Chemical Abstracts Service (CAS) Registry number and nomenclature, which is propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, compd. with 1,1′,1″-nitrilotris[2-propanol] (1:1) (CAS Reg. No. 221281–21–6), was provided for the additive, and the agency has determined that the additive should be listed using this nomenclature.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in § 178.3725 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 9B4636 (63 FR 71492). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before January 26, 2000, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.3725 is amended in the table by alphabetically adding an entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.3725 Pigment dispersants.

* * * * *

Substances	Limitations
* * *	* * *
Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, compd. with 1,1′,1″-nitrilotris [2-propanol] (1:1) (CAS Reg. No. 221281–21–6)	For use only at levels not to exceed 0.45 percent by weight of the pigment. The pigmented articles may contact all food under conditions of use A through H as described in Table 2 of § 176.170(c) of this chapter.
* * *	* * *

Dated: December 17, 1999.

L. Robert Lake,

Director, Office of Policy, Planning, and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–33398 Filed 12–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 99F–1421]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of tetradecanoic acid, lithium salt as a stabilizer for polypropylene and certain polypropylene copolymers intended for use in contact with food. This action is in response to a petition filed by Asahi Denka Kogyo K.K.

DATES: This regulation is effective December 27, 1999. Submit written objections and requests for a hearing by January 26, 2000.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 24, 1999 (64 FR 28000), FDA announced that a food additive petition (FAP 9B4665) had been filed by Asahi Denka Kogyo K.K., 5–2–13, Shirahata, Urawa City, Saitama 336–0022, Japan. The petition proposed to amend the food additive regulations to provide for the safe use of tetradecanoic acid, lithium salt as a stabilizer in polypropylene and certain olefin copolymers intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) that the regulations in 21 CFR 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 9B4665. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before January 26, 2000, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS.

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding an entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * * * *	
Tetradecanoic acid, lithium salt (CAS Reg. No. 20336–96–3)	For use only at levels not to exceed 0.15 percent by weight of polypropylene and polypropylene copolymers complying with § 177.1520(c) of this chapter, items 1.1a, 1.1b, 3.1a, 3.1b, 3.1c, 3.2a, and 3.2b. The finished polymers may only be used in contact with food of Types I, II, IV–B, VII–B, and VIII as described in table 1 of § 176.170(c) of this chapter under conditions of use B through H as described in table 2 of § 176.170(c) of this chapter, and with food of Types III, IV–A, V, VI–A, VI–B, VI–C, VII–A, and IX described in table 1 of § 176.170(c) of this chapter under conditions of use C through G as described in table 2 of § 176.170(c) of this chapter.
* * * * * * *	

Dated: December 17, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–33397 Filed 12–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 99F–1457]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 4,5-dichloro-2-((5-hydroxy-3-methyl-1-(3-sulfophenyl)-1H-pyrazol-4-yl)azo)benzenesulfonic acid, calcium salt(1:1), (C.I. Pigment Yellow 183) as a colorant in high density polyethylene and polypropylene resins intended for use in contact with food. This action responds to a petition filed by BASF Corp.

DATES: This regulation is effective December 27, 1999. Submit written objections and requests for a hearing by January 26, 2000.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 27, 1999 (64 FR 28825), FDA announced that a food additive petition (FAP 9B4664) had been filed by BASF Corp., 3000 Continental Dr. North, Mt. Olive, NJ 07828–1234. The petition proposed to amend the food additive regulations to provide for the safe use of 4,5-dichloro-2-((4,5-dihydro-3-methyl-5-oxo-1-(3-sulfophenyl)-1H-pyrazol-4-yl)azo)benzenesulfonic acid, calcium salt(1:1), (C.I. Pigment Yellow 183) as a colorant in high density polyethylene and polypropylene resins intended for use in contact with food.

During review of the petition, it was determined that the colorant exists in two tautomeric forms: Keto and enol. As indicated by its infrared spectrum, the colorant exists chiefly in its enol form. It was decided, therefore, that the colorant (C.I. Pigment Yellow 183) should be identified in the regulation by the enol nomenclature and the CAS number. The colorant is listed, accordingly, in the codified section of this document as 4,5-dichloro-2-((5-hydroxy-3-methyl-1-(3-sulfophenyl)-1H-pyrazol-4-yl)azo)benzenesulfonic acid, calcium salt(1:1), (C.I. Pigment Yellow 183, CAS Reg. No. 65212–77–3).

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) that the regulations in § 178.3297 should be amended as set forth below.

In accordance with § 171.1(h), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 9B4664 (64 FR 28825, May 27, 1999). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at anytime on or before January 26, 2000 file with the Dockets Management Branch (address above) written objection thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the

heading of this document. Any objection received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.3297 is amended in the table in paragraph (e) by alphabetically adding an entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
* * * * * * *	
4,5-Dichloro-2-((5-hydroxy-3-methyl-1-(3-sulfophenyl)-1H-pyrazol-4-yl)azo)benzenesulfonic acid, calcium salt(1:1), (C.I. Pigment Yellow 183, CAS Reg. No. 65212–77–3).	For use only: 1. At levels not to exceed 1 percent by weight of polypropylene polymers and copolymers complying with § 177.1520(c) of this chapter, items 1.1a, 1.1b, 1.2, 1.3, 3.1a, 3.1b, 3.1c, 3.2a, 3.2b, 3.4, or 3.5. The finished articles are to contact food only under conditions of use E through G, as described in Table 2 of § 176.170(c) of this chapter. 2. At levels not to exceed 1 percent by weight of high density polyethylene polymers and copolymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1a, 3.1b, 3.1c, 3.2a, 3.2b, 3.6 (density not less than 0.94 grams per cubic centimeter), or 5. The finished articles are to contact food only under conditions of use E through G, as described in Table 2 of § 176.170(c) of this chapter.
* * * * * * *	

Dated: December 17, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–33394 Filed 12–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL–097–FOR, Part II]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving part of an amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Illinois proposed revisions to its program concerning adjustment of performance bond amounts, administrative review, subsidence control, water replacement, release of performance bonds, siltation structures, impoundments, hydrologic balance, disposal of noncoal mine wastes, revegetation, backfilling and grading, prime farmland, and State inspections. This final rule document addresses Illinois' revisions concerning adjustments to performance bond amounts and administrative review. The primary focus of these revisions is to provide permittees an opportunity for a formal hearing on adjustments made to performance bonds. Illinois intends to revise its program to be consistent with the corresponding Federal regulations, to provide additional safeguards, and to improve operational efficiency.

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204–1521. Telephone: (317) 226–6700. Internet: INFOMAIL@indgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the June 1, 1982, **Federal Register** (47 FR 23883). You can find later actions concerning the Illinois program at 30 CFR 913.15, 913.16, and 913.17.

II. Submission of the Proposed Amendment

By letter dated August 2, 1999 (Administrative Record No. IL–5044), the Illinois Department of Natural Resources (Department) sent us an amendment to the Illinois program under SMCRA. The Department proposed to amend Title 62 of the Illinois Administrative Code (IAC) in response to our letters dated May 20, 1996, June 17, 1997, and January 15, 1999 (Administrative Record Nos. IL–1900, IL–2000, and IL–5036, respectively), that we sent to Illinois under 30 CFR 732.17(c). The amendment also includes changes made at the Department's own initiative.

We announced receipt of the amendment in the August 17, 1999, **Federal Register** (64 FR 44674). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment

period closed on September 16, 1999. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns relating to siltation structures, impoundments, performance bonds, and State inspections. We also identified some nonsubstantive editorial errors. We notified Illinois of these concerns and editorial problems by letter dated September 21, 1999 (Administrative Record No. IL–5048). We also separated the amendment into three parts in order to expedite the State program amendment process. Part I concerns revisions to Illinois' regulations relating to subsidence control and water replacement. Because we did not identify any concerns relating to Illinois' revisions for subsidence control and water replacement, we approved them in a final rule on December 6, 1999 (64 FR 68024). Part II concerns revisions to Illinois' regulations relating to adjustment of performance bond amounts and administrative review. On December 2, 1999, the Department requested that we proceed with our decision on its revisions for adjustment of performance bond amounts and administrative review (Administrative Record No. IL–5049). Therefore, this final rule **Federal Register** document addresses the IL–097–FOR, Part II revisions. Part III concerns revisions to Illinois' regulations relating to performance bonds, siltation structures, impoundments, hydrologic balance, disposal of noncoal mine wastes, revegetation, backfilling and grading, prime farmland, and State inspections. These revisions will be addressed in a future final rule.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings on Illinois' revisions pertaining to adjustment of performance bond amounts and administrative review.

Administrative Review of Bond Adjustment Determinations

Illinois revised its regulations for performance bond adjustment and administrative review as a result of Court Case No. 99–MR–214, Sangamon County, Illinois. The court found that the Department's rules lacked a mechanism for administrative hearing in the case of bond adjustments. The court ruled that this was in violation of the Illinois Administrative Procedure Act and prohibited the Department from increasing performance bonds under its current regulations.

1. 62 IAC 1800.15 Adjustment of Performance Bond Amounts

In response to the court's decision, Illinois revised subsection (b)(2) to provide the permittee an opportunity for a formal hearing, in accordance with 62 IAC 1847.3, on proposed adjustments to the performance bond amount. Currently, Illinois provides an opportunity for an informal conference.

The counterpart Federal regulation at 30 CFR 800.15(b)(2) also provides the permittee an opportunity for an informal conference on proposed adjustments to the performance bond amount. However, Illinois' allowance for a formal administrative hearing will provide an increased level of due process procedures for the permittees. Therefore, we find that Illinois' regulation at 62 IAC 1800.15(b)(2) is no less effective than the Federal regulation at 30 CFR 800.15(b)(2).

2. 62 IAC 1847.3 Administrative Review and Judicial Review: Permit Hearings

Illinois revised subsection (a) to provide that the hearing procedures outlined in 62 IAC 1847.3 also apply to review of performance bond adjustment determinations under 62 IAC 1800.15.

Illinois' currently approved regulations at 62 IAC Part 1847 consolidate the procedures for all of the formal hearings provided for in the Illinois program. The proposed revision clarifies that administrative review of performance bond adjustment determinations is covered under the hearing procedures at 62 IAC 1847.3. We previously approved the hearing procedures at 62 IAC 1847.3 for review of several types of administrative decisions and determinations, including permit decisions and valid existing right determinations. The Federal regulations specify general adjudicatory provisions that States must include in their administrative review hearing procedures, but allow the States discretion in how to implement these provisions. We find that Illinois' regulations at 62 IAC 1847.3 are consistent with the Federal regulations at 43 CFR part 4 for purposes of administrative hearings on performance bond adjustment determinations.

IV. Summary and Disposition of Comments

Public Comments

We requested public comments on the proposed amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Illinois program. By letter dated September 2, 1999, the Natural Resources Conservation Services (NRCS) provided comments (Administrative Record No. IL–5047). However, these comments did not pertain to the Illinois program revisions concerning adjustment of performance bond amounts or administrative review. Therefore, we will discuss NRCS's comments in our future final rule document for IL–097–FOR, Part III.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Illinois proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to agree on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the proposed amendment from the EPA (Administrative Record No. IL–5045). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. None of the revisions that Illinois proposed to make in this amendment pertain to historic properties. However, on August 10, 1999, we requested comments from both the SHPO and ACHP (Administrative Record No. IL–5045), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the revisions made to 62 IAC 1800.15(b)(2) and 1847.3(a). We approve the regulations that Illinois proposed with the provision that they be published in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 913, which codify decisions concerning the Illinois program. We are making this final rule effective immediately to expedite the State

program amendment process and to encourage Illinois to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 14, 1999.

Charles E. Sandberg,

Acting Regional Director Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 913 is amended as set forth below:

PART 913—ILLINOIS

1. The authority citation for Part 913 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 913.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 913.15 Approval of Illinois regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * * * * * *		
August 2, 1999	December 27, 1999	62 IAC 1800.15(b)(2); 1847.3(a).

[FR Doc. 99–33465 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–116–FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving an amendment to the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of the following: a statutory change to the Virginia Act at section 45.1–235 C as enacted in the 1999 session of the Virginia General Assembly; regulation changes at section 4 VAC 25–130–700.5 to the definitions of ''government financed construction'' and ''qualified laboratory;'' and regulation changes to section 4 VAC 25–130 Part 795 concerning the small operator assistance program (SOAP). The amendment is intended to revise the Virginia program to be consistent with the corresponding Federal provisions.

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (540) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program.
II. Submission of the Amendment.
III. Director's Findings.
IV. Summary and Disposition of Comments.
V. Director's Decision.
VI. Procedural Determinations.

I. Background on the Virginia Program

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. You can find background information on the Virginia program, including the Secretary's

findings, the disposition of comments, and the conditions of approval in the December 15, 1981, **Federal Register** (46 FR 61085–61115). You can find later actions on conditions of approval and program amendments at 30 CFR 946.11, 946.12, 946.13, 946.15, and 946.16.

II. Submission of the Amendment

By letter dated August 2, 1999 (Administrative Record No. VA–978), the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. This amendment is the State's response to changes made to the Federal SOAP regulations at 30 CFR part 795, and to the Federal definition of ''government-financed construction'' at 30 CFR 707.5.

We announced receipt of the proposed amendment in the August 20, 1999, **Federal Register** (64 FR 45489), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on September 20, 1999. No one requested to speak at a public hearing, so no hearing was held.

By letters dated October 1, 1999 (Administrative Record Number VA–987), and October 28, 1999 (Administrative Record Number VA–993) the DMME submitted amendments to 4 VAC 25–130–795.11(b). We reopened the public comment period on November 15, 1999 (64 FR 61805), and invited public comment on the additional amendments. The comment period closed on November 30, 1999.

III. Director's Findings

Following, according to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording changes or revised paragraph notations to reflect organizational changes that result from this amendment.

Statute

Section 45.1–235 of the Code of Virginia.

Subsection 45.1–235 C, concerning SOAP, is amended by deleting the existing language and adding in its place the following language.

> To the extent that funds are available from the federal Office of Surface Mining, the Director shall provide for permit application assistance to small operators as provided in 507 (c) and (h) of the federal act. Such assistance shall be provided in accordance with regulations adopted by the Director.

We find this provision to be consistent with the Federal regulations at 30 CFR 795.5 which provides that a State intending to Administer a SOAP program under a grant from OSM may submit a grant application to OSM for funding of the program under the procedures of 30 CFR part 735. Therefore, this provision can be approved.

Regulations

1. 4 VAC 25–130–700.5 Definitions

The definition of ''government-financed construction'' is amended to provide for less than 50 percent government funding when the construction is an approved Abandoned Mine Lands (AML) reclamation project under Title IV of SMCRA. As amended, ''government financed construction'' means construction funded 50 percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds. Funding at less than 50 percent may qualify if the construction is undertaken as an approved reclamation project under Title IV of the Federal Act. Construction funded through government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments does not qualify as government-financed construction.

The Federal definition of ''government financed construction'' at 30 CFR 707.5 was amended on February 12, 1999 (64 FR 7469). As amended, ''government-financed construction'' means construction funded 50 percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds. Funding at less than 50 percent may qualify if the construction is undertaken as an approved reclamation project under Title IV of SMCRA. Construction funded through government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments does not qualify as government-financed construction. We find that the revised Virginia definition is substantively identical to and no less effective than the counterpart Federal definition at 30 CFR 707.5 and can be approved.

The definition of ''qualified laboratory'' is amended to add the phrase ''or other services as specified at 4 VAC 25–130–795.9.'' With this addition, ''qualified laboratory'' means a designated public agency, private firm, institution, or analytical laboratory which can prepare the required determination of probable hydrologic consequences or statement of results of test borings or core samplings or other services as specified at 4 VAC 25–130–795.9 under the SOAP program and which meets the standards of 4 VAC 25–130–795.10. We find that this revised definition is substantively identical to and no less effective than the counterpart Federal definition at 30 CFR 795.3 and can be approved.

2. 4 VAC 25–130–795.1 Scope and Purpose

This provision is amended by deleting the words ''program administrator'' and replacing those words with the word ''Division.'' In effect, the ''Division'' (the DMME) is the program administrator. Therefore, we find that this change does not render the Virginia program less effective than the Federal SOAP provisions at 30 CFR Part 795 and can be approved.

3. 4 VAC 25–130–795.6 Eligibility for Assistance

This provision is amended at subdivision 795.6(a)(2) by changing the qualifying annual tonnage limit from 100,000 tons to 300,000 tons and deleting language that was also deleted from the Federal rules in 1994. In addition, at subdivisions 795.6(a)(2)(i) and (ii), the pro rata share is increased from 5 percent to 10 percent. We find that with these changes, the State provision is substantively identical to and no less effective than the counterpart Federal regulation at 30 CFR 795.6(a)(2) and can be approved.

4. 4 VAC 25–130–795.7 Filing for Assistance

This provision is amended at subdivision 795.7(e) by deleting subdivisions 795.7(e)(2) and (5), and renumbering the remaining provisions. Deleted subdivision 795.7(e)(2) required the names of property owners in the affected and adjacent areas. Deleted subdivision 795.7(e)(5) required the location of existing structures and developed water resources within the affected and adjacent areas. These deletions are not requirements under 30 CFR 795.7(e). We find that, as amended, subdivision 795.7(e) is substantively identical to and no less effective than the counterpart Federal regulations at 30 CFR 795.7(e) and can be approved.

5. 4 VAC 25–130–795.8 Application Approval and Notice

The sole sentence of this provision is deleted and replaced with the following. New subdivision 795.8(a) provides that if the Division finds the applicant eligible, the Division shall inform the applicant in writing that the application is approved. New subdivision 795.8(b) provides that if the Division finds the

applicant ineligible, the Division shall inform the applicant in writing that the application is denied and shall state the reasons for denial. We find that as amended, this provision is substantively identical to and no less effective than the counterpart Federal regulation at 30 CFR 795.8 and can be approved.

6. 4 VAC 25–130–795.9 Program Services and Data Requirements

In addition to non-substantive changes, the following changes are made to this provision. At subdivision 795.9(a), the phrase ''and provide other services'' is added. With this change, a ''qualified laboratory'' may be paid for other services in addition to the determination and statement referenced in subdivision 795.9(b).

At subdivision 795.9(b)(1), the phrase ''including the engineering analysis and designs necessary for the determination'' is added. Also, the citation ''4 VAC 25–130–784.14(g)'' is changed to ''* * * 784.14(e).''

At subdivision 795.9(b)(2), the words ''drilling and'' are added immediately following the first word of the sentence.

New subdivisions 795.9(b)(3), (4), (5), and (6) are added. New 795.9(b)(3), provides for the development of cross-section maps and plans required by 4 VAC 25–130–779.25 and 783.25. New 795.9(b)(4) provides for the collection of archaeological and historic information and related plans required by 4 VAC 25–130–779.12(b), 783.12(b), 780.31, 784.17, and any other archaeological and historic information required by the Director. New 795.9(b)(5) provides for pre blast surveys required by 4 VAC 25–130–780.13. New 795.9(b)(6) provides for the collection of site-specific resources information, the production of protection and enhancement plans for fish and wildlife habitats required by 4 VAC 25–130–780.16 and 784.21, and information and plans for any other environmental values required by the Division under the Act.

We find that with these changes, the State provision is substantively identical to and no less effective than the counterpart Federal provision at 30 CFR 795.9 and can be approved.

7. 4 VAC 25–130–795.10 Qualified Laboratories

Subdivision 4 VAC 25–130–795.10(a)(5) is amended by adding language which provides that other appropriate methods or guidelines for data acquisition may be approved by the Division. Subdivision 795.10(b) is amended to provide that subcontractors may be used to provide some of the required services provided their use is identified at the time a determination is made that a firm is qualified and they meet requirements specified by the Division. Prior to this amendment, subdivision 795.10(b) provided that subcontractors had to meet all applicable requirements for area of specialization pursuant to the program and this section. Subdivisions 795.10(c) and (d) are deleted. Subdivision 795.10(c) concerned the qualification of out-of-state firms. Subdivision 795.10(d) provided that review and approval of all laboratory qualifications would be made every 12 months. These deletions are not requirements under 30 CFR 795.10.

We find that with these changes, the State provision is substantively identical to and no less effective than the counterpart Federal provision at 30 CFR 795.10 and can be approved.

8. 4 VAC 25–130–795.11 Assistance Funding

In subdivision 4 VAC 25–130–795.11(b), the phrase ''is authorized to'' is deleted and replaced by the word ''shall.'' In effect, this change requires the DMME to establish a funding formula to be used for allocating funds to eligible small operators if the available funds are less than those required to provide the services pursuant to 4 VAC 25–130–795. We find that, as amended, this provision is substantively identical to and no less effective than the Federal regulations at 30 CFR 795.11(b) and can be approved.

In addition, Virginia submitted the funding formula it intends to use if the available funds are less than those required to provide the services pursuant to 4 VAC 25–130–795. Virginia stated that ''[s]hould available funds ever be insufficient to provide all requested and appropriate assistance to eligible small operators, DMME will provide services on a first come, first serve basis. The funds will be used in order of the application dates for the requested assistance.''

The State's funding formula is ''an equitable distribution of Federal funds if such funds are insufficient to provide services for all eligible operators.'' 48 FR 2261, 2271 (January 18, 1983). Thus, we find that the formula is consistent with the Federal regulations at 30 CFR 795.11(b) and can be approved.

9. 4 VAC 25–130–795.12 Applicant Liability

In subdivision 4 VAC 25–130–795.12(a), the term ''applicant'' is deleted and replaced by the phrase ''coal operator who has received assistance pursuant to 4 VAC 25–130–795.9.'' Also, the phrase ''laboratory services performed pursuant to this Part'' is changed to read ''services rendered.''

Subdivision 795.12(a)(2) is amended to change the 100,000 ton limit to 300,000 tons. This provision is also amended to provide that the tonnage will be determined during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit. Prior to this change, the tonnage was determined during any consecutive 12-month period either during the term of the permit for which assistance is provided or during the first 5 years after issuance of the permit whichever is shorter.

Subdivision 795.12(a)(3) is amended to change the 100,000 ton limit to 300,000 tons. This provision is also amended to provide that if the mining rights granted under the permit are sold, transferred or assigned to another person, the tonnage will be determined during the 12 months immediately following the date on which the permit was originally issued. Prior to this change, the tonnage was determined during any 12-month period of the remaining term of the permit. The deleted language was also deleted from the Federal regulations in 1994.

Subdivisions 4 VAC 25–130–795.12(b) and (c) are deleted. Subdivision 795.12(b) concerned the submission of notarized production reports. Subdivision 795.12(c) defined the term ''attributed production.'' These deleted subsections are not requirements under 30 CFR 795.12.

We find that with these changes, the State provision addresses all the provisions of and is no less effective than 30 CFR 795.12 and can be approved.

IV. Summary and Disposition of Comments

Federal Agency Comments

According to 30 CFR 732.17(h)(11)(i), we solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Virginia program. The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) responded and stated that the amendments are appropriate and there appears to be no conflict with MSHA regulations.

Public Comments

We solicited public comments on the amendment. No comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written

concurrence of the EPA with respect to any provisions of the State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the amendments that Virginia proposed pertain to air or water quality standards. Therefore, EPA's concurrence with the proposed amendment is not necessary.

Pursuant to 732.17(h)(11)(I), we solicited comments on the proposed amendment from EPA. The EPA did not provide any comments.

V. Director's Decision

Based on the above findings, we approve the amendments submitted by Virginia on August 2, 1999, and amended on October 1 and October 28, 1999.

To implement this decision, we are amending the Federal regulations at 30 CFR part 946 which codifies decisions concerning the Virginia program. We are making this final rule effective immediately to expedite the State program amendment process, and to encourage Virginia to bring its program into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 15, 1999.

H. Vann Weaver,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 946—VIRGINIA

1. The authority citation for Part 946 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 946.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 946.15 Approval of Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
August 2, 1999	December 27, 1999	Statute: 45.1–235 C of the Code of Virginia. Regulations: 4 VAC 25–130–700.5; 795.1; 795.6(a)(2); 795.7(e)(2) [deleted], and (e)(5) [deleted]; 795.8(a) and (b); 795.9(a), (b)(1) through (b)(6); 795.10(a)(5), (b), (c) [deleted] and (d) [deleted]; 795.11(b); 795.12(a), (a)(2), (a)(3), (b) [deleted], and (c) [deleted].

[FR Doc. 99–33464 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–99–046]

RIN 2115–AA97

Safety Zone Regulation; Fireworks Display, Willamette River, Portland, Oregon

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the waters of Willamette River in the vicinity of Portland, Oregon from 11:30 p.m. (PST) on December 31, 1999 to 12:30 a.m. (PST) January 1, 2000. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with the fireworks display. The safety zone will encompass all waters of the Willamette River at Portland, Oregon River from the Hawthorne Bridge (Willamette River Mile 13.1) to the Marquam Bridge (Willamette River Mile 13.6). Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective from 11:30 p.m. (PST) on December 31, 1999 to 12:30 a.m. (PST) January 1, 2000.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD13–99–046, and are available for inspection or copying at the U.S. Coast Guard Group/MSO Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7:00 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Tom Allan, c/o Captain of the Port, Portland 6767 N. Basin Avenue, Portland, Oregon 97217, (503) 240 9327.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the fireworks launching barge. Due to the complex planning and coordination, the event sponsor, the American West Steamboat Co., was unable to provide the Coast Guard with notice of the final details until less than 45 days prior to the date of the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

The Coast Guard is adopting a temporary safety zone regulation to allow a safe fireworks display. The fireworks display is scheduled to start at midnight on December 31, 1999. This event may result in a number of vessels congregating near the fireworks launching barge. The zone is needed to protect watercraft and their occupants from safety hazards associated with fireworks display. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal agencies and local agencies.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 CFR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures act of DOT is unnecessary. This expectation is based on the fact that the regulated area established by the proposed regulation would encompass less than one mile of the Willamette River for a period of only one hour.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit a portion of the Willamette River from 11:30 p.m. (PST) on December 31, 1999 to 12:30 a.m. (PST) January 1, 2000. This safety zone will not have significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only one hour in the evening when vessel traffic is low. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this final rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

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.

Civil Justice Reform

This rule 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.

Protection of Children

We have analyzed this rule under E.O. 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 risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for temporary safety zones of less than one week in duration. This rule establishes a safety zone with a duration of one hour. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

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

2. A temporary § 165.T13–035 is added to read as follows:

§ 165.T13–035 Safety Zone; Willamette River, Portland, Oregon.

(a) *Location.* The following area is a safety zone: All waters of the Willamette River at Portland, Oregon River from the Hawthorne Bridge (Willamette River Mile 13.1) to the Marquam Bridge (Willamette River Mile 13.6).

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

(c) *Effective dates.* This regulation is effective on December 31, 1999 at 11:30 p.m. (PST) through January 1, 2000 at 12:30 a.m. (PST).

Dated: December 6, 1999.

James D. Spitzer,

Captain, Coast Guard, Captain of the Port.

[FR Doc. 99–33473 Filed 12–23–99; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300954; FRL–6394–9]

RIN 2070–AB78

Maneb; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for combined residues of the fungicide maneb (manganous ethylenebisdithiocarbamate), calculated as zinc ethylenebisdithiocarbamate and its metabolite ethylenethiourea in or on walnuts at 0.05 part per million (ppm) for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on walnuts. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective December 27, 1999. Objections and requests for hearings, identified by docket control number OPP–300954, must be received by EPA on or before February 25, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300954 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–9364; and e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing 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 under ''FOR FURTHER INFORMATION CONTACT.''

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300954. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of

the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of March 17, 1999 (64 FR 13097) (FRL–6067–9), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established a time-limited tolerance for the combined residues of maneb and its metabolite in or on walnuts at 0.05 ppm, with an expiration date of December 31, 2000. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of maneb on walnuts for this year's growing season due to the continued increase of bacterial blight in California as a result of the development of a tolerance to copper based bactericides. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of maneb on walnuts for control of bacterial blight in California.

EPA assessed the potential risks presented by residues of maneb in or on walnuts. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of March 17, 1999 (64 FR 13097). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on walnuts after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300954 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 25, 2000.

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

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

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300954, to: Public

Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

IV. Regulatory Assessment Requirements

This final rule extends a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 180

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

Dated: December 3, 1999.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

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

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

§ 180.110 [Amended]

2. In § 180.110, by amending the table in paragraph (b) by revising the date ''12/31/00'' to read ''12/31/01''.

[FR Doc. 99–33454 Filed 12–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300953; FRL–6394–5]

RIN 2070–AB78

Glufosinate Ammonium; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for combined residues of the herbicide glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt and its metabolite, 3-methylphosphinico-propionic acid in or on sweet corn (kernels and cob with husk removed), sweet corn forage, and sweet corn stover at 4.0 part per million (ppm) for forage, kernels and cobs and 6.0 ppm for stover for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on

sweet corn. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective December 27, 1999. Objections and requests for hearings, identified by docket control number OPP–300953, must be received by EPA on or before February 25, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300953 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–6463; and e-mail address: madden.barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing 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 under ''FOR FURTHER INFORMATION CONTACT.''

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300953. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of August 18, 1999 (64 FR 44829) (FRL–6092–8), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the combined residues of glufosinate ammonium and its metabolites in or on sweet corn (kernels and cob with husk removed) and sweet corn forage at 4.0 ppm and sweet corn stover at 6.0 ppm, with an expiration date of December 1, 1999. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA originally established these tolerances based on percent of corn treated in the state of Wisconsin only. After publishing the tolerance, the Minnesota Department of Agriculture requested the use of glufosinate ammonium under section 18 of FIFRA to control weeds in sweet corn. EPA received a request to extend the use of glufosinate ammonium on sweet corn in states other than Wisconsin for this year's growing season due to the fact that there are no effective herbicides available to control weeds in sweet corn in Minnesota. After having reviewed the submission, EPA concurs that emergency conditions exist in Minnesota. EPA has authorized under FIFRA section 18 the use of glufosinate ammonium on sweet corn for control of weeds in sweet corn.

EPA recently assessed the potential risks presented by residues of glufosinate ammonium in or on sweet corn while evaluating the risk for pending section three applications for almonds, grapes, potatoes, corn, transgenic soybeans and the tree nuts group. The aggregate risk assessments conducted for these crops included the sweet corn use authorized under section 18 of FIFRA and assumed 100 percent of the sweet corn crop treated. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of November 4, 1999 (64 FR 60112) (FRL–6391–5). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 2-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in

or on sweet corn after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300953 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 25, 2000.

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

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

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300953, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

IV. Regulatory Assessment Requirements

This final rule extends time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology

Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 180

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

Dated: December 3, 1999.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

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

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

§ 180.473 [Amended]

2. In § 180.473, by amending in the table in paragraph (b) the entries for ''corn, sweet, forage''; ''corn, sweet, kernels and cobs with husks removed''; and ''corn, sweet, stover'' by revising the date ''12/1/99'' to read ''12/31/01''.

[FR Doc. 99–33453 Filed 12–23–99; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 12

RIN 1090–AA67

Administrative and Audit Requirements and Cost Principles for Assistance Programs

AGENCY: Office of the Secretary, Interior

ACTION: Interim rule; request for comments.

SUMMARY: This interim rule is in response to the issuance of Executive Order 13043 of April 16, 1997, ''Increasing Seat Belt Use in the United States.'' Section 1(c) requires that each Federal agency, in contracts, subcontracts, and grants entered into after the date of the Order, shall seek to encourage contractors, subcontractors, and grantees to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. Section 2 of the Order directs all agencies of the executive branch to promulgate rules and take other appropriate measures within their existing programs to further the policies of the Order.

The Department is publishing this rule in the absence of a Government-wide implementation of this policy for its applicability to grants awarded, and in order to provide a regulatory basis for the inclusion of a provision in grants and cooperative agreements awarded by the Department. In the event that the Office of Management and Budget chooses to implement this requirement through the issuance of a Government-wide directive, the Department will revise this regulation, as appropriate.

DATES: Effective Date: This rule is effective December 27, 1999.

Comments. Comments must be received by January 26, 2000.

ADDRESSES: If you wish to comment, you may submit your comments by one of several methods. You may mail comments to the U.S. Department of the Interior, Director, Office of Acquisition and Property Management, 1849 C St., NW, Mail Stop 5512, Washington, D.C. 20240. You may also comment via the Internet to http://www.doi.gov/pam/rin1090-aa67.html. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: RIN 1090–AA67'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 208–6352. Finally, you may hand-deliver comments to 1849 C Street, NW, Mail Stop 5512, Washington, D.C. 20240. We will make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Debra E. Sonderman, (Director, Office of Acquisition and Property Management), (202) 208–6431.

SUPPLEMENTARY INFORMATION: On April 16, 1997, Executive Order 13043, ''Increasing Seat Belt Use in the United States,'' was signed by President Clinton. Section 1 (c) directed each Federal agency, in contracts, subcontracts, and grants entered into after the date of the Order, to encourage contractors, subcontractors, and grantees to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned

vehicles. Section 2 directed all agencies of the executive branch to promulgate rules and take other appropriate measures within their existing programs to further the policies of the Order.

The Department is revising Subpart A of 43 CFR Part 12, to implement the requirements of the Executive Order for grants/cooperative agreements awarded by bureaus/offices. The requirements also apply to subawards made under a grant or cooperative agreement.

The Office of Management and Budget (OMB) generally publishes governmentwide administrative requirements for grants and cooperative agreements and agencies implement these requirements in implementing regulations. Agencies have not been officially notified by OMB that they intend to publish governmentwide requirements in response to Executive Order 13043.

Because of the need for an implementation of the requirements, the Department is publishing this regulation to cover its own awards. Furthermore, through this regulation the Department will include a provision in grants and cooperative agreements awarded by the Department encouraging recipients to adopt and enforce on-the-job seat belt use policies and programs consistent with the Executive Order.

Compliance With Laws, Executive Orders, and Department Policy

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

This rule does not raise novel legal or policy issues.

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The Department has determined that this rule will not have a significant economic impact on small entities since any efforts undertaken by grantees to implement the requirements of the Order are not expected to have a significant economic impact and no additional costs will be imposed as a result of the rule. Most grantees probably already have programs in place to conduct education and awareness programs about the importance of wearing seat belts and the consequences of not wearing them.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. Most grantees probably already have programs in place to conduct education and awareness programs about the importance of wearing seat belts and the consequences of not wearing them.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Grantees are being encouraged to adopt and enforce on-the-job seat belt use policies and programs and no additional costs are expected to be imposed.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on the fact that the provision simply encourages Federal grantees to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. Federal grantees are also encouraged to conduct education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Grantees are being encouraged to adopt and enforce on-the-job seat belt use policies and programs and no additional costs are expected to be imposed. Most grantees probably already have programs in place to conduct education and awareness programs about the importance of wearing seat belts and the consequences of not wearing them. No additional costs are expected to be imposed. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. No takings of personal property will occur as a result of this rule.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Awards to governmental entities are governed by 43 CFR Part 12, Subpart C. Under section 12.76, a State is required to ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Therefore, this requirement will not be considered as interference by the Federal Government with State rights as described in Executive Order 13132. A Federalism Assessment is not required.

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, § 12.2 Policy.) (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule?

What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW,

Washington, DC 20240. You may also e-mail the comments to this address:

Exsec@ios.doi.gov

List of Subjects in 43 CFR Part 12

Administrative practice and procedure, Contract programs, Cooperative agreements, Grant programs, Grants administration, Reporting and recordkeeping requirements.

Dated: December 13, 1999.

Robert J. Lamb,

Acting Assistant Secretary—Policy, Management and Budget.

PART 12—[AMENDED]

Accordingly, Part 12 of title 43 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 12 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 6101 note, 7501; 41 U.S.C. 252a, 701 *et seq;* Pub. L. 104–256, 110 Stat. 1396; sec. 501, Pub. L. 105–62, 111 Stat. 1338; sec. 503, Pub. L. 105-62, 111 Stat. 1339; sec. 303, Pub. L. 105–83, 111 Stat. 1589; sec. 307, Pub. L. 105–83, 111 Stat.1590; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12674, 3 CFR, 1989 Comp., 215; E.O. 12689, 3 CFR, 1989 Comp., p. 235; E.O. 12731, 3 CFR, 1990 Comp., p. 306; E.O. 13043, 62 FR 19217; 3 CFR, 1997 Comp., p. 195; OMB Circular A–102; OMB Circular A–110; and OMB Circular A–133.

Subpart A—Administrative and Audit Requirements and Cost Principles for Assistance Programs

2. Section 12.2 is amended by adding paragraph (e) to read as follows:

§ 12.2 What policies are financial assistance awards and subawards in the form of grants and cooperative agreements subject to?

* * * * *

(e)(1) Executive Order 13043, ''Increasing Seat Belt Use in the United States,'' dated April 16, 1997, do?

(i) If you are a Federal grantee:

You are encouraged to—

(A) Adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally-owned vehicles.

(B) Conduct education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

(2) When does the policy apply?

(i) If a grant or cooperative agreement is being awarded by the bureau/office of the Department—The policy applies.

(ii) If the recipient awards a grant or cooperative agreement to a subrecipient—The policy applies.

(3) What term and condition will be incorporated into the grant/cooperative agreement or sub-award?

Provision

Recipients of grants/cooperative agreements and/or sub-awards are encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

End of Provision.

[FR Doc. 99–33165 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–RF–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. RSOR–6; Notice No. 47]

RIN 2130–AA81

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2000

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Determination.

SUMMARY: Using data from Management Information System annual reports, FRA has determined that the 1998 rail industry random testing positive rate was .82 percent for drugs and .21 percent for alcohol. Since the industry-wide random drug testing positive rate continues to be below 1.0 percent, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 2000 through December 31, 2000 will remain at 25 percent of covered railroad employees. Since the random alcohol testing violation rate has remained below .5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will be lowered to 10 percent of covered railroad employees for the period January 1, 2000 through December 31, 2000.

DATES: This notice is effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Mail Stop 25, Federal Railroad Administration, 1120 Vermont Avenue, N.W., Washington, D.C. 20005, (Telephone: (202) 493–6313).

SUPPLEMENTARY INFORMATION:

Administrator's Determination of 2000 Random Drug and Alcohol Testing Rates

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced that it will set future minimum random drug and alcohol testing rates according to the rail industry's overall positive rate, which is determined using annual railroad drug and alcohol program data taken from FRA's Management Information System. Based on this data, the Administrator publishes a **Federal Register** notice each year, announcing the minimum random drug and alcohol testing rates for the following year (see 49 CFR 602 and 608).

Under this performance-based system, FRA may lower the minimum random drug testing rate to 25 percent whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at 50 percent. (For both drugs and alcohol, FRA reserves the right to consider other factors, such as the number of positives in its post-accident testing program, before deciding whether to lower annual minimum random testing rates.) FRA will return the rate to 50 percent if the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year.

In 1994, FRA set the 1995 minimum random drug testing rate at 25 percent because 1992 and 1993 industry drug testing data indicated a random drug testing positive rate below 1.0 percent; since then FRA has continued to set the minimum random drug testing rate at 25 percent as the industry positive rate has consistently remained below 1.0 percent. In this notice, FRA announces that the minimum random drug testing rate will stay at 25 percent of covered railroad employees for the period January 1, 2000 through December 31, 2000, since the industry random drug testing positive rate for 1998 was .82 percent.

FRA implemented a parallel performance-based system for random alcohol testing. Under this system, FRA may lower the minimum random alcohol testing rate to 10 percent whenever the industry-wide violation rate is less than .5 percent for two calendar years while testing at a higher rate. FRA will raise the rate to 50 percent if the industry-wide violation rate is 1.0 percent or higher in any subsequent calendar year. If the industry-wide violation rate is less than 1.0 percent but greater than .5 percent, the rate will remain at 25 percent.

Random alcohol testing was fully implemented at a 25 percent minimum

testing rate on January 1, 1996. In 1998, the industry-wide violation rate for alcohol was .21 percent. Since the industry-wide violation rate for alcohol has remained below .5 percent for the last two years, FRA is lowering the minimum random alcohol testing rate to 10 percent of covered railroad employees for the period January 1, 2000 through December 31, 2000.

This notice sets the minimum random testing rates required next year. Railroads remain free, as always, to conduct random testing at higher rates.

Issued in Washington, D.C. on December 20, 1999.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 99–33401 Filed 12–23–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 991221344–9344–01; I.D. 121099A]

RIN 0648–AN44

Western Pacific Pelagic Fisheries; Hawaii-based Pelagic Longline Area Closure

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

ACTION: Emergency rule; notice of closure; request for comments.

SUMMARY: NMFS issues an emergency rule to prohibit vessels registered for use under a Hawaii longline limited access permit from fishing with longline gear within the area north of 28° N. lat. and between 168° W. long. and 150° W. long. NMFS is also prohibiting vessels registered for use with receiving vessel permits from receiving Pacific pelagic management unit species harvested with longline gear while those receiving vessels are in the closed area. No vessel may land or transship, shoreward of the outer boundary of the EEZ, pelagic fish harvested by longline gear in the closed area. The closure is an interim measure in response to the Order Setting Terms of Injunction issued by the U.S. District Court, District of Hawaii, dated November 23, 1999. The intended effect is to implement the court-ordered closure and reduce adverse impacts to sea turtles by curtailing activities of the Hawaiian longline fishery while an environmental impact statement (EIS) is being prepared.

DATES: This rule is effective 12:01 a.m., local time, December 23, 1999, through 12:01 a.m., local time, June 26, 2000. Comments must be received no later than 5:00 p.m., local time, on February 10, 2000.

ADDRESSES: Written comments on this action must be mailed to Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700; or faxed to 808–973–2941. Comments will not be accepted if submitted via e-mail or internet. Copies of the environmental assessment prepared for this action may be obtained from Alvin Katekaru or Marilyn Luipold, PIAO.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru or Marilyn Luipold, 808–973–2937.

SUPPLEMENTARY INFORMATION: The Hawaii-based longline fishery is managed under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). The FMP was prepared by the Western Pacific Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 660.

On October 6, 1999, NMFS announced its intent to prepare an EIS on management of the fishery for pelagic species in waters of the exclusive economic zone (EEZ) in the Western Pacific Region. Additionally, NMFS announced its intention to prepare an environmental assessment (EA) for that fishery. The scope of the EA includes all activities related to the conduct of the fishery for the 2-year period NMFS anticipates is necessary to prepare the EIS. Both the EIS and the EA examine the impacts of pelagics harvest on, among other things, sea turtles and seabirds.

On November 23, 1999, the U.S. District Court, District of Hawaii, ordered NMFS to prohibit, within 30 days of the date of entry of the Order, ''all activities of the Hawaii longline fishery authorized by the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region, as amended, within the area encompassed and bounded by the following description: north of 28° N. and between 168° W. and 150° W.'' To comply with the Court Order, NMFS is implementing the Court-ordered closure by emergency action. This action closes an area to longline fishing that was the source of approximately 30 percent of the revenue received from swordfish landings and approximately 13 percent of the total revenue from all species landed by the Hawaii-based longline fleet.

Accordingly, NMFS prohibits all vessels registered for use under a Hawaii longline limited access permit from fishing with longline gear within the area north of 28° N. lat. and between 168° W. long. and 150° W. long. NMFS also prohibits vessels registered for use with receiving vessel permits (issued under the regulations at 50 CFR 660.21(c)) from receiving Pacific pelagic management unit species harvested with longline gear while those receiving vessels are in the closed area. No vessel may land or transship, shoreward of the outer boundary of the EEZ, pelagic fish harvested by longline gear in the closed area.

The closure is being implemented by emergency action under the authority of section 305(c) of the Magnuson-Stevens Act. Under 305(c)(3), the emergency regulation may remain in effect for not more than 180 days after the date of publication, and may be extended for one additional period of not more than 180 days. The emergency regulation may also be terminated at an earlier date.

Criteria for Issuing an Emergency Rule

This emergency rule meets NMFS policy guidelines for the use of emergency rules (62 FR 44421, August 21, 1997), because the emergency situation results from recent, unforeseen events, or recently discovered circumstances. Also, it realizes immediate benefits from the emergency rule that outweigh the value of prior notice, opportunity for public comment, and deliberative consideration expected under the normal rulemaking process.

Recent, Unforeseen Events or Recently Discovered Circumstances

The Court-ordered closure was issued November 23, 1999, and allows 30 days for implementation. Emergency action is necessary to comply with the Order and implement the closure by December 23, 1999. To be effective by then, an emergency rule is needed.

Immediate Benefits

This rule is not likely to have a significant effect on tuna harvests. Although there are many variables that may confound accurate predictions about the effects upon different sea turtle species, NMFS anticipates the closure will have a positive benefit on sea turtles in general.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this emergency rule is necessary to comply with a valid order of the U.S. District Court. The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

NMFS prepared an EA for this rule that describes the impact on the human environment that would result from this rule and found that no significant impact would result. This emergency rule is of limited duration and is expected to result in a reduction of overall sea turtle interactions. Copies of the environmental assessment are available (see **ADDRESSES**).

The AA finds that this rule, which is being implemented under section 305(c) of the Magnuson-Stevens Act, must become effective on December 23, 1999, to comply with the Order issued by the U.S. District Court, District of Hawaii. The Order requires that NMFS implement a longline area closure within 30 days from the date of issuance of the Order (November 23, 1999). Under section 305(c) of the Magnuson-Stevens Act, this rule may remain in effect for not more than 180 days after the date this notification is published, and may be extended for one additional period of not more than 180 days. The AA finds good cause to waive the requirement to provide prior notice and the opportunity for public comment, 5 U.S.C. 553(b)(B), as such procedures would be impracticable. Similarly, the need to implement the Court-ordered measure in a timely manner constitutes good cause under 5 U.S.C. 553(d)(3) to waive delayed effectiveness of the rule.

This emergency rule has been determined to be not significant for purposes of E.O. 12866.

Because this rule is not required to be published with notice and opportunity for public comment under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act do not apply.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

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

Dated: December 21, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.22, new paragraphs (z) through (bb) are added to read as follows:

§ 660.22 Prohibitions.

* * * * *

(z) Fish with a vessel registered for use under a Hawaii longline limited access permit using longline gear within the area north of 28° N. lat. and between 168° W. long. and 150° W. long.

(aa) Land or transship shoreward of the outer boundary of the EEZ around Hawaii Pacific pelagic management unit species that were harvested with longline gear within the area north of 28° N. lat. and between 168° W. long. and 150° W. long.

(bb) Use a receiving vessel registered for use under a receiving vessel permit described in § 660.21(c) to receive from another vessel Pacific pelagic management unit species harvested with longline gear, if the fish were harvested or the transfer occurs within the area north of 28° N. lat. and between 168° W. long. and 150° W. long.

[FR Doc. 99–33494 Filed 12–21–99; 4:17 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 64, No. 247

Monday, December 27, 1999

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI95

Prevailing Rate Systems; Redefinition of the Southern and Western Colorado Appropriated Fund Wage Areas

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing a proposed rule that would redefine Eagle, Garfield, Lake, Pitkin, Rio Blanco, and Routt Counties, Colorado, from the Southern and Western Colorado appropriated fund Federal Wage System (FWS) wage area to the area of application of the Denver wage area, and redefine Mesa County, CO, from the Southern and Western Colorado FWS wage area to the area of application of the Utah FWS wage area. In addition, we propose to change the name of the Southern and Western Colorado FWS wage area to Southern Colorado.

The redefinition of Eagle, Garfield, Lake, Mesa, Pitkin, Rio Blanco, and Routt Counties, CO, would more accurately reflect the regulatory criteria used to define FWS wage areas. The change in the wage area name to the Southern Colorado FWS wage area would more accurately describe the geographic coverage of the redefined wage area.

DATES: Comments must be received by January 26, 2000.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins by phone at (202) 606–2848, by FAX at (202) 606–0824, or by email at jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is engaged in an ongoing project to review the geographic definitions of selected appropriated fund Federal Wage System (FWS) wage areas. The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has recommended by consensus that we redefine Eagle, Garfield, Lake, Pitkin, Rio Blanco, and Routt Counties, Colorado, from the Southern and Western Colorado appropriated fund FWS wage area to the area of application of the Denver FWS wage area, and redefine Mesa County, CO, from the Southern and Western Colorado FWS wage area to the area of application of the Utah FWS wage area. After careful consideration of FPRAC's recommendations, and based on the regulatory criteria for defining FWS wage areas, we have found that it is appropriate to redefine these counties. In addition, FPRAC recommended that the name of the Southern and Western Colorado wage area be changed to Southern Colorado. Although FPRAC carefully considered the possibility of recommending other changes in the Southern and Western Colorado FWS wage area, the Committee did not find that additional changes would be appropriate at this time.

Section 532.211 of title 5, Code of Federal Regulations, lists the following criteria for consideration when OPM defines FWS wage area boundaries:

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

(ii) Commuting patterns; and

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

The Southern and Western Colorado wage area continues to meet all regulatory requirements to remain a separate wage area. There are currently about 1,800 FWS workers in the wage area. The wage area's host activity, the United States Air Force Academy, still has the capacity to host annual local wage surveys. In addition, local wage surveys in the Southern and Western Colorado survey area find more than sufficient local private industry wage data to satisfy the regulatory criteria for FWS wage survey adequacy under 5 CFR 532.239.

Based on an analysis of the regulatory criteria for defining FWS wage areas, FPRAC found sufficient rationale to recommend that OPM redefine Eagle, Garfield, Lake, Pitkin, Rio Blanco, and Routt Counties to the Denver wage area. The distance criterion for these counties favored the Denver wage area more than the Southern and Western Colorado wage area. The transportation facilities and geographic features criteria for these counties strongly favored the Denver wage area because the most favorable route by road from these counties goes through the present Denver wage area before reaching the Southern and Western Colorado survey area. All other criteria studied did not favor one wage area more than another.

For Mesa County, CO, the distance to the closest city criterion favored the Utah wage area, while the distance to the closest host installation criterion favored the Denver wage area. The transportation facilities and geographic features criteria favored the Utah wage area. The kinds and sizes of industry and population criteria also favored the Utah wage area. All other criteria studied had indeterminate findings. An additional factor taken into consideration for Mesa County was that the Colorado National Monument, located in Mesa County, is administratively in the same National Park Service region as most of the National Parks in Utah. Arches National Park is defined to the Utah wage area and is located just across the State line from the Colorado National Monument. Based on the regulatory criteria analysis and because of the organizational relationships and geographic proximity of National Park Service facilities in the region, FPRAC recommended that we place the Colorado National Monument in the same wage area as the Arches National Park.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 532

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

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

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

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

2. Appendix A to subpart B of part 532 is amended for the State of Colorado by removing the wage area listing for ''Southern & Western Colorado'' and adding alphabetically in its place a listing for ''Southern Colorado''.

3. Appendix C to subpart B is amended by revising the wage area listings for Denver, Colorado, and Utah, and by removing the wage area listing for Southern & Western Colorado and adding in its place a listing of Southern Colorado to read as follows:

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

* * * * *

Colorado

Denver

Survey Area

Colorado:
- Adams
- Arapahoe
- Boulder
- Denver
- Douglas
- Gilpin
- Jefferson

Area of Application. Survey area plus:

Colorado:
- Clear Creek
- Eagle
- Elbert
- Garfield
- Grand
- Jackson
- Lake
- Larimer
- Logan
- Morgan
- Park
- Phillips
- Pitkin
- Rio Blanco
- Routt
- Sedgwick
- Summit
- Washington
- Weld
- Yuma

Southern Colorado

Survey Area

Colorado:
- El Paso
- Pueblo
- Teller

Area of Application. Survey area plus:

Colorado:
- Alamosa
- Archuleta
- Baca
- Bent
- Chaffee
- Cheyenne
- Conejos
- Costilla
- Crowley
- Custer
- Delta
- Dolores
- Fremont
- Gunnison
- Hinsdale
- Huerfano
- Kiowa
- Kit Carson
- Las Animas
- Lincoln
- Mineral
- Montrose
- Otero
- Ouray
- Pitkin
- Prowers
- Rio Grande
- Saguache
- San Juan
- San Miguel

* * * * *

Utah

Survey Area

Utah:
- Box Elder
- Davis
- Salt Lake
- Tooele
- Utah
- Weber

Area of Application. Survey area plus:

Utah:
- Beaver
- Cache
- Carbon
- Daggett
- Duchesne
- Emery
- Garfield
- Grand
- Iron
- Juab
- Millard
- Morgan
- Piute
- Rich
- San Juan (Only includes the Canyonlands National Park portion.)
- Sanpete
- Sevier
- Summit
- Uintah
- Wasatch
- Washington
- Wayne

Colorado:
- Mesa
- Moffat

[FR Doc. 99–33364 Filed 12–23–99; 8:45 am]

BILLING CODE 6325–01–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 360 and 361

[Docket No. 99–064–1]

Noxious Weeds; Update of Weed and Seed Lists

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule and notice of public hearing.

SUMMARY: We are proposing to amend the noxious weeds regulations by adding *Homeria* spp. (Cape tulips) to the list of terrestrial weeds. Listed noxious weeds may be moved into or through the United States or interstate only under a written permit and under conditions that would not involve a danger of dissemination of the weeds. This action appears to be necessary to prevent the artificial spread of noxious weeds into noninfested areas of the United States.

DATES: Consideration will be given only to comments received on or before February 25, 2000. We will also consider comments made at a public hearing to be held on February 1, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–064–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–064–1.

The public hearing will be held at the USDA Center at Riverside, room 3B01, 4700 River Road, Riverdale, MD. Picture identification is required to gain access to the building. Parking is available next to the building for a $3 fee (please have quarters or $1 bills available). The nearest Metro station is the College Park station on the Green Line, which is within walking distance.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Ms. Polly Lehtonen, Botanist, Permits and Risk Assessment, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–8896.

SUPPLEMENTARY INFORMATION:

Background

The noxious weed regulations were promulgated under authority of the Federal Noxious Weed Act (FNWA) of 1974, as amended (7 U.S.C. 2801 *et seq.*), and are set forth in 7 CFR part 360. They contain restrictions on the movement of listed noxious weeds into or through the United States and interstate.

Under the authority of the Federal Seed Act (FSA) of 1939, as amended (7 U.S.C. 1551 *et seq.*), the US Department of Agriculture (USDA) regulates the importation and interstate movement of certain agricultural and vegetable seeds and screenings. Title III of the FSA, ''Foreign Commerce,'' requires shipments of imported agricultural and vegetable seeds to be labeled correctly and to be tested for the presence of the seeds of certain noxious weeds as a condition of entry into the United States. The Animal and Plant Health Inspection Service's (APHIS) regulations implementing the provisions of title III of FSA are found in 7 CFR part 361. A list of noxious weed seeds is contained in § 361.6. Paragraph (a)(1) of § 361.6 lists species of noxious weed seeds with no tolerances applicable to their introduction into the United States.

The FNWA defines a noxious weed as ''any living stage (including but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish or wildlife resources of the United States or the public health.''

In this document we are proposing to amend the regulations by adding *Homeria* spp. (Cape tulips) to the list of terrestrial noxious weeds in § 360.200(c) and to the list of seeds with no tolerances applicable to their introduction in § 361.6(a)(1).

Homeria spp. (Cape tulips) are not known to exist in the United States in the wild. However, *Homeria* spp. have been imported into the United States under the Bulb Preclearance Program since 1994, with increasing numbers of imports each year. We estimate that over 1.8 million *Homeria* spp. corms were received in the United States between July 1994 and March 1999. However, data on the distribution of *Homeria* spp. are not available. We are requesting that the public help us determine which species of *Homeria* spp. are being planted and where. If we determine, based on public comments, that some species of *Homeria* spp. have become widespread in the United States, those species will not be included in final listing of noxious weeds.

Because APHIS conducts no weediness screening for nursery stock, we placed no restrictions on the importation of *Homeria* spp. because no evidence was available to suggest it was an invasive genus. However, as explained in detail below, APHIS has recently conducted a pest risk assessment that identifies *Homeria* spp. as a genus that presents a high pest risk to American agriculture.

Homeria spp. as a Contaminant in Australian Oats

Until recently, the importation of Australian oats was prohibited because such shipments often contain wheat seeds, which were prohibited entry into the United States under the wheat diseases regulations, contained in 7 CFR part 319, § § 319.59 through 319.59–2. In December 1998, APHIS decided to stop prohibiting the entry of nonpropagative materials contaminated with disease-free wheat seeds. This change renewed interest in the United States in importing Australian oats for consumption.

As a result, prospective importers submitted seed analysis reports from Australian oats to APHIS to see if any other contaminants, particularly noxious weeds, might present a risk to plant resources in the United States. One of the analysis reports listed *Homeria* spp. as a potentially threatening invasive noxious weed that could be present in shipments of Australian oats. Introduced into Australia as ornamental plants between 1840 and 1850, *Homeria* spp. are now listed by five Australian States as noxious weeds.

Given Australia's identification of *Homeria* spp. as noxious weeds, APHIS conducted a pest risk assessment on the potential effects of *Homeria* spp. on U.S. agriculture and the natural environment. By the time the first shipment of Australian oats reached the United States, APHIS had gathered sufficient information to conclude that *Homeria* spp. present a high pest risk to U.S. agriculture.

APHIS inspectors found seeds of *Homeria* spp. in the initial shipments of Australian oats to the United States. This was problematic. Although *Homeria* spp. nursery stock has been imported into the United States for several years without restriction, the risk to agriculture associated with importations of nursery stock, while high, is not as serious as the risk associated with *Homeria* spp. imported as a contaminant of Australian oats. Since the imported oats are likely to be used as a feed for horses, it is likely that the *Homeria* spp. seeds could be introduced into grazing lands and paddocks, where they could do the following:

- Poison livestock and/or humans. Livestock may die within 12 hours or less after ingesting the leaves.
- Reproduce and persist in prolific fashion, thus crowding out desirable plants and competing with them for soil nutrients, reducing the carrying capacity of pastures and reducing crop yields.

Historical data show that, in the 1980's in South Africa, poisoning from *Homeria* spp. and a related genus resulted in losses of $2.5 to $3 million per year in livestock. All classes of livestock are susceptible, but cattle, sheep, goats, and donkeys are most likely to suffer poisoning under natural conditions. Further, since *Homeria* spp. could grow on cultivated land, they may be cut with forage and cause poisoning in stall-fed animals.

Contaminated oats are likely to introduce *Homeria* spp. into the areas where they pose the greatest threat to U.S. agriculture. Listing this weed would help avert the introduction and help prevent the artificial spread of the weed into noninfested areas of the United States. Therefore, we are proposing to add *Homeria* spp. (Cape tulips) to the list of terrestrial weeds in § 360.200(c) and to the list of seeds with no tolerances applicable to their introduction in § 361.6(a)(1). If listed as a noxious weed, all forms of *Homeria* spp., including nursery stock, could be prohibited entry into the United States. However, as stated earlier in this document, if we find evidence that certain species are already widespread due to several years of availability in the nursery trade, we will make exceptions to the *Homeria* spp. noxious weed listing for those species.

Public Hearing

APHIS will host a public hearing to provide interested persons a full opportunity to present their views

regarding this proposal. The hearing will be held on February 1, 2000, at the USDA Center at Riverside, room 3B01, 4700 River Road, Riverdale, MD.

A representative of APHIS will preside at the public hearing. Any interested person may appear and be heard in person, by attorney, or by other representative. Persons who wish to speak at the public hearing will be asked to sign in, listing their names and organizations.

The public hearing will begin at 10 a.m. local time and is scheduled to end at 12 noon local time. However, the hearing may be terminated at any time after it begins if all persons desiring to speak have been heard. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing. If the number of speakers at a hearing warrants it, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

The purpose of the hearing is to give interested persons an opportunity for oral presentations of data, views, and arguments. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to comments at a hearing, except to clarify or explain provisions of the proposed rules.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set forth below, regarding the economic effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the economic effects of this rule on small entities. Therefore, we are inviting comments concerning potential economic effects. In particular, we are interested in determining the number and kinds of small entities that may incur benefits or costs from implementation of this proposed rule.

In accordance with the FNWA, the Secretary of Agriculture is authorized to promulgate regulations to prevent the movement of any noxious weed into the United States, or interstate, except under conditions prescribed by the Secretary.

This proposed rule would add *Homeria* spp. (cape tulips) to the list of Federal noxious weeds and to the list of seeds with no tolerances applicable to their introduction.

Homeria spp. (Cape tulips) are not known to exist in the United States in the wild. However, *Homeria* spp. have been imported into the United States under the Bulb Preclearance Program since 1994, with increasing numbers of imports each year. We estimate that over 1.8 million *Homeria* spp. corms were received in the United States between July 1994 and March 1999. However, data on the distribution of *Homeria* spp. are not available. If all species of *Homeria* spp. are listed as noxious weeds, persons who import or purchase *Homeria* spp., including those in the nursery trade, could be affected. However, data on the number and location of persons who import or purchase *Homeria* spp. are not available.

As stated above, *Homeria* spp. nursery stock has been imported into the United States for several years without restriction. Recently, APHIS inspectors found seeds of *Homeria* spp. in shipments of Australian oats to the United States. As a result of this finding, APHIS conducted a risk assessment to determine the potential effects of *Homeria* spp. on U.S. agriculture. The risk assessment revealed that *Homeria* spp. may present a high risk to U.S. agriculture and that *Homeria* spp. meet the criteria for listing as a Federal noxious weed.

Since imported Australian oats are likely to be used as a feed for horses and other livestock, it is likely that the *Homeria* spp. seeds could be introduced into grazing lands and paddocks, where they could do the following:

- Poison livestock and/or humans. Livestock may die within 12 hours or less after ingesting the leaves.
- Reproduce and persist in prolific fashion, thus crowding out desirable plants and competing with them for soil nutrients, reducing the carrying capacity of pastures and reducing crop yields.

Historical data show that, in the 1980's in South Africa, poisoning from *Homeria* spp. and a related genus resulted in losses of $2.5 to $3 million per year in livestock. All classes of livestock are susceptible, but cattle, sheep, goats, and donkeys are most likely to suffer poisoning under natural conditions. Further, since *Homeria* spp. could grow on cultivated land, they may be cut with forage and cause poisoning in stall-fed animals. If *Homeria* spp. is introduced into the United States via Australian oats, U.S. livestock producers could be expected to experience livestock losses similar to those experienced by South Africa in the 1980's.

Effects on Small Entities

If listed as a noxious weed, all forms of *Homeria* spp., including nursery stock, could be prohibited entry into the United States. However, as stated earlier in this document, if we find evidence that certain species are already widespread due to several years of availability in the nursery trade, we will make exceptions to the *Homeria* spp. noxious weed listing for those species.

The unchecked spread of *Homeria* spp. into the United States can be expected to have a negative economic effect on livestock operations in the United States, whether small or large, given significant negative effects on the regions in Australia and South Africa where *Homeria* spp. are already established. In responding to the potential harm caused by *Homeria* spp. to livestock and grazing lands, one or more organizations or governmental jurisdictions in affected areas could incur control costs if the weed were to be introduced into the environment. Although the size and magnitude of such potential costs are not known, it is clear that the proposed rule, if adopted, would help to prevent the need for such expenditures.

We are aware that there are persons in the nursery trade who import and distribute *Homeria* spp. nursery stock, especially bulbs. We have no data available on the location, number, or size of those businesses; however, it is likely that the majority of those businesses could be classified as small entities. We are requesting that the public provide any available data relevant to volumes and distribution of imported *Homeria* spp. nursery stock.

We believe that adding *Homeria* spp. to the list of Federal noxious weeds would help preclude potential economic and ecological consequences that could result from its spread.

Alternatives Considered

The only significant alternative to this proposed rule would be to make no changes in the regulations; i.e., to not add *Homeria* spp. to the list of Federal noxious weeds. We have rejected the alternative of not adding *Homeria* spp. to the list of Federal noxious weeds because of the potential economic and ecological consequences that we believe would result from their spread.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects

7 CFR Part 360

Imports, Plants (Agriculture), Quarantine, Reporting and recordkeeping requirements, Transportation, Weeds.

7 CFR Part 361

Agricultural commodities, Imports, Labeling, Quarantine, Reporting and recordkeeping requirements, Seeds, Vegetables, Weeds.

Accordingly, we are proposing to amend 7 CFR parts 360 and 361 as follows:

PART 360—NOXIOUS WEED REGULATIONS

1. The authority citation for part 360 would continue to read as follows:

Authority: 7 U.S.C. 2803 and 2809; 7 CFR 2.22, 2.80, and 371.2(c).

§ 360.200 [Amended]

2. In § 360.200, paragraph (c) would be amended by adding, in alphabetical order, an entry for ''*Homeria* spp.''.

PART 361—IMPORTATION OF SEED AND SCREENINGS UNDER THE FEDERAL SEED ACT

3. The authority citation for part 361 would continue to read as follows:

Authority: 7 U.S.C. 1581–1610; 7 CFR 2.22, 2.80, and 371.2(c).

§ 361.6 [Amended]

4. In § 361.6, paragraph (a)(1) would be amended by adding, in alphabetical order, an entry for ''*Homeria* spp.''.

Done in Washington, DC, this 16th day of December 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–33423 Filed 12–23–99; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Initiation of Review of Management Plan/Regulations of the Gray's Reef National Marine Sanctuary; Intent To Prepare Draft Environmental Impact Statement and Management Plan; Scoping Meetings

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Scoping meetings.

SUMMARY: The Gray's Reef National Marine Sanctuary (GRNMS or Sanctuary) was designated in January 1981, and consists of 17 square nautical miles of open ocean and live bottom habitat approximately 17.5 nautical miles east of Sapelo Island, Georgia. The present management plan for the Sanctuary was completed in 1983. In accordance with Section 304(e) of the National Marine Sanctuaries Act, as amended, (NMSA) (16 U.S.C 1431 *et seq.*), the Marine Sanctuaries Division (MSD) of the National Oceanic and Atmospheric Administration (NOAA) is initiating a review of the management plan, to evaluate substantive progress toward implementing the goals for the Sanctuary, and to make revisions to the plan and regulations as necessary to fulfill the purposes and policies of the NMSA.

The proposed revised management plan will likely involve changes to existing policies and regulations of the Sanctuary, to address contemporary issues and challenges, and to better protect and manage the Sanctuary's resources and qualities. The review process is composed of four major stages: information collection and characterization; preparation and release of a draft management plan/environmental impact statement, and any proposed amendments to the regulations; public review and comment; preparation and release of a final management plan/environmental impact statement, and any final amendments to the regulations. NOAA anticipates that completion of the revised management plan and concomitant documents will require approximately eighteen to twenty-four months. NOAA has already conducted five public scoping meetings (as announced in the document in 64 FR 63262, November 17, 1999) to gather information and other comments from individuals, organizations, and government agencies on the scope, types and significance of issues related to the sanctuary's management plan and regulations. Because of the interest of individuals in other communities in Georgia, NOAA has decided to conduct three additional scoping meetings.

DATES: Written comments should be received on or before February 1, 2000.

Scoping meetings will be held:

(1) Tuesday, January 11, 2000, 7:00 p.m. in Statesboro, GA
(2) Wednesday, January 12, 2000, 7:00 p.m. in Savannah, GA
(3) Thursday, January 13, 2000, 7:00 p.m. in Savannah, GA

ADDRESSES: Written comments may be sent to the Gray's Reef National Marine Sanctuary (Management Plan Review), 10 Ocean Science Circle, Savannah, Georgia 31411. Comments will be available for public review at the same address.

Scoping meetings will be held at:

(1) William James Education Complex, 150 Williams Road, Statesboro, GA
(2) Georgetown Elementary School, 1516 King George Blvd., Savannah, GA
(3) Marshpoint Elementary School, 135 Whitemarsh Island Road, Savannah, GA

FOR FURTHER INFORMATION CONTACT: Becky Shortland, Planning and Outreach Coordinator, at (912) 598–2381 or 2345; Becky.Shortland@noaa.gov

Authority: 16 U.S.C. Section 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: December 20, 1999.

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 99–33424 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–08–M

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 504

RIN 3141–AA04

Classification of Games

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule; Notice of extension of time and notice of hearing.

SUMMARY: On November 10, 1999, the National Indian Gaming Commission (Commission) issued a Notice of Proposed Rulemaking (64 FR 61234,

November 10, 1999) proposing regulations that will establish a formal process for the classification of games played on Indian lands under the Indian Gaming Regulatory Act (Act). The date for filing comments is being extended and one hearing will be held.

DATES: Comments shall be filed on or before February 24, 2000. A hearing shall be held on January 24, 2000, from 9:30 a.m. to 4 p.m. at the DoubleTree Warren Hotel, 6110 South Yale, Tulsa, Oklahoma.

ADDRESSES: Comments and requests to participate in the hearing may be mailed to: Game Classification Comments, National Indian Gaming Commission, 1441 L Street, N.W., Suite 9100, Washington, D.C. 20005, delivered to that address between 8:30 a.m. and 5:30 p.m., Monday through Friday, or faxed to 202/632–7066 (this is not a toll-free number). Comments received may be inspected between 9:00 a.m. and noon, and between 2:00 p.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA, or the Act), enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). Under the Act, the Commission is charged with regulating class II gaming and certain aspects of class III gaming on Indian lands. The proposed regulations establish a formal, administrative process for deciding whether a game is a Class II or III game and allow the Commission to discontinue the current advisory classification opinion process. Several commenters have requested more time to prepare their comments on the proposed regulations. Several have also requested the opportunity to present their views directly to the Commissioners in a hearing. The Commission has determined that these regulations are of such significance that the commenters should be given additional time to determine and present their views in writing and at a hearing. Persons wishing to present their views at the hearings should contact the Commission.

Montie R. Deer,

Chairman, National Indian Gaming Commission.

[FR Doc. 99–33428 Filed 12–23–99; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–128–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Pennsylvania Regulatory Program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. Pennsylvania has submitted this proposed amendment to reflect changes made to regulations in the Pennsylvania program through the Department's Regulatory Basics Initiative (RBI). Under this initiative, regulations were revised because they were considered to be unclear, unnecessary or more stringent than the corresponding Federal regulation. The RBI resulted in the following rulemaking:

Coal Mining—Areas Unsuitable for Mining, *Pennsylvania Bulletin,* Vol. 29, No. 41, October 9, 1999.

DATES: Written comments must be received by 4:00 p.m., on January 26, 2000. If requested, a public hearing on the proposed amendment will be held on January 21, 2000. Requests to speak at the hearing must be received by 4:00 p.m., on January 11, 2000.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert J. Biggi, Director, Harrisburg Field Office at the first address listed below. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking [or administrative] record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking [or administrative] record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public meeting or hearing, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center, 415 Market Street, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

Pennsylvania Department of Environmental Protection, Bureau of Mining and Reclamation, Rachel Carson State Office Building, Post Office Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5103.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Harrisburg Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director Harrisburg Field Office, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments, can be found in the July 30, 1982, **Federal Register** (47 FR 33079). Subsequent actions concerning the Pennsylvania program amendments are identified at 30 CFR 938.15.

II. Discussion of the Proposed Amendment

By letter dated November 22, 1999 (Administrative Record No. PA–861.03, the Pennsylvania Department of Environmental Protection (PADEP) submitted a proposed amendment to its program regarding rules related to Areas Unsuitable for Mining because of the department's Regulatory Basics Initiative (RBI). Under the RBI, regulations were revised because they were considered unclear, unnecessary or were more stringent than the corresponding federal regulations.

The changes proposed by PADEP in this amendment apply to the following parts of the Pennsylvania program: 25

PA Code 86.1, 86.101–86.121, and 86.123–86.130. These changes are summarized below. Revisions concerning nonsubstantive wording, format, or organizational changes will not be described in this notice.

1. In 25 PA Code 86.1 (definitions), subsections (i) through (v) which formally defined Valid Existing Rights have been deleted and replaced by the following: ''Rights which exist under the definition of 'valid existing rights' in 30 CFR Section 761.5 (relating to areas unsuitable for mining).'' The purpose of this change is to make this section more consistent with the Federal regulations at 30 CFR 761.5.

2. In 25 PA Code 86.101 (definitions), the amendment revises the definitions of the following terms: fragile lands; historic lands; public building; public park; renewable resource lands; and significant recreational, timber, economic or other values incompatible with surface mining operations. The objectives of the revisions are consistency with the Federal regulations (at 30 CFR 700.5, 761.5, and 762.5) and, in the case of fragile lands, consistency with Pennsylvania SMCRA, Section 4.5. Specific revisions include the following:

In the definition of fragile lands, ''significantly'' is inserted in front of the word, ''damaged.'' At the end of the subsection, the amendment deletes the following: ''* * * and buffer zones adjacent to the boundaries of areas where surface mining operations are prohibited under section 4.5(h) of the Surface Mining Conservation and Reclamation Act (52 P.S. § 1396.4e(h)).''

In the definition of historic lands, the following is deleted: ''Historic or cultural districts, places, structures or objects, including archaeological and paleontological sites, National Historic Landmark sites, sites listed * * *''. This is replaced by: ''Areas containing historic, cultural or scientific resources. Examples of historic lands include archaeological sites, properties listed on * * *''.

In the definition of public building, the following is deleted: ''* * * by a public agency or used principally * * *''. This is replaced by ''* * * or leased and principally used by a government agency * * *''

In the definition of public park, ''* * * or portion of an area * * *'' is inserted after the word, ''area'' at the beginning of the subsection. In the same sentence, the word ''primarily,'' is inserted before ''* * * for public recreational use * * *'' The following final sentence has been deleted: ''For the purposes of this subchapter, local agency shall include nonprofit organizations owning lands which are dedicated or designated for public recreational use.''

The definition of renewable resource lands has been changed to: ''Areas which contribute significantly to the long-range productivity of water supply or of food or fiber products, such lands to include aquifers and aquifer recharge areas.''

In the definition of surface mining operations, the following phrase at the end of the subsection has been deleted: ''* * * and activities involved in or related to underground coal mining which are conducted on the surface of the land, produce changes in the land surface, or disturbs the surface, air or water resources of the area.''

3. 25 PA Code 86.102 (areas where mining is prohibited or limited) was revised to improve consistency with the Federal regulations (at 30 CFR 761.11 and 761.12), to recognize the role of the newly formed Department of Conservation and Natural Resources, to clarify a legal citation, and insert metric equivalents for barrier distances.

In subsection (1), following the citation, ''(16 U.S.C.A. 1276(a)),'' the following has been inserted: ''* * * or study rivers or study river corridors as established in guidelines under the act * * *''. In subsection (3), the following phrase after the word, ''included,'' has been deleted: ''* * * on or eligible for inclusion * * *''. The first part of the subsection now reads: ''Which will adversely affect a publicly-owned park or a place included on the National Register of Historic Places * * *''. In subsection (4), ''* * * the Department of Conservation and Natural Resources and * * *'' is inserted before the words, ''the Department.'' In subsection (5), ''* * * Department of Conservation and Natural Resources and the * * *'' is inserted before the word, ''Department.''

Subsection (9) has been revised to read as follows:

(9) Within 300 feet (91.44 meters) measured horizontally from an occupied dwelling, unless one or more of the following exist:

(i) The only part of the surface mining operations which is within 300 feet (91.44 meters) of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite to the dwelling.

(ii) The owner thereof has provided a written waiver by lease, deed or other conveyance clarifying that the owner and signatory had the legal right to deny surface mining operations and knowingly waived that right and consented to surface mining operations closer than 300 feet (91.44 meters) of the dwelling as specified.

(A) A valid waiver shall remain in effect against subsequent owners who had actual or constructive knowledge of the existing waiver at the time of purchase.

(B) Subsequent owners shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records or if the surface mining operations have proceeded to within the 300 foot (91.44 meters) limit prior to the date of purchase.

(iii) A new waiver is not required if the applicant for a permit had obtained a valid waiver prior to August 3, 1977, from the owner of an occupied dwelling to mine within 300 feet (91.44 meters) of such dwelling.

4. Parts of 25 PA Code 86.103 (procedures) have been revised to increase the clarity of the language and to add metric equivalents. Subsection (d) has been revised to read as follows:

(d) When the proposed surface mining operations would be conducted within 300 feet (91.44 meters) measured horizontally of any occupied dwelling, the applicant shall submit with the application a written waiver as specified in § 86.102(9) (relating to areas where mining is prohibited or limited).

In subsection (e) the word, ''may,'' following ''surface mining operations'' has been replaced by, ''will.'' The first part of the subsection now reads: ''When the proposed surface mining operations will adversely affect a publicly owned park or a place included on the National Register of Historic Places, * * *''. Also, the following has been added to subsection (e)(2):

(i) Upon request by the appropriate agency a 30-day extension may be granted.

(ii) Failure to object within the comment period shall constitute an approval of the proposed permit by that agency.

5. 25 PA Code 86.121 (areas designated unsuitable for surface mining operations) has been revised for clarity and consistency with the Federal regulations (at 30 CFR 762.13). The section's title has been changed to: ''Areas exempt from designation as unsuitable for surface mining operations.'' Also, subsections (a) and (b) have been deleted, and the following added:

(1) Surface mining operations were being conducted on August 3, 1977.

(2) Surface mining operations have been authorized by a valid permit issued under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1–1396.19a), the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51–30.66), The Clean Streams Law (35 P.S. §§ 691.1–691.1001), or the

Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1–1406.21).

(3) A person establishes that substantial legal and financial commitments in surface mining operations were in existence prior to January 4, 1977.

6. In 25 PA Code 86.123 (procedures: petitions), the following language has been added to subsection (c)(5) to make it more consistent with the Federal regulations at 30 CFR 764.13: ''A person having an interest which is or may be adversely affected must demonstrate an ''injury in fact'' by describing the injury to the specific affected interest and demonstrating how they are among the injured.''

7. 25 PA Code 86.124 (procedures: initial processing, record keeping and notification requirements) has been revised for clarity and consistency with 25 PA Code 86.126 and the corresponding Federal provisions at 30 CFR 764.15 and 764.17. Following the first sentence of subsection (2), the following has been inserted: ''A frivolous petition is one in which the allegations of harm lack serious merit.'' In subsection (c), the following is inserted after the words, ''allegations of facts'' for clarity: ''* * * describing how the designation determination directly affects the intervenor * * *''. Subsection (f) has been revised to read as follows: ''The Department will prepare a recommendation on each complete petition received under this section and submit it to the EQB within 12 months of receipt of the complete petition.

8. 25 PA Code 86.125 (procedures: hearing requirements) has been revised for clarity and consistency with the PADEP and EQB regulatory review procedures. The part of subsection (a), beginning with the words, ''The hearing shall be'' has been separated into a new subsection (b). The last sentence under the original subsection (a), which had required the EQB to make a verbatim transcript of the hearing, has been deleted. The original subsection (b) has been changed to (e), and has been revised. The original subsections (c) and (d) have been changed to (g) and (h) respectively. The new subsections (c) through (d) read as follows:

(c) No person shall bear the burden of proof or persuasion.

(d) A verbatim transcript of the hearing will be made and included in the public record.

The opening statement of subsection (e) has been changed to read as follows: ''The department will give notice of the date, time and location of the hearing by first class mail postmarked not less than 30 days before the scheduled hearing to:'' Then subsections (e)(2) through (4) have been revised as follows: the original language in (e)(2) (''The petitioner and intervenors'') has been deleted; the original language in (3) has been transferred to (2), and has been changed to read, ''persons known to the department to have an ownership or other interest in the area covered by the petition'; and (e)(4) has been deleted.

The language originally under subsection (f) is now designated as (k). The new subsection (f) reads as follows: ''The Department will give notice of the date, time and location of the hearing by certified mail postmarked not less than 30 days before the scheduled hearing to the petitioner and to the intervenors.''

9. 25 PA Code 86.126 (procedures: decision) has been revised for clarity and consistency with PADEP and EQB regulatory review procedures. Under subsection (b) there are new subsections, (1) and (2), which specify actions the EQB is required to take, depending on its decision whether or not to designate an area as unsuitable for surface mining operations.

10. 25 PA Code 86.127 (data base and inventory system requirements) has been revised to correct a misspelling and reflect the dissolution of the Department of Community and Economic Development.

11. 25 PA Code 86.128 (public information) has been revised to correct a misspelling.

12. 25 PA Code 86.129 (coal exploration) has been revised for consistency with the Federal regulations at 30 CFR 762.14. It's title has been changed to: ''Coal exploration on areas designated as unsuitable for surface mining operations.'' The remainder of the revised subsection reads as follows:

(a) Designation of an area as unsuitable for all or certain types of surface mining operations under this chapter does not prohibit coal exploration operations in the area.

(b) Coal exploration may be conducted on an area designated as unsuitable for surface mining operations in accordance with this chapter if the following apply:

(1) The exploration is consistent with the designation.

(2) The exploration will be conducted to preserve and protect the applicable values and uses of the area under Subchapter E (relating to coal exploration), and the Department has issued written approval for the exploration.

13. 25 PA Code 86.130 (areas designated as unsuitable for mining) has been revised to insert metric equivalents and correct two regulatory references.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Pennsylvania satisfies the applicable requirements for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Pennsylvania program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administration Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on January 11, 2000. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

If a public hearing is held, it will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of the meetings will be posted in advance at the locations listed above under **ADDRESSES**. A summary of meeting will be included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and

Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not produce a Federal mandate of $100 million or greater in any year, *i.e.*, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 16, 1999.

Allen D, Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 99–33462 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: 90-Day Finding and Commencement of Status Review for a Petition to List the Sacramento Mountains Checkerspot Butterfly as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U. S. Fish and Wildlife Service (Service), announce a 90-day finding for a petition to list the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) as an endangered species and designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act). We find the petition provides substantial scientific and commercial information to indicate that listing of this animal may be warranted. Therefore, we are initiating a status review to determine if the petitioned action is warranted. To ensure that the review is comprehensive, we are soliciting information and data regarding this action.

DATES: The finding in this document was made on December 7, 1999. To be considered in the status review and subsequent 12-month finding for the petition, your information and comments must be received by February 25, 2000.

ADDRESSES: You may submit data, information, comments, or questions relevant to this finding to the Field Supervisor, U. S. Fish and Wildlife Service, 2105 Osuna Road NE, Albuquerque, New Mexico 87113. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Eric Hein, Endangered Species Biologist (see **ADDRESSESS** section) (telephone 505/346–2525, extension 135).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information demonstrating that the petitioned action may be warranted. We base the finding on all the information available to us at the time the finding is made. To the maximum extent practicable, we make the finding within 90-days of receipt of the petition, and promptly publish notice of the finding in the **Federal Register**. If we find that substantial information was presented, we must promptly commence a status review of the species.

The processing of this petition conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under Listing Priority Guidance. The processing of this 90-day petition finding is a Priority 4 action and is being completed in accordance with the current Listing Priority Guidance.

We made a 90-day finding on a petition to list the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia* [=*chalcedona*] *cloudcrofti*) as endangered with critical habitat. Mr. Kieran Suckling of the Southwest Center for Biological Diversity in Tucson, Arizona, submitted the petition, dated November 1998, which we received on January 28, 1999.

The petitioner requested that we emergency list the Sacramento Mountains checkerspot butterfly as endangered. The petitioner stated that the animal merits listing because of its restricted range, adverse impacts resulting from a proposed U.S. Forest Service (Forest Service) land transfer, improvements to a Forest Service campground, construction of homes and other structures, aggressive non-native weeds that may be affecting the larval foodplants and adult nectar sources, global climate change, and livestock overgrazing. The petitioner requested emergency listing due to the perceived immediate threats to the species' continued existence from a proposed land transfer between the Forest Service and the Village of Cloudcroft in the Sacramento Mountains in Otero County, New Mexico.

Emergency listing is not a petitionable action under the Act. However, our above-mentioned listing priority guidance requires that petitions to list species be screened for the need to emergency list them. Emergency listing is allowed under the Act whenever immediate protection is needed to address a significant risk to the species' well being. Based on currently available information, we determined that emergency listing is not needed for the Sacramento Mountains checkerspot butterfly. The Forest Service modified its proposed land transfer to the Village of Cloudcroft so that the parcels containing the highest number of known butterflies are no longer under consideration. In addition, overcollection of butterflies, a threat not cited by the petitioner, but an activity of which we have extensive knowledge, has been prohibited in portions of the Lincoln National Forest, except under permit, for a period of one year. Therefore, we have determined that the species is not in imminent risk of extinction.

The Sacramento Mountains checkerspot butterfly is a small member of the brush-footed butterfly family (Nymphalidae). The adults have a wingspan of approximately 3 centimeters (1 inch) and they are checkered with dark brown, red, orange, white, and black spots and lines. The taxon was described in 1980 based on 162 adult specimens collected in the vicinity of the Village of Cloudcroft in Otero County, New Mexico (Ferris and Holland 1980); it is only know from this area. The Sacramento Mountains checkerspot butterfly inhabits non-forested openings within the mixed-conifer forest (Lower Canadian Zone) at an elevation between 2,450 and 2,750 meters (8,000 and 9,000 feet) in the vicinity of Cloudcroft. The adult butterfly is often found in association with the larval foodplant, New Mexico penstemon (*Penstemon neomexicanus*), and adult nectar sources such as sneezeweed (*Helium hoopesii*).

The Forest Service is evaluating a request from the Village of Cloudcroft for a transfer of land pursuant to the Townsite Act. The proposed land transfer originally included three parcels in which a number of Sacramento Mountains checkerspot butterflies have been observed by biologists. The Village of Cloudcroft and the Forest Service agreed to eliminate these three parcels from the current land transfer request (Jose Martinez, Lincoln National Forest Supervisor, *in litt.,* 1999). A decision on the other five parcels is being withheld by the Forest Service until we have made the 90-day finding on the petition for this species (Jose Martinez, pers. comm., 1999). Sacramento Mountain checkerspot butterflies have been observed on three of the five parcels that are currently being considered for the land transfer (Forest Service 1999a, 1999b). However, the Forest Service provided information that the vast majority of the habitat in the parcels being considered for exchange is forested and not suitable for the butterfly. We will attempt to gather more information on the amount of actual habitat proposed for exchange, and its importance to the butterfly, during the status review.

The New Mexico State Highway and Transportation Department (NMSHTD) is proposing to improve portions of an approximately 3.38-kilometer (2-mile)-long stretch of State Highway 130 between the Village of Cloudcroft and the intersection of SH 130 and Sunspot Road (Metric Corporation 1996; Steve Reed, NMSHTD, pers. comm., 1999). The project consists of widening the road and shoulders, constructing retaining walls, adding drainage ditches and culverts, and reconstructing a curve. The curve is located adjacent to a campground, where larvae and adult Sacramento Mountains checkerspot butterflies were located in 1998 (Forest Service 1999a, 1999b). This site would be eliminated by the proposed reconstruction of SH 130. However, since this species occupies open, non-forested areas, it is unknown whether this project will ultimately reduce or increase the amount of butterfly habitat.

A campground located near Cloudcroft contains one of the greatest known concentrations of the Sacramento Mountains checkerspot butterfly. Reconstruction activities in the campground are proposed for the year 2003, including replacement of existing bathroom facilities, traffic control barriers, picnic tables, and campfire pits (Jose Martinez *in litt.*, 1999). The potential adverse impacts to the Sacramento Mountains checkerspot butterfly are not known as the proposal remains in a preliminary stage. The Forest Service has stated that it intends to work closely with us in addressing public safety and health issues at the campground in a manner that protects and improves management of the Sacramento Mountains checkerspot butterfly (Mark Crites, Biologist, Sacramento Ranger District, pers comm., 1999; Don DeLorenzo, Wildlife, Fish, Rare Plants, and Forestry Staff Officer, Lincoln National Forest, pers. comm., 1999).

Roadside maintenance was cited by the petitioner as a threat to the Sacramento Mountains checkerspot butterfly. The NMSHTD uses mowing, rather than chemical agents, to control vegetation in the right-of-way (Steve Reed, pers. comm., 1999). The effect on the animal from mowing is unclear at this time.

The petitioner stated that overgrazing by livestock is causing adverse impacts that are affecting the Sacramento Mountains checkerspot butterfly. This activity could result in trampling of the early stages, reduction or elimination of the larval foodplant or adult nectar sources, and degradation of natural habitat. Grazing currently occurs in an allotment (Forest Service 1999a), where butterflies have been observed. The effect of grazing by both wildlife and domestic livestock is not well documented. We are aware of instances where livestock grazing appeared to significantly degrade habitat used by other checkerspot butterflies. Conversely, some areas currently used by the Sacramento Mountains checkerspot have been grazed by wildlife and domestic livestock for a number of years. We intend to further assess this subject during the status review.

The construction of homes and associated infrastructure in the habitat of the Sacramento Mountains checkerspot butterfly could directly affect the species or result in indirect effects, such as the introduction of nonnative plants and animals, loss of

movement corridors, or habitat fragmentation. There are a number of private inholdings within areas containing apparently suitable habitat for the species (Don DeLorenzo, pers. comm., 1999). We are unaware of any surveys conducted on private lands in the area, and available information on the amount of existing habitat and potential for development is insufficient to confidently predict the extent of this threat.

There likely is high interest by some collectors in the Sacramento Mountains checkerspot butterfly due to its extremely restricted distribution and apparent low numbers. High prices for prized species can provide an incentive for illegal take and trade. Listing in itself increases the publicity and interest in a species' rarity, and thus may directly increase the value and demand for specimens. Specimens of other subspecies of the anicia checkerspot butterfly have been offered for sale (Capps 1991; Entomological Clearing House 1986; Kral 1987, 1989).

Collecting from small colonies or repeated handling and marking, particularly of females and in years of low abundance, could seriously damage the populations through loss of individuals and genetic variability (Gall 1984b; Murphy 1988; Singer and Wedlake 1981). Since the known populations of the Sacramento Mountains checkerspot butterfly occur in a public campground, along public roadways, or in other areas readily accessible to the public, the species is easily collected, and the limited numbers and distribution of this species make it attractive to collectors and vulnerable to overcollection.

The Forest Service issued a one-year closure order for the collection of any butterflies without a permit on the Smokey Bear and Sacramento Districts of the Lincoln National Forest due to the threat of overcollection (Jose Martinez, *in litt.*, 1999). This closure order may offer protection from butterfly collecting; however, some butterfly collectors are known to have intentionally violated a similar closure order in the Uncomphagre National Forest in Colorado in order to collect the endangered Uncomphagre fritillary butterfly (*Boloria acrocnema*) (U. S. Department of Justice 1993).

A significant long-term threat to the Sacramento Mountains checkerspot butterfly may be the change in community structure due to invasive exotic plants, and attempts to control them. According to the Forest Service (1999a), a 1993 survey found that approximately 737 hectares (1,822 acres) in the vicinity of Cloudcroft had infestations of noxious weeds. Infestations occurring in non-forested openings and on road rights-of-way expanded and the densities of weeds increased where they have not been treated. These invasive foreign species may out-compete and reduce or eliminate the larvae food plant and adult nectar plants, resulting in adverse effects on the animal. Efforts to control the exotic plants with herbicides may pose a threat to the Sacramento Mountains checkerspot butterfly.

Periodic droughts, such as those that occurred in recent years in New Mexico, may adversely affect the Sacramento Mountains checkerspot butterfly. Drought is known to cause a decrease in the size of the populations of some butterfly species (C. Nagano, pers. obs., 1999). In addition to killing larvae by dessication, drought conditions may—(1) cause the early senescence or death of the larvae food plant prior to the completion of larval development; or (2) lower the nutritional quality of the host plant (e.g., water content). Drought also may reduce the quantity and quality of adult nectar sources. Conversely, the species has evolved in an environment subject to extended droughts. It is unknown whether human-caused habitat changes have increased the species' susceptibility to droughts.

We reviewed the petition, the literature cited in the petition, other literature, and information in our files. Based on the best scientific information available, we find the petition presents substantial information that listing this species may be warranted. Therefore, with the completion of this 90-day finding, we will conduct a status review of the species and subsequently make a finding as to whether the petitioned action is warranted pursuant to section 4(b)(3)(B) of the Act.

We solicit information regarding occurrence and distribution of the species, threats to its continued existence, and any additional data or scientific information from the public, scientific community, Tribal, local, State, and Federal governments, and other interested parties concerning the status of the Sacramento Mountains checkerspot butterfly. Of particular interest is information regarding:

(1) Additional historical and current population data which may assist in determining range and long-term population trends;

(2) Pertinent information on biology and life history;

(3) Additional information about habitat requirements; and,

(4) Information on immediate and future threats to the Sacramento Mountains checkerspot butterfly, and the areas inhabited by the species.

After consideration of additional information received during the comment period (see **DATES** section of this notice), we will prepare a 12-month finding as to whether listing of the species is warranted.

References Cited

You may request a complete list of all references we cited, as well as others, from the New Mexico Ecological Services Field Office (see ADDRESSES section).

Author: Chris Nagano (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 7, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–33481 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991207325–9325–01; I.D. 100699A]

RIN 0648–AJ52

Fisheries in the Exclusive Economic Zone Off Alaska; A Cost Recovery Program for the Individual Fishing Quota Program

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes regulations to implement cost recovery for the Individual Fishing Quota (IFQ) program for fixed gear halibut and sablefish fisheries in waters in and off of Alaska (IFQ Program). Section 304(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires the Secretary of Commerce (Secretary) to collect fees to recover actual costs incurred for Federal management and enforcement of these IFQ fisheries. This action is intended to collect such fees.

DATES: Comments on the proposed rule must be received at the following address not later than January 26, 2000.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional

Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668 Juneau, AK 99802–1668, Attn: Lori J. Gravel. Hand deliveries or courier deliveries of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Copies of the environmental assessment/regulatory impact review/ initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for this action may be obtained from the address provided here. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer). Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Dr. John T. Sproul, 907–586–7228.

SUPPLEMENTARY INFORMATION: Section 304(d)(2)(A) of the Magnuson-Stevens Act requires the Secretary to ''collect a fee to recover the actual costs directly related to the management and enforcement of any * * * individual fishing quota program.'' Section 304(d)(2)(B) of the Magnuson-Stevens Act specifies an upper limit on these fees, when the fees must be collected, and where the fees must be deposited. Section 303(d)(4) of the Magnuson-Stevens Act allows NMFS to reserve up to 25 percent of the fees collected for use in an IFQ loan program to aid in financing the purchase of IFQ or quota share (QS) by entry-level and small-vessel fishermen.

The proposed rule would recover costs for the IFQ Program only. NMFS intends to implement cost recovery for the Community Development Quota (CDQ) program through separate rulemaking.

The Magnuson-Stevens Act specifies the following with respect to the imposition of IFQ cost-recovery fees:

1. Fees must recover actual costs directly related to actual enforcement and management of the IFQ Program;
2. Fees must not exceed 3 percent of ex-vessel value;
3. Fees are in addition to any other fees charged under the Magnuson-Stevens Act;
4. With the exception of money reserved for the IFQ loan program, fees must be deposited in the Limited Access System Administrative Fund (LASAF) in the U.S. Treasury; and
5. Fees must be collected at either the time of a legal landing of halibut or sablefish, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

Background

NMFS, Alaska Region, administers the IFQ Program. The IFQ Program is a limited access system authorized by section 303(b) of the Magnuson-Stevens Act and the Northern Pacific Halibut Act of 1982. NMFS implemented the IFQ Program in March 1995. Regulations implementing the IFQ Program are set forth at 50 CFR part 679.

In 1998, NMFS developed this IFQ cost recovery proposal in accordance with the Magnuson-Stevens Act and with participation by the IFQ/CDQ Fee Collection Committee (Committee) comprised of stakeholder representatives appointed by the North Pacific Fishery Management Council (Council), the Council's Advisory Panel (AP), the full Council, and the general public.

In August 1998, NMFS identified an initial preferred alternative for the proposal, which included: (1) imposing on IFQ permit holders the responsibility of collecting and submitting IFQ fees to NMFS, (2) requiring registered buyers to provide NMFS with additional value and volume reports for developing standard prices, and (3) basing cost recovery fees on ex-vessel value as determined by the standard prices developed by NMFS.

NMFS presented a status report of the proposal to the Council and AP at their meetings in October 1998. At that time, the AP expressed concern that standard prices could differ greatly from the actual prices fishermen received for their fish. If the standard price were greater than the actual price received by fishermen, the use of NMFS standard prices would inflate the fees. The AP and Council recommended that NMFS revise the proposal to include a mechanism for basing fees on actual ex-vessel values. The Council also recommended that the proposal include an appeals process.

In response to these recommendations, NMFS has designed this proposed rule to require payment of fees based on standard ex-vessel value unless the IFQ permit holder can demonstrate a different actual ex-vessel value. The proposed rule includes an appeals process. The proposed rule would require IFQ permit holders to collect and submit fees associated with IFQ halibut and IFQ sablefish landings. It would also require IFQ registered buyers to submit information on the value and volume of purchased IFQ landings.

Cost Recovery Program Description

An IFQ permit holder would incur a cost recovery fee liability for every pound of IFQ halibut and sablefish that he or she lands. The IFQ permit holder would be responsible for self-collecting his or her own fee liability for all his or her IFQ halibut and IFQ sablefish landings. The IFQ permit holder would be responsible for submitting this payment to NMFS on or before the due date of January 31 following the year in which the landings were made. The dollar amount of the fee due would be determined by multiplying the IFQ fee percentage (approximately 3 percent) by the ex-vessel value of each IFQ landing made on a permit and summing the totals of each permit (if more than one).

Fee Percentage

Three percent of the ex-vessel value of fish harvested under an IFQ program is the maximum fee amount allowed by section 304(d)(2)(B) of the Magnuson-Stevens Act. This proposed rule would allow the Regional Administrator to reduce the fee percentage if actual management and enforcement costs could be recovered through a lesser percentage. NMFS will not know the actual annual costs of the IFQ Program until after the end of the Federal fiscal year (September 30). After that time, the Regional Administrator could reduce the fee percentage for that year to reflect more closely the actual IFQ-related management and enforcement costs for the past Federal fiscal year. However, in order to budget, fishermen need to know at the time of sale the maximum fee percentage that could apply to their IFQ landings made from March (season opening) through September (Federal fiscal year-end). The proposed rule would set the applicable fee percentage at 3 at the start of each year but would allow the Regional Administrator to reduce the fee percentage if management and enforcement costs could be recovered for a lessor percentage. During the development of this proposed rule, representatives of the halibut and sablefish fisheries suggested that many IFQ fishermen experience constraints in capital availability during the fishing season. If NMFS were to set a low percentage at the beginning of the fishing season that subsequently had to be increased, small-scale fishermen whose budgets were based on the lower percentage could experience negative economic consequences. Because fees are not due until January 31 of the following year, NMFS believes that for budget purposes it is preferable to establish a 3–percent fee that could be adjusted downward, based upon certain types of information, between October and December to reflect the actual costs incurred during the previous Federal fiscal year.

NMFS seeks public comment on the provision in the proposed rule to establish an initially ''high'' fee (e.g., 3 percent) that could be adjusted downward by the Regional Administrator in mid-season. NMFS requests public comment comparing this proposed approach with an alternative that would establish an initially ''low'' fee percentage (e.g., 2 percent) that could be adjusted upward by the Regional Administrator in mid-season.

NMFS would encourage IFQ permit holders to set aside the amount of the fees throughout the fishing year in order to facilitate a lump sum payment by January 31 of the following calendar year. Early payments would be allowed but would not relieve a permit holder of associated reporting requirements.

Calculating Ex-vessel Value

The ex-vessel value of an IFQ landing would equal the sum of all payments of monetary worth made to fishermen for the sale of the fish. This would include any retro-payments (e.g., bonuses, delayed partial payments, post-season payments) made to the IFQ permit holder for previously landed halibut or sablefish. Retro-payments would be part of the ex-vessel value and as such have a fee liability. If they were received after the initial payment, but during the same calendar year, the cost recovery fee for those retro-payments also would be due by the following January 31. If retro-payments were received by IFQ permit holders during the year following the IFQ fishing season when those fish were landed, then cost recovery fees associated with those post-season retro-payments would be due the next January 31.

Ex-vessel Value: Standard Versus Actual

Throughout this discussion, ''value'' refers to the worth, in U.S. dollars, of any amount of landed IFQ halibut or IFQ sablefish as determined by the sale, or potential economic return for the sale, of those fish. ''Price'' is the worth in U.S. dollars, for 1 lb (0.45 kg) of landed IFQ fish. Therefore, in this context, value and price only mean the same thing when describing the worth of 1 lb (0.45 kg) of IFQ fish when sold.

For purposes of calculating IFQ cost recovery fees, NMFS would distinguish between two types of ex-vessel value: ''actual ex-vessel value'' and ''standard ex-vessel value.'' ''Actual ex-vessel value'' would be the amount of money an IFQ permit holder received as payment for his or her IFQ fish sold. This proposed rule would establish ''standard ex-vessel values'' as the default values on which to base fee liability calculations. However, IFQ permit holders would have the option of using ''actual ex-vessel value'' if they could satisfactorily document those values.

Fees Based on Standard Ex-vessel Value

In order to calculate standard ex-vessel values, NMFS would require IFQ registered buyers operating as shoreside processors to submit reports on the value and volume of IFQ landings. From the information contained in these reports, NMFS would extract standard prices, broken down by species, port or port group, and date. NMFS would use these standard prices to calculate standard ex-vessel values pursuant to the process described below.

IFQ Buyer Report

An IFQ registered buyer that also operates as a shoreside processor that receives and purchases IFQ fish landings would be required to complete and submit to NMFS by October 15 each year an IFQ registered buyer report (IFQ Buyer Report) that contained information regarding volume and value of IFQ landings by month, port, and IFQ registered buyer. NMFS would use information provided in these report to determine IFQ standard prices.

The IFQ Buyer Report would be based upon a reporting period from October 1 of the previous year to September 30 of the current year in order to allow NMFS to calculate standard prices and ex-vessel values before December 15. The information entered on the IFQ Buyer Report for January and February would relate to retro-payments made during those months by the registered buyer for IFQ landings that actually occurred during the previous calendar year. Similarly, information provided on the IFQ Buyer Report for October, November, and December would pertain to IFQ landings made in the calendar year prior to the report's due date (October 15).

These proposed new recordkeeping and reporting requirements are specified in the proposed regulations at § 679.5(1)(7).

NMFS Standard Price List

Based on the information received in the IFQ Buyers Report, NMFS would annually calculate and publish in the **Federal Register** a list of IFQ standard prices broken down by IFQ species, month, and port or port group.

These standard prices would remain in effect until changed by the Regional Administrator through publication in the **Federal Register** the following year. The Regional Administrator would revise the standard prices annually based on information regarding current volume and value provided by IFQ registered buyers operating as shoreside processors. The IFQ standard prices would be calculated by NMFS to reflect as closely as practical the seasonal and regional variations in the actual ex-vessel prices of IFQ species.

The information that would be reviewed by the Regional Administrator to determine IFQ standard prices would include the following:

(1) Landed pounds by species, port or port-group, and date;

(2) Total ex-vessel value by species, port or port-group, and date; and

(3) Price adjustments based on retro-payments.

Estimated Fee Based on Standard Ex-vessel Value

Using the IFQ Buyer Report and NMFS standard prices, NMFS would calculate standard ex-vessel values for all IFQ landings. Each year by December 31, NMFS would send each IFQ permit holder a multi-paged IFQ Fee Submission Form and a separate one-page IFQ Landing Summary and Estimated Fee Liability Form. The multi-paged Fee Submission Form would be completed by the IFQ permit holder. The one-page fee Estimate Form would be completed by NMFS and would reflect NMFS' calculations of the permit-holder's fee liability based on the amount of pounds landed and NMFS' standard ex-vessel values.

The one-page Fee Estimate Form would specify the number of IFQ pounds landed by species and area, the date of landing, the NMFS standard price per pound for those landings, the calculated standard ex-vessel value of the landings, the IFQ fee percentage, and the estimated fee liability for such landed IFQ pounds. The Fee Estimate Form would document standard ex-vessel values for all recorded IFQ pounds landed, but not necessarily sold, to IFQ registered buyers such as custom processed fish, fish sold by direct marketing, or take-home fish. NMFS would use the appropriate published IFQ standard price(S) to estimate the fee liability of landed IFQ pounds debited from each IFQ permit.

NMFS would base its calculations on the amount of IFQ halibut and IFQ sablefish landed in the pound weight equivalent deducted from an IFQ permit holder's account. This would allow a direct correlation between an IFQ permit holder's fee liability and the recorded number of IFQ pounds landed under his or her IFQ permit(s) as monitored by NMFS' Restricted Access

Management (RAM) Program. RAM would calculate the standard ex-vessel value of a permit holder's landed IFQ fish by multiplying the appropriate standard price (in U.S. dollars) by the weight (in IFQ equivalent pounds) of those fish represented in the IFQ deduction from his or her IFQ permit. The appropriate standard price used by NMFS on the IFQ fee estimate form for a given amount of landed IFQ pounds would be the price that corresponds to the same species, month of landing, and landing location documented on the NMFS standard price list. The IFQ permit holder could revise this estimated fee liability for each IFQ landing, or sub-portion of a landing, based on evidence of actual ex-vessel values.

Fees Based on Actual Ex-vessel Value

Under the proposed regulation, the actual value of landed IFQ fish would be determined when halibut or sablefish are actually sold. The IFQ permit holder could calculate his or her fee liability for landed fish based on the actual monetary value received. The fee amount would be the product (in U.S. Dollars) of multiplying that actual ex-vessel value by the fee percentage (approximately 0.03). The IFQ permit holder would document the calculations of fees based on actual ex-vessel value on the IFQ Fee Submission Form provided by NMFS.

The following example shows how an IFQ permit holder would adjust the calculation by NMFS of fee liabilities.

Example of Actual Ex-vessel Value Determination

An IFQ fisherman makes a landing of IFQ halibut at Sitka in June that results in a debit of 1,000 lbs (0.35 metric tons) from his or her halibut IFQ permit (1,000 IFQ equivalent pounds). He or she sells all the fish, headed and gutted, directly to supermarkets or restaurants. With an IFQ fee percentage of 3 percent and an actual price of $1 per IFQ equivalent pound (IFQ lb.), the IFQ permit holder would bear a total fee liability of $30.00 for the landing, determined as follows:

(IFQ Equivalent Pounds Sold X Price per IFQ lb) X Fee Percentage = Permit Holder Fee

(1,000 IFQ lb X $1.00/IFQ lb) X 0.03 = $ 30.00

Submission Form and Payment

By January 31 of each year, each IFQ permit holder would be required to complete the multi-page IFQ Fee Submission Form and submit it to NMFS along with the fees due.

Payment Compliance

An IFQ permit holder who has incurred a fee liability would be required to pay the fee to NMFS by January 31 of the year following the calendar year in which the landing was made.

If an IFQ permit holder has made a timely payment to NMFS of an amount less than the fee liability NMFS estimated, the IFQ permit holder has the burden of demonstrating that the fee amount submitted is correct. If, upon preliminary review of the accuracy and completeness of a fee payment and the Fee Submission Form, NMFS determines the IFQ permit holder has not paid a sufficient amount, NMFS would notify the IFQ permit holder by letter. NMFS would explain the discrepancy and the IFQ permit holder would have 30 days to either pay the remaining amount that NMFS has determined should be paid or provide evidence that the amount paid is correct. If the IFQ permit holder submits evidence in support of his or her payment, NMFS will evaluate it and, if there is any remaining disagreement as to the appropriate IFQ fee, prepare an Initial Administrative Determination (IAD). The IAD would set out the facts, discuss those facts within the context of the relevant agency policies and regulations, and make a determination as to the appropriate disposition of the matter. An aggrieved IFQ permit holder could appeal an IAD through the Office of Administrative Appeals in NMFS as described in existing IFQ regulations (50 CFR 679.43). An IAD that is appealed within 60 days of issuance to the Office of Administrative Appeals in NMFS, would become a final agency action.

During the pendency of the appeal proceedings outlined here, the following conditions would exist: The IFQ permit holder could not transfer any QS and/or IFQ, and the IFQ permit holder could not receive QS and/or IFQ by transfer. An IFQ permit holder could pay, under protest, the disputed fee difference in order to avoid permit transfer restrictions. If the final agency action determines that the IFQ permit holder owes additional fees and if the IFQ permit holder has not paid such fees, all IFQ permit(s) held by the IFQ permit holder will be invalid until the required payment is received by NMFS. If NMFS does not receive such payment within 30 days of the issuance of the final agency action, NMFS would refer the matter to the appropriate authorities within the U.S. Treasury for purposes of collection.

Limited Access System Administrative Fund (LASAF)

Most of the IFQ fees collected would be deposited in the LASAF established in the U.S. Treasury. Up to 25 percent could be deposited separately in the U.S. Treasury and made available to cover the costs of the IFQ loan program, as required by paragraph 304(d)(2)(C) of the Magnuson-Stevens Act. Separate accounts would be created within the LASAF to ensure that the funds from the IFQ cost recovery are used only to pay for the actual costs directly related to the management and enforcement of the IFQ Program.

Annual Report

NMFS annually would publish a public report about the performance of the IFQ cost recovery. The annual report, which could be included with other reports on the performance of the IFQ Program, would provide information regarding the amount of the fees received by NMFS, the disposition of the fees, the status of the IFQ account in the LASAF, and the IFQ Program costs for the previous year.

Classification

NMFS prepared an EA/RIR/IRFA for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the environmental and socio-economic impacts of the alternatives. A copy of the EA/RIR/IRFA can be obtained from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

As amended October 1996, the Magnuson-Stevens Act requires the Secretary to impose a fee to recover the actual management and enforcement costs of the Alaska IFQ Program. The objective of developing the proposal for IFQ cost recovery is to collect revenue from fishermen participating in the IFQ Program to help recover the costs incurred by the Federal government as a result of the management and enforcement of the IFQ Program.

The proposed rule would apply to persons who possess and use IFQ Registered Buyer Permits or IFQ Permits (fishermen). IFQ registered buyer permit holders who do not operate as shoreside processors or those IFQ permit holders who do not land IFQ fish (i.e., possess unfished permits) would not be subject to this proposed rule. In 1998, approximately 9 percent of IFQ pounds available remained unfished by the end of the season. As for IFQ registered buyers, generally, fewer than 40 percent of those who held IFQ Registered Buyer Permits actually reported landings (i.e.,

active buyer permit users). In addition, imposition of the proposed cost recovery fees could indirectly impact the income of IFQ crew members if IFQ permit holders reduce the income to members of their crews due to the cost recovery fees. Detailed figures for the number of IFQ crew members are not available.

The actions being proposed could directly affect two types of registered small entities as defined by the Small Business Administration: (1) IFQ registered buyers who operate as shoreside processors and purchase IFQ halibut or sablefish from IFQ permit holders, and (2) halibut and sablefish IFQ permit holders. By year-end 1998, 3,978 persons held one or more IFQ permits (fishermen) and reported landings of at least 1 lb (0.45 kg) of IFQ fish. Also in 1998, NMFS issued 859 IFQ registered buyer permits, but only 309 were active IFQ registered buyers. Only 79 of the active IFQ registered buyers operated as shoreside processors that purchased IFQ halibut or sablefish. The 79 IFQ registered buyers identified themselves in 1998 as shoreside processors, and would be the only type of IFQ registered buyers regulated under the proposed action. The number of IFQ permits and IFQ registered buyer permits has decreased each year since 1995 when the program was initiated and is expected to stabilize near 1998 levels. For purposes of the IFRA, all 79 IFQ permits holders are considered small entities. Therefore, the total number of small entities that this rule would apply to IFQ registered buyers and permit holders would be expected to be equal to or less than 4,057. This proposed rule would impose new Recordkeeping and reporting requirements. These are discussed below in the context of the Paperwork Reduction Act burden.

A broad variety of alternatives was considered in the development of the proposed regulations for IFQ cost recovery. The alternatives were considered in the context of combining various options associated with a specific set of necessary program elements. Some of the necessary program elements include the scope of the IFQ cost recovery regulations; identification of the IFQ fishery; the annual fee percentage value; the IFQ fish subject to the IFQ cost recovery fee; the method used to determine ex-vessel values of IFQ halibut and IFQ sablefish landings; the method used to establish standard ex-vessel prices for IFQ halibut and IFQ sablefish; the methods of accounting for post-season ex-vessel price adjustments and other corrections to ex-vessel value; IFQ fee collection and submission mechanisms and schedules; and the implementation date.

In selecting the preferred alternative, NMFS incorporated many elements designed to minimize negative impacts on small entities.

1. The fee would apply only to IFQ halibut and sablefish landings, and not to all species landed by IFQ fishermen.

2. Fishermen would be able to choose whether to use actual or standard ex-vessel value of their IFQ landings whenever possible.

3. Standard prices would be primarily based on current year ex-vessel prices rather than previous year ex-vessel prices, and would be refined to represent ex-vessel prices by species, by month, and by port-group.

4. Registered buyers and IFQ permit holders would be required to submit recordkeeping and reporting information only once a year, rather than multiple mid-season submissions.

NMFS also considered the alternative of not implementing an IFQ cost recovery (status quo). The status quo alternative would minimize economic impacts on small entities in that no new fee would be imposed. However, this alternative would not be in compliance with the Magnuson-Stevens Act. Alternatives to the proposed recordkeeping and reporting requirements could reduce economic impacts on small entities. For instance, implementing an electronic reporting system could reduce the burdens associated with filing annual reports; however, NMFS has not ascertained whether electronic reporting would allow for comparable, easily interpreted data and costs associated with acquiring new software could counterbalance any benefits. NMFS also considered extracting data from reports currently required of AGF&G. The ADF&G reports would not provide all the necessary data in a sufficiently timely manner. NMFS also considered an alternative that would not have assessed a fee on retro-payments. While this approach would benefit permit-holders who accepted retro-payments, it would not be acceptable to those who do not. In addition, this approach might not comply with the spirit of the statute to assess a fee on the full amount of payment.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). Authorization for the proposed additional information collected under 50 CFR 679.5(l)(7) for this IFQ cost recovery has been requested from Office of Management and Budget (OMB). Notwithstanding any other provision of law, no person is required to respond to and no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB Control Number.

New recordkeeping and reporting requirements are proposed for the IFQ permit holder and for the IFQ registered buyer operating as a shoreside processor and buying halibut or sablefish landed under the IFQ Program. The estimated time for an IFQ permit holder to complete the IFQ payment submission form package is 2.0 hours per response. The time required to complete the buyer report is estimated to be 2.0 hours per report. The estimated response times shown include the time to review the instructions, search existing sources, gather and maintain the data needed, and complete and review the collection of information.

Public comment is sought regarding the necessity of the proposed collection of information for the proper performance of the function of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection, including the use of automated collection techniques or other types of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and OMB (see **ADDRESSES**).

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

None of the alternatives discussed in the EA/RIR/IRFA are likely to significantly affect the quality of the human environment, or are expected to have a significant impact on endangered or threatened species, or marine mammals.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 679

Alaska, Cost recovery, Fees, Fisheries, IFQ, and Recordkeeping and reporting requirements.

Dated: December 15, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is proposed to be amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, definitions for listed terms are added in alphabetical order to read as follows:

§ 679.2 Definitions

* * * * *

IFQ actual ex-vessel value means the U.S. dollar amount of all compensation, monetary or non-monetary, including any IFQ retro-payments received by an IFQ permit holder for the purchase of his or her IFQ halibut or IFQ sablefish landing(s) described in terms of IFQ equivalent pounds.

* * * * *

IFQ equivalent pound(s) means the weight amount, recorded in pounds, for an IFQ landing and calculated as round weight for sablefish and headed and gutted weight for halibut.

IFQ fee liability means that amount of money for IFQ cost recovery, in U.S. dollars, owed to NMFS by an IFQ permit holder as determined by multiplying the appropriate standard ex-vessel value or actual ex-vessel value of his or her IFQ halibut or IFQ sablefish landing(s) by the appropriate IFQ fee percentage applicable at the time the ex-vessel value, or portion thereof, of such landing(s) is received by the IFQ permit holder.

IFQ fee percentage means that positive number no greater than 3 percent (0.03) determined by the Regional Administrator and established for use to calculate the IFQ cost recovery fee liability for an IFQ permit holder.

* * * * *

IFQ permit holder means the person identified on an IFQ permit, at the time a landing is made, as defined at § 679.4(d)(3)(B).

IFQ program means the individual fishing quota program for the fixed gear fisheries for Pacific halibut and sablefish in waters in and off Alaska and governed by regulations under this part.

IFQ registered buyer means the person identified on a registered buyer permit, as defined at § 679.4(d)(2).

* * * * *

IFQ retro-payment means the U.S. dollar value of a payment, monetary or non-monetary, made to an IFQ permit holder for the purchase of IFQ halibut or IFQ sablefish landed at some previous time.

* * * * *

IFQ standard ex-vessel value means the total U.S. dollar amount of IFQ halibut or IFQ sablefish landings as calculated by multiplying the number of landed IFQ equivalent pounds by the appropriate IFQ standard price determined by the Regional Administrator.

IFQ standard price means a price, expressed in U.S. dollars per IFQ equivalent pound, for landed IFQ halibut and IFQ sablefish determined annually by the Regional Administrator and documented in an IFQ standard price list published by NMFS.

* * * * *

Limited Access System Administrative Fund (LASAF) means the administrative account used for depositing cost recovery fee payments into the U.S. Treasury as described in the Magnuson-Stevens Act under section 304(d)(2)(C)(i) and established under section 305(h)(5)(B).

* * * * *

NMFS Person Identification Number means a unique number assigned by NMFS to any person who applied for, or who has been issued, a Certificate, License, or Permit under any fishery management program administered by the Alaska Region for purposes of the NMFS/Alaska Region Integrated Regional Data System.

* * * * *

3. In § 679.4, revise paragraph (a)(5) and add paragraph (d)(7) to read as follows:

§ 679.4 Permits.

(a) * * *

(5) *Sanctions and denials*. Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904. Such procedures are required for enforcement purposes, not administrative purposes.

* * * * *

(d) * * *

(7) *Validity*. An IFQ permit issued under this part is valid only if all IFQ fee liability of the IFQ permit holder that is due as a result of final agency action has been paid as specified in §§ 679.45 and 679.(e)(7)(ii).

* * * * *

4. In § 679.5, add paragraph (l)(7) to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(l) * * *

(7) *IFQ cost recovery program* —(i) *IFQ buyer report*.

(A) *Applicability*. An IFQ registered buyer that also operates as a shoreside processor and receives and purchases IFQ landings of sablefish or halibut annually must submit to NMFS a complete IFQ Buyer Report as described in this paragraph (l) and as provided by NMFS for each reporting period, as described at § 679.5(1)(7)(i)(E), in which the registered buyer receives IFQ fish.

(B) *Due date*. A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator not later than the October 15 following the reporting period in which the IFQ registered buyer receives the IFQ fish.

(C) *Information required*. A complete IFQ Buyer Report must include the following information:

(*1*) *IFQ registered buyer identification*, including:

(*i*) name,

(*ii*) registered buyer number,

(*iii*) social security number or tax identification number,

(*iv*) NMFS person identification number (if applicable),

(*v*) business address,

(*vi*) telephone number,

(*vii*) facsimile telephone number,

(*viii*) primary registered buyer activity,

(*ix*) other registered buyer activity, and

(*x*) landing port location;

(*2*) *Pounds purchased and values paid*. (*i*) The monthly total weights, represented in IFQ equivalent pounds by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(*ii*) The monthly total gross ex-vessel value, in U.S. dollars, of IFQ pounds, by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(*3*) *Value paid for price adjustments*. (*i*) The monthly total U.S. dollar amount of any IFQ retro-payments (correlated by IFQ species, landing month(s), and month of payment) made in the current year to IFQ permit holders for landings made during the previous calendar year;

(*ii*) *Certification*, including the signature of the individual authorized by the IFQ registered buyer to submit the IFQ Buyer Report, and date of signature.

(D) *Submission address*. A complete IFQ Buyer Report must be received at the following address by mail or facsimile transmission: Administrator Alaska Region, NMFS, Attn: RAM Program, P.O. Box 21668, Juneau, AK 99802–1668, Facsimile: (907) 586–7354.

(E) *Reporting period*. The reporting period of the IFQ Buyer Report shall

extend from October 1 through September 30 of the following year, inclusive.

(ii) *IFQ permit holder Fee Submission Form* —(A) *Applicability*. An IFQ permit holder who holds an IFQ permit against which a landing was made must submit to NMFS a complete IFQ permit holder Fee Submission Form provided by NMFS.

(B) *Due date and submittal*. A complete IFQ permit holder Fee Submission Form must be postmarked or received by the Regional Administrator not later than January 31 following the calendar year in which any IFQ landing was made.

(C) *Contents of an IFQ Fee Submission Form*. For each of the sections described below, a permit holder must provide the specified information.

(*1*) *Identification of the IFQ permit holder*:

An IFQ permit holder with an IFQ landing must accurately record on the identification section of the IFQ Fee Submission Form the following information:

(*i*) the printed name of the IFQ permit holder;

(*ii*) the NMFS person identification number;

(*iii*) the social security number or tax ID number of the IFQ permit holder;

(*iv*) the business mailing address of the IFQ permit holder; and

(*v*) the telephone and facsimile number (if available) of the IFQ permit holder.

(*2*) *IFQ landing summary and estimated fee liability*

NMFS will provide to an IFQ permit holder an IFQ Landing Summary and Estimated Fee Liability page as required by § 679.45(a)(2). The IFQ permit holder must either accept the accuracy of the NMFS estimated fee liability associated with his or her IFQ landings for each IFQ permit, or calculate a revised IFQ fee liability in accordance with (2)(i) of this paragraph. The IFQ permit holder may calculate a revised fee liability for all or part of his or her IFQ landings.

(*i*) *Revised fee liability calculation*. To calculate a revised fee liability, an IFQ permit holder must multiply the IFQ percentage in effect by either the IFQ actual ex-vessel value or the IFQ standard ex-vessel of the IFQ landing. If parts of the landing have different values, the permit holder must apply the appropriate values to the different parts of the landings.

(*ii*) *Documentation*. If NMFS requests in writing that a permit holder submit documentation establishing the factual basis for a revised IFQ fee liability, the permit holder must submit adequate documentation by the 30th day after the date of such request.

(*3*) *Fee calculation section* —(*i*) *Information required*. An IFQ permit holder with an IFQ landing must record the following information on the Fee Calculation page: The name of the IFQ permit holder; the NMFS person identification number; the fee liability amount due for each IFQ permit he or she may hold; the IFQ permit number corresponding to such fee liability amount(s) due; the total price adjustment payment value for all IFQ halibut and/or sablefish (e.g., IFQ retro-payments) received during the reporting period for the IFQ Fee Submission Form as described in § 679.5(l)(7)(ii)(D); and the fee liability amount due for such price adjustments.

(*ii*) *Calculation of total annual fee amount*. An IFQ permit holder with an IFQ landing must perform the following calculations and record the results on the Fee Calculation page: add all fee liability amount(s) due for each IFQ permit and record the sum as the sub-total fee liability for all permits; multiply price adjustment payment(s) received for each IFQ species by the fee percentage in effect at the time the payment(s) was received by the IFQ permit holder; add the resulting fee liability amounts due for all price adjustment payments for each IFQ species, then enter the sum as the sub-total fee for price adjustments; add the sub-total fee liability for all permits and the sub-total fee for price adjustments, then enter the resulting sum as the total annual fee amount on the Fee Calculation page and on the Fee Payment page.

(*4*) *Fee payment and certification section* —(*i*) *Information required*. An IFQ permit holder with an IFQ landing must provide his or her NMFS person identification number and must sign and date and have notarized by a Notary Public the Fee Payment section and record the following: (i) his or her printed name; (ii) the total annual fee amount as calculated and recorded on the Fee Calculation page; (iii) the total of any pre-payments submitted to NMFS that apply to the total annual fee amount; (iv) the remaining balance fee; and (v) the enclosed payment amount.

(*ii*) *Calculation of balance fee payment*. An IFQ permit holder with an IFQ landing must perform the following calculation on the Fee Payment section of the Fee Submission Form: Subtract from the total annual fee amount the total of all pre-payments made (if any) to NMFS and any credits held by NMFS that are applicable to that year's total IFQ cost recovery fees, and record the result as the balance fee amount due.

(D) *Reporting Period*. The reporting period of the IFQ Fee Submission Form shall extend from January 1 to December 31 of the year prior to the January 31 due date described in § 679.5(l)(7)(ii)(B).

* * * * *

5. In § 679.41, revise paragraph (c)(8) and add paragraph (c)(9)to read as follows:

§ 679.41 Transfer of quota shares and IFQ.

* * * * *

(c) * * *

(8)(i) The person applying to make or receive the IFQ or QS transfer has paid all IFQ fees that have become due as a result of an initial administrative determination.

(ii) The person applying to make or receive the IFQ or QS transfer who has not paid all IFQ fees that are due (as provided under § 679.45(a)) has timely appealed the administrative determination that IFQ fees have not been paid in full and has submitted to NMFS an amount sufficient to satisfy any disputed liability pending a final agency action.

(9) Other pertinent information requested on the Application for Transfer has been supplied to the satisfaction of the Regional Administrator.

* * * * *

6. Section 679.45 is added to read as follows:

§ 679.45 IFQ cost recovery program.

(a) *Cost recovery fees* —(1) *Responsibility*. The person documented on the IFQ permit as the permit holder at the time of an IFQ landing must comply with the requirements of this section. Subsequent transfer of QS or IFQ does not affect the permit holder's liability for noncompliance with this section.

(2) *IFQ Fee Liability Determination*.

After each IFQ fishing year, the Regional Administrator will issue each IFQ permit holder a summary of his or her IFQ pounds landed during that IFQ fishing year for each permit as part of the IFQ Landing and Estimated Fee Liability page described at § 679.5(l)(7)(ii)(C)(*2*). The summary will include an estimated IFQ fee liability based on the standard ex-vessel values of the landings. The summary and estimated fee liability will include details of IFQ equivalent pounds landed by permit, port or port-group, species, date, and IFQ standard prices. The permit holder must either accept NMFS' estimate of IFQ liability or revise NMFS' estimate of IFQ fee liability using the Fee Submission Form described at § 679.5(1)(7)(ii). If the permit holder revises NMFS' estimate of his or her fee

liability, NMFS may request in writing that the permit holder submit documentation establishing the factual basis for the revised calculation. If the permit holder fails to provide adequate documentation by the 30th day after the date of such request, NMFS will determine the IFQ permit holder's fee liability based on standard ex-vessel values.

(3) *Fee Collection*. An IFQ permit holder with an IFQ landing is responsible for self-collecting his or her own fee during the calendar year in which the IFQ fish is harvested.

(4) *Payment* —(i) *Payment due date*. An IFQ permit holder must submit his or her IFQ fee liability payment(s) to NMFS at the address provided in this section at paragraph (a)(4)(iii) not later than by January 31 of the year following the calendar year in which the IFQ landings were made.

(ii) *Payment recipient*. Make payment payable to NMFS.

(iii) *Payment address*. Mail payment and related documents to: Administrator, Alaska Region, NMFS, Attn: RAM Program, P.O. Box 21668, Juneau, AK 99802–1668, Facsimile: (907) 586–7354.

(iv) *Payment method*. Payment must be made by personal check drawn on a U.S. bank account, money order, or bank certified check.

(b) *IFQ ex-vessel value determination and use* — (1) *General*. An IFQ permit holder must use either the IFQ standard ex-vessel value or the IFQ actual ex-vessel value when determining the IFQ fee liability based on ex-vessel value. An IFQ permit holder must base all fee liability calculations on the ex-vessel value that correlates to landed IFQ fish that is recorded in IFQ equivalent pounds.

(2) *IFQ actual ex-vessel value*. An IFQ permit holder that uses actual ex-vessel value, as defined in § 679.2, to determine IFQ fee liability must document actual ex-vessel value for each IFQ permit.

(c) *IFQ standard ex-vessel value determination and use* —(1) *Use of standard price*. An IFQ permit holder that uses standard ex-vessel value to determine the IFQ fee liability as part of a revised IFQ fee liability submission must use the corresponding standard price(s) as published in the **Federal Register**.

(2) *Duty to publish list*.(i) *General*. Each year the Regional Administrator will publish IFQ standard prices in the **Federal Register** during the last quarter of each calendar year. The standard prices will be described in U.S. dollars per IFQ equivalent pound, for IFQ halibut and sablefish landings made during the current calendar year.

(ii) *Effective duration*. The IFQ standard prices will remain in effect until revised by the Regional Administrator by notification in the **Federal Register** based upon new information of the type set forth in this section. IFQ standard prices published in the **Federal Register** by NMFS shall apply to all landings made in the same calendar year as the IFQ standard price publication and shall replace any IFQ standard prices previously provided by NMFS that may have been in effect for that same calendar year.

(iii) *Determination*. NMFS will calculate the IFQ standard prices to reflect, as closely as practical by month and port or port-group, the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings based on information provided in the IFQ Buyer Reports as described in § 679.5(l)(7)(i). The Regional Administrator will base IFQ standard prices on the following types of information:

(A) Landed pounds by IFQ species, port-group, and month;

(B) Total ex-vessel value by IFQ species, port-group, and month; and

(C) Price adjustments, including IFQ retro-payments.

(d) *IFQ fee percentage*.–(i) *Default percentage*. The IFQ fee percentage is 3 percent (0.03) unless adjusted by the Regional Administrator by publication in the **Federal Register** in accordance with § 679.45(d)(3).

(2) *Calculating fee percentage value*. Each year the Regional Administrator will calculate the fee percentage.–(i) Factors. In making the calculations the Regional Administrator will consider the following factors:

(A) The catch to which the IFQ fee would apply;

(B) The projected ex-vessel value of that catch;

(C) The costs directly related to the management and enforcement of the IFQ program;

(D) The funds available for the IFQ program in the Limited Access System Administrative Fund (LASAF); and

(E) Nonpayment of fee liabilities.

(ii) *Methodology*. In making the calculation, the Regional Administrator will use the methodology described here.

$$[100 \times (DPC - AB) / V] / (1 - NPR)$$

where:

DPC is the direct program costs for the IFQ fishery for he previous fiscal year,

AB is the projected end of the year LASAF account balance for the IFQ program,

V is the projected ex-vessel value of the catch subject to the IFQ fee for the current year, and

NPR is the fraction of the fee assessments that is expected to result in nonpayment.

(3) *Adjustments*. (1) *General*. During or before the last quarter of each year, the Regional Administrator will consider adjusting the IFQ fee percentage. Consideration will be based on the calculations described in § 679.45(d)(2). The Regional Administrator may reduce the IFQ fee percentage at any time based on new information of the type set forth in § 679.45(d)(2).

(ii) *In-season effective period*. An in-season reduction in the IFQ fee percentage supersedes the IFQ fee percentage previously in effect for the calendar year and remains in effect through the end of the calendar year in which it was determined unless otherwise adjusted by the Regional Administrator.

(4) *Publication*. The Regional Administrator will publish notification in the **Federal Register** any adjustment of the IFQ fee percentage.

(5) *Applicable percentage*. The IFQ permit holder must use the IFQ fee percentage in effect at the time an IFQ landing is made to calculate his or her fee liability for such landed IFQ pounds unless the percentage is subsequently adjusted as described in § 679.45(d)(3). The IFQ permit holder must use the IFQ percentage in effect at the time an IFQ retro-payment is received by the IFQ permit holder to calculate his or her IFQ fee liability for the IFQ retro-payment.

(e) *Non-payment of fee*. If an IFQ permit holder does not submit a complete Fee Submission Form and corresponding payment by the due date described in § 679.45(a)(2) and (3), the Regional Administrator may:

(1) at any time thereafter send an IAD to the IFQ permit holder stating that the IFQ permit holder's estimated fee liability, as calculated by the Regional Administrator and sent to the IFQ permit holder pursuant to § 679.45(a)(2) is the amount of IFQ fee due from the IFQ permit holder.

(2) disapprove any transfer of IFQ or QS to or from the IFQ permit holder in accordance with § 679.41(c)(8)(i). Upon final agency action determining that an IFQ permit holder has not paid his or her IFQ fee liability, any IFQ permit held by the IFQ permit holder is not valid until all IFQ fee liabilities are paid. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(f) *Underpayment of IFQ fee*. (1) When an IFQ permit holder has incurred a fee liability and made a timely payment to NMFS of an amount

less than the NMFS estimated IFQ fee liability, the Regional Administrator will review the Fee Submission Form and related documentation submitted by the IFQ permit holder. If the Regional Administrator determines that the IFQ permit holder has not paid an sufficient amount, the Regional Administrator may disapprove any transfer of IFQ or QS to or from the IFQ permit holder in accordance with § 679.41(c)(4). The Regional Administrator will notify the IFQ permit holder by letter that an sufficient amount has not been paid and that the IFQ permit holder has 30 days from the date of the letter to either pay the amount determined to be due or provide additional documentation to prove that the amount paid was the correct amount. The Regional Administrator will evaluate any additional documentation submitted by an IFQ permit holder in support of his or her payment. If the Regional Administrator determines that the additional documentation does not meet the IFQ permit holder's burden of proving his or her payment is correct, the Regional Administrator will send the permit holder an IAD indicating that the permit holder did not meet the burden of proof to change the IFQ fee liability as calculated by the Regional Administrator based upon the IFQ standard ex-vessel value.

(2) After expiration of the 30-day period, the Regional Administrator will issue and IAD and notify the IFQ permit holder. The IAD will set out the facts and indicate the deficiencies in the documentation submitted by the permit holder. An IFQ permit holder who receives an IAD may appeal pursuant to § 679.43. In an appeal of an IAD made under this section, the IAD permit holder has the burden of proving his or her claim.

(3) If the permit holder fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. If the IAD is appealed and the final agency action is a determination that additional sums are due from the IFQ permit holder, the IFQ permit holder must pay any IFQ fee amount determined to be due not later than 30 days from the issuance of the final agency action. Once a fee liability determination becomes final, any IFQ permit held by the IFQ permit holder will be deemed not valid until all IFQ fee liabilities have been paid. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(g) *Over payment*. Upon issuance of final agency action, any amount submitted to NMFS in access of the IFQ fee liability determined to be due by the final agency action will be returned to the IFQ permit holder unless the permit holder requests the agency to credit the excess amount against the IFQ permit holder's future IFQ fee liability.

(h) *Appeals and requests for reconsideration*. An IFQ permit holder who receives and IAD may either appeal the IAD pursuant to § 679.43 or request reconsideration. Within 60 days from the date of issuance of the IAD or the Regional Administrator may undertake a reconsideration of the IAD on his or her own initiative. If a request for reconsideration is submitted or the Regional Administrator initiates a reconsideration, the 60-day period for appeal under § 679.43 will begin anew upon issuance of the Regional Administrator's reconsidered IAD. The Regional Administrator may undertake only one reconsideration of the IAD, if any. If an IFQ permit holder fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. In any appeal or reconsideration of an IAD made under this section, an IFQ permit holder has the burden of proving his or her claim.

(i) *Annual report*. NMFS will publish annually a report describing the status of the IFQ Cost Recovery Program.

[FR Doc. 99–33198 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 64, No. 247

Monday, December 27, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Forms 83–1, Federal-State Special Supplemental Food Program Agreement

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 (FNS) intention to request OMB review of the Federal-State Special Supplemental Food Program Agreement.

DATES: Comments on this notice must be received by February 25, 2000.

ADDRESSES: Send comments and requests for copies of this information collection to: Patricia Daniels, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

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.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Patricia Daniels, (703) 305–2746.

Supplementary Information

Title: Federal-State Special Supplemental Food Program Agreement.

OMB Number: 0584–0332.

Expiration Date: 12–31–99.

Type of Request: Extension of a currently approved collection.

Abstract: The Agreement is the contract between USDA and WIC State agency which empowers the Department to release funds to the State agency for the administration of the WIC or Farmer's Market Nutrition Program in the jurisdiction of the State in accordance with the provisions of 7 CFR Part 246.

The Agreement requires the signature of the agency official and includes a certification/assurance regarding drug-free workplace, a certification regarding lobbying and a disclosure of lobbying activities.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: The Chief Health Officer of the State agency or Chief Executive Officer of the State.

Estimated Number of Respondents: 100 respondents.

Estimated Number of Responses Per Respondent: One.

Estimated Time per Response: .25 hours.

Estimated Total Annual Burden on Respondents: 25 hours.

Dated: December 7, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–33204 Filed 12–23–99; 8:45 am]

BILLING CODE 3410–30–U

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED PROCUREMENT LIST

Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 26, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Base Supply Center

Various locations throughout the Mississippi National Guard
NPA: Signature Works, Inc.; Hazlehurst, Mississippi

Janitorial/Custodial

U.S. Coast Guard
Vessel Traffic Service San Francisco, Yerba Buena Island, Building 278, San Francisco, California
NPA: Toolworks, Inc., San Francisco, California
U.S. Coast Guard
Southwest Harbor Building, Southwest Harbor, Maine
NPA: DEH Operating Company, Bar Harbor, Maine

Telephone Switchboard Operations

Department of Veterans Affairs Medical Center, 50 Irving Street, NW, Washington, DC
NPA: Columbia Lighthouse for the Blind, Washington, DC

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will result in authorizing small entities to furnish the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Penetrating Fluid
6850–00–985–7180
6850–00–508–0076
Water-Displacing Compound
6850–00–142–9389
6850–00–142–9409
Cleaning Compound, Rug and Upholstery
7930–01–393–6760
Detergent, General Purpose
7930–00–531–9715
7930–00–531–9716
Dishwashing Compound, Hand
7930–01–055–6136
Pad, Parachutists' Helmet
8470–01–092–8494

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–33490 Filed 12–23–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: January 26, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 13, September 10 and 24, November 5 and 15, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 F.R. 44198, 49147, 51736, 60407 and 61819) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.
2. The action will not have a severe economic impact on current contractors for the commodities and services.
3. The action will result in authorizing small entities to furnish the commodities and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Tape, Measuring
5210–01–139–7444
Knife, Kitchen
7340–00–686–0863
Tape, Pressure-Sensitive Adhesive
7510–00–297–6655

7510–00–297–6656

Services

Commissary Shelf Stocking, Custodial and Warehousing, Grand Forks Air Force Base, North Dakota
Duplicating Service Program (GPO Program C285–S) Federal Bureau of Investigation, Criminal Justice Information Services Complex, Clarksburg, West Virginia

Janitorial/Custodial

VA Greater Los Angeles Regional Healthcare System, Consolidated Mail Outpatient Pharmacy, 11301 Wilshire Boulevard, Building 222, Los Angeles, California

Janitorial/Custodial

VA Outreach Center, 9737 Haskell Avenue, Sepulveda, California.

Janitorial/Grounds Maintenance

Oxnard Border Patrol Station 275 Skyway Drive Camarillo, California

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action may result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. Accordingly, the following commodities are hereby deleted from the Procurement List:

Executive/Personal Time Management System
7510–01–429–7081
7510–01–429–7038
7510–01–429–7065
7510–01–429–7076
7510–01–429–7040
7510–01–429–7053
7510–01–429–7068
7510–01–429–9609
7510–01–429–7841
7510–01–429–7074
7510–01–429–7035
7510–01–429–7046
7510–01–429–7066
7510–01–429–7072
7510–01–429–7078
7510–01–429–7034
7510–01–429–7051
7530–01–429–6938
7510–01–429–7083
7510–01–429–7043
7510–01–429–7059
7530–01–429–6940
7530–01–429–9505
7510–01–429–7843
7510–01–429–9986
7510–01–429–7835
7510–01–429–9985

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–33491 Filed 12–23–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Annual Capital Expenditures Survey.

Form Number(s): ACE–1, ACE–1(L), ACE–2, ACE–2(L).

Agency Approval Number: 0607–0782.

Type of Request: Revision of a currently approved collection.

Burden: 139,000 hours.

Number of Respondents: 59,000.

Avg. Hours Per Response: 2 hours and 22 minutes.

Needs and Uses: The Census Bureau plans the continuing information collection for the Annual Capital Expenditures Survey (ACES). The annual survey collects data on fixed assets and depreciation, sales and receipts, and capital expenditures for new and used structures and equipment. The ACES is the sole source of detailed comprehensive statistics on actual business spending by domestic, private, nonfarm businesses operating in the United States. Business spending data are used to evaluate the quality of estimates of gross domestic product, develop monetary policy, analyze business asset depreciation, and improve estimates of capital stock for productivity analysis. Industry analysts use these data for market analysis, economic forecasting, identifying business opportunities, product development, and business planning.

The major changes to the ACES are the elimination of our request for detailed types structures and types of equipment data from employer businesses, the elimination of research on new (birth) establishments, and the incorporation of the North American Industry Classification System (NAICS) into the survey.

Affected Public: Businesses or other for-profit organizations, Not-for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 182, 224, and 225.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 21, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–33466 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2000 Survey of Program Dynamics.

Form Number(s): CAI Automated Instrument.

Agency Approval Number: 0607–0838.

Type of Request: Revision of a currently approved collection.

Burden: 25,150 hours.

Number of Respondents: 42,000.

Avg. Hours Per Response: 36 minutes per respondent, 10 minutes per reinterview.

Needs and Uses: The Census Bureau seeks OMB approval to conduct the 2000 Survey of Program Dynamics (SPD). The SPD provides the basis for an overall evaluation of how well welfare reforms are achieving the aims of the Administration and the Congress and meeting the needs of the American people. This survey simultaneously measures the important features of the full range of welfare programs, including programs that are being reformed and those that are unchanged, and the full range of other important social, economic, demographic, and family changes that will facilitate or limit the effectiveness of the reforms.

The SPD is a longitudinal study that follows a subset of the respondents from the 1992 and 1993 panels of the Survey of Income and Program Participation (SIPP). The SPD was first implemented in the spring of 1997 with a bridge survey that provided a link to baseline data for the period prior to the implementation of welfare reforms. The first full-scale SPD was conducted in 1998. Annual surveys will be conducted through 2002. The data gathered for the 10-year period (1992–2002) will aid in assessing short-to medium-term consequences of outcomes of the welfare legislation.

The majority of questions used in the 2000 SPD will remain the same as those from the 1999 SPD. However, some new questions for 2000 have been requested by policymakers. These include questions on children's residential history and changes to questions about public assistance and work training. Like the 1997 SPD Bridge survey, the 1998 SPD, and the 1999 SPD, the 2000 SPD uses a computer-assisted

interviewing instrument on laptops for personal visits and telephone interviews.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182, and Public Law 104–193, Section 414 (signed 8/22/96), Title 42, United States Code, Section 614.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 21, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–33467 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Quarterly Survey of the Finances of Public Employee Retirement Systems.

Form Number(s): F–10.

Agency Approval Number: 0607–0143.

Type of Request: Revision of a currently approved collection.

Burden: 408 hours.

Number of Respondents: 102.

Avg Hours Per Response: 1 hour.

Needs and Uses: This survey provides, on a quarterly basis, nationwide data on the cash and security holdings of the 102 largest public-employee retirement systems. These 102 systems control billions of asset dollars and represent 80 percent of the total assets of all public employee retirement systems. The most important information this survey provides is the quarterly change in composition of the securities holdings of this component of the economy. The Federal Reserve Board, the Bureau of Economic Analysis, and others use these data to monitor and analyze investment trends and to formulate governmental economic policies and investment decisions.

In this request, we are revising the form to make it compatible with our annual collection of government finance data in the Annual Survey of Government Finances (OMB number 0607–0585). We will also begin asking for both book value and market value of bonds and stocks in an effort to eliminate confusion over which value to report. This is also in-line with reporting in the annual government finance collection.

Affected Public: State, Local, or Tribal Government.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 21, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–33468 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–806]

Carbon Steel Wire Rope from Mexico: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review

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

ACTION: Notice of extension of time limits for preliminary results of Antidumping Duty Administrative Review and New Shipper Review.

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, US Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington DC 20230; telephone: (202) 482–0666 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Departments's regulations are to the current regulations, codified at 19 CFR Part 351 (1999).

Background

In accordance with 19 CFR 351.213(b)(2), Aceros Camesa, S.A. de C.V. (''Camesa''), a Mexican producer of subject merchandise, requested that we conduct an administrative review of its sales. Petitioners in the proceeding, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (''the Committee''), also requested a review of Camesa's sales, in accordance with 19 CFR 351.213(b)(1). We published a notice of initiation of this antidumping administrative review on April 30, 1999 (64 FR 23269).

In accordance with 19 CFR 351.214, Cablesa, S.A. de C.V. (''Cablesa''), a Mexican producer of subject merchandise, requested that we conduct a new shipper review of its sales. We published a notice of initiation of this new shipper review on May 7, 1999 (64 FR 24573). After receiving a waiver of the normal time limits for a new shipper reivew from Cablesa under 19 CFR 351.214(j)(3), we decided to publish the results of this new shipper review simultaneously with the results of the administrative review. *See* 64 FR 61825 (November 15, 1999).

On November 30, 1999, in accordance with section 751(a)(3)(A), the Department issued an extension of the preliminary determination due date of both reviews by 7 days to December 8, 1999.

Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Act directs the Department to make a preliminary determination within 245 days for each

administrative review. This section provides, however, that ''if it is not practicable to complete the review within the foregoing time, the administrative authority may extend that 245-day period to 365 days . . .'' Because of the complexities enumerated in the *Memorandum from Joseph A. Spetrini to Robert S. LaRussa, Extension of Time Limits for the Preliminary Results of Review of Steel Wire Rope from Mexico,* dated December 7, 1999, the Department has determined that it is not practical to complete these reviews by December 8, 1999.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limits for the preliminary results of the administrative review and new shipper review by 113 days to March 30, 2000.

Dated: December 8, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 99–33498 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822; A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limits for final results of antidumping administrative review.

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–5255 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR Part 351 (1999).

Background

On August 19, 1993, the Department published in the **Federal Register** (58 FR 44162) the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. Based on timely requests by petitioners and respondents in both proceedings, the Department published its initiation of these antidumping duty administrative reviews covering the period of August 1, 1997 through July 31, 1998 on September 29, 1998 (63 FR 51893). On August 19, 1999, the Department published the preliminary results of review (64 FR 45228).

Extension of Time Limits for Final Results

Because of the complexities enumerated in the Memorandum from Joseph A. Spetrini to Robert S. LaRussa, *Extension of Time Limit for the Final Results of Antidumping Duty Administrative Reviews of Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada,* dated December 17, 1999, it is not practical to complete these reviews within the time limits mandated by section 751(a)(3)(A) of the Act.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the final results of review until February 15, 2000.

Dated: December 17, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 99–33499 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–837]

Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review and Intent To Revoke Antidumping Duty Order, In Part

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

ACTION: Notice of final results of changed circumstances antidumping duty administrative review and intent to revoke antidumping duty order, in part.

SUMMARY: On November 3, 1999, the Department of Commerce published a notice of preliminary results of changed circumstances review and intent to revoke the order, in part, of the antidumping duty order on large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan. We gave interested parties an opportunity to comment on the preliminary results. No party opposed the preliminary results. We received comments only from Mitsubishi Heavy Industries, Ltd., requesting that the Department of Commerce clarify the application of the proposed certification requirements with respect to entries of the merchandise covered by the partial revocation.

We are now revoking this order, in part, based on the fact that producers accounting for substantially all production of the domestic like product, as described in our preliminary results of changed circumstances, support the request of Goss Graphic Systems, Inc., the petitioner and a U.S. producer of the subject merchandise, for revocation, in part, of the order with regard to large newspaper printing presses (''LNPP'') and components thereof, whether assembled or unassembled, from Japan, as described below.

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Dinah McDougall, Office 2, AD/CVD Enforcement Group I, Import Administration, Room B099, International Trade Administration, US Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–4136 or (202) 482–3773, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to the regulations at 19 CFR Part 351 (1999).

SUPPLEMENTARY INFORMATION:

Background

On November 3, 1999, the Department published in the **Federal Register** (64 FR 59739) a notice of preliminary results of changed circumstances

antidumping duty administrative review and intent to revoke antidumping duty order, in part, for large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan. On November 18, 1999, we received comments from Mitsubishi Heavy Industries, Ltd. requesting clarification of the certification requirements.

Scope of Review

The products covered by this changed circumstances review are elements and components of LNPP systems, and additions thereto, imported to fulfill a contract for one or more complete LNPP systems which feature a 22 inch cut-off, 50 inch web width and a rated speed no greater than 75,000 copies per hour. In addition to the specifications set out in this paragraph, all of which must be met in order for the product to fall within this changed circumstances review, the product must also possess all of the specifications detailed in the five (5) numbered sections following this paragraph. If one or more of these criteria is not fulfilled, the product is not within the scope of this changed circumstances review:

1. *Printing Unit:* A printing unit which is a color keyless blanket-to-blanket tower unit with a fixed gain infeed and fixed gain outfeed, with a rated speed no greater than 75,000 copies per hour, which includes the following features:

- Each tower consisting of four levels, one or more of which must be populated.
- Plate cylinders which contain slot lock-ups and blanket cylinders which contain reel rod lock-ups both of which are of solid carbon steel with nickel plating and with bearers at both ends which are configured in-line with bearers of other cylinders.
- Keyless inking system which consists of a passive feed ink delivery system, an eight roller ink train, and a non-anilox and non-porous metering roller.
- The dampener system which consists of a two nozzle per page spraybar and two roller dampener with one chrome drum and one form roller.
- The equipment contained in the color keyless ink delivery system is designed to achieve a constant, uniform feed of ink film across the cylinder without ink keys. This system requires use of keyless ink which accepts greater water content.

2. *Folder:* A module which is a double 3:2 rotary folder with 160 pages collect capability and double (over and under) delivery, with a cut-off length of 22 inches. The upper section consists of three-high double formers (total of 6) with six sets of nipping rollers.

3. *RTP:* A component which is of the two-arm design with core drives and core brakes, designed for 50 inch diameter rolls; and arranged in the press line in the back-to-back configuration (left and right hand load pairs).

4. *Conveyance and Access Apparatus:* Conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheets across through the production process, and a drive system which is of conventional shafted design.

5. *Computerized Control System:* A computerized control system, which is any computer equipment and/or software designed specifically to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

The order with regard to imports of other LNPPs is not affected by this request.

Final Results of Changed Circumstances Antidumping Duty Administrative Review

Pursuant to section 751(d)(1) of the Act, the Department may partially revoke an antidumping duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request containing information concerning changed circumstances sufficient to warrant a review.

The Department's regulations at 19 CFR 351.216 provide that the Department will conduct a changed circumstances review based upon changed circumstances sufficient to warrant a review. Section 782(h) of the Act and 19 CFR 351.222(g)(1)(i) further provide that the Department may revoke an order, or revoke an order in part, if it determines that the order (or part of the order) under review is no longer of interest to domestic interested parties.

Based on the fact that producers accounting for substantially all production of the domestic like product, as described in our preliminary results of changed circumstances review, support the request of Goss Graphic Systems, Inc., the petitioner, to revoke the antidumping duty order, in part, we have determined that there are changed circumstances sufficient to warrant revocation of the order, in part. Therefore, the Department is revoking, in part, the antidumping duty order on LNPPs from Japan with respect to the import of the elements and components of LNPP systems and additions thereto as described above, in accordance with sections 751(b) and 782(h) of the Act and 19 CFR 351.222(g)(1)(i). This partial revocation will apply to all entries of LNPP systems and additions thereto as described above from Japan entered, or withdrawn from warehouse, for consumption on or after September 4, 1996, as requested by the petitioner.

We have taken into account comments from Mitsubishi Heavy Industries, Ltd. requesting that the Department clarify the Customs certification requirements proposed in the preliminary results.

We will instruct the Customs Service (Customs) to liquidate without regard to antidumping duties, and to refund any cash deposits collected for all entries of the merchandise described above, made on or after September 4, 1996. Further, we will instruct Customs to require that a party requesting a refund of cash deposits collected on entries of the merchandise described above, made on or after September 4, 1996, or a party importing the merchandise described above during this period, submit a certification to Customs stating that the imported merchandise meets the specifications of the merchandise covered by the partial revocation.

We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: December 15, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–33497 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–855]

Non-Frozen Apple Juice Concentrate From the People's Republic of China: Notice of Amended Preliminary Determination, Postponement of Final Determination and Extension of Provisional Measures

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

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Sally Hastings, Craig Matney or Annika O'Hara, Office I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202)

482–3464, (202) 482–1778 or (202) 482–3798, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (April 1, 1998).

Scope of Investigation

For purposes of this investigation, the product covered by the scope is all non-frozen concentrated apple juice with a Brix scale of 40 or greater, whether or not containing added sugar or other sweetening matter, and whether or not fortified with vitamins or minerals. Excluded from the scope of this investigation are: frozen concentrated apple juice; non-frozen concentrated apple juice that has been fermented; and non-frozen concentrated apple juice to which spirits have been added.

Since the publication of the preliminary determination, the Department has ascertained that the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading cited therein, does not fully incorporate all products included in the written description of the merchandise under investigation. The merchandise subject to this investigation is classified in the HTSUS at subheadings 2009.70.00.20 and 2106.90.52. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Postponement of the Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2)(A) of the Act, and 19 CFR 351.210(b)(2), on November 23, 1999, respondents in this investigation (*i.e.*, Yantai North Andre Juice Co. Ltd. (''North Andre''), Shaanxi Haisheng Fresh Fruit Juice Co., Ltd. (''Haisheng''), Sanmenxia Lakeside Fruit Juice Co., Ltd (''Lakeside''), Shandong Zhonglu Juice Group Co. (''Zhonglu''), Yantai Oriental Juice Co. (''Oriental''), Qingdao Nannan Foods Co., Ltd. (''Nannan''), Xianyang Fuan Juice Co. (''Fuan''), Xian Asia Qin Fruit Co., Ltd. (''Asia Fruit''), Shaanxi Machinery & Equipment Import & Export Corporation (''SAAME''), Changsha Industrial Products & Minerals Import & Export Corporation (''Changsha''), and Shandong Foodstuffs Import & Export Corporation (''Shandong Foodstuffs'')) requested that the Department postpone its final determination 135 days from the date of the publication of the preliminary determination in the **Federal Register**. In accordance with 19 CFR 351.210, because: (1) Our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register** (*i.e.*, until April 6, 2000). In addition, pursuant to 19 CFR 351.210(e)(2), respondents agreed to an extension of provisional measures from a 4-month period to not more than 6 months. Suspension of liquidation will be extended accordingly.

Amended Preliminary Determination of Sales at Less Than Fair Value

On November 24, 1999, the respondents alleged that in the preliminary determination the Department made certain ministerial errors in the calculation of SG&A and overhead ratios for all respondents, in the ocean freight value applied for Lakeside, and in the affirmative finding of critical circumstances for non-investigated companies. The petitioners did not allege any ministerial errors.

The Department has reviewed its preliminary calculations for all respondents and agrees that it made certain ministerial errors within the meaning of 19 CFR 351.224(f) (*see Ministerial Error Allegations for Preliminary Determination* memorandum to Richard W. Moreland, Deputy Assistant Secretary, Import Administration, Group I, dated the same day as this notice, on file in room B–099 of the Department's headquarters). A significant ministerial error is defined as a correction which, singly or in combination with other errors, (1) would result in a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted average dumping margin calculated in the original (erroneous) preliminary determination; or (2) would result in a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa, as defined by 19 CFR 351.224(g). Because the change in Lakeside's margin meets the first alternative of this standard, the Department finds the ministerial errors only with respect to Lakeside to be significant. Therefore, the Department is amending its preliminary determination with respect to Lakeside in accordance with 19 CFR 351.224(e).

As a result of the correction of the significant ministerial errors, the Department has determined that the following weighted-average dumping margins apply for the PRC:

Exporter/manufacturer	Weighted average margin percentage
Yantai North Andre Juice Co., Ltd	0.00
Shaanxi Haisheng Fresh Fruit Juice Co., Ltd	18.58
Sanmenxia Lakeside Fruit Juice Co., Ltd	29.89
Shandong Zhonglu Co., Ltd	9.85
Yantai Oriental Juice Co., Ltd	14.97
Qingdao Nannan Foods Co., Ltd	44.24
Shaanxi Machinery & Equipment Import & Export Corp	35.29
Xian Asia Qin Fruit Co., Ltd	28.71
Xian Yang Fuan Juice Co., Ltd	28.71
Changsha Industrial Products & Minerals Import and Export Co., Ltd	28.71
Shandong Foodstuffs Import and Export Corporation	28.71
PRC-wide rate	54.55

ITC Notification

In accordance with section 733(f) of the Act, the Department has notified the ITC of this amended preliminary determination. If the final determination is affirmative, the ITC will determine whether imports of the merchandise under investigation are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after the final determination.

Public Comment

For this investigation, case briefs must be submitted no later than March 9, 2000. Rebuttal briefs must be filed no later than March 14, 2000. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a hearing is requested, it will be held at 9:00 AM on March 17, 2000, at the Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should

confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department is publishing this notice of postponement of the final determination, extension of provisional measures and amendment to the preliminary determination pursuant to sections 735(a)(2) and 733(d) of the Act and 19 CFR 351.210(g) and 351.224(e).

Dated: December 17, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–33496 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 121799C]

Notice of Intent to Prepare an Environmental Impact Statement Regarding Proposed Issuance of an Incidental Take Permit to J. L. Storedahl & Sons, Inc. for Gravel Extraction and Processing and Habitat Enhancement Activities in Clark County, Washington.

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), NMFS and FWS (collectively, the Services) intend to prepare an Environmental Impact Statement (EIS) regarding the proposed issuance of an incidental take permit (Permit) by the Services to J. L. Storedahl & Sons, Inc. (Storedahl) for their gravel extraction and processing and habitat enhancement activities on a portion of Storedahl's fee-owned lands in Clark County, Washington.

The proposed Permit would authorize take of federally listed threatened and endangered species in accordance with the Endangered Species Act of 1973, as amended (ESA), and other species should they become listed in the future. Storedahl intends to request a Permit that includes the following species:

Listed as threatened: Lower Columbia River Evolutionarily Significant Unit (ESU) of steelhead (*Oncorhynchus mykiss*), Lower Columbia River (LCR) ESU of chinook salmon (*Oncorhynchus tshawytscha*), Columbia River ESU of chum salmon (*Oncorhynchus keta*), bull trout (*Salvelinus confluentus*).

Proposed as threatened: Southwestern Washington/Columbia River DPS of coastal cutthroat trout (*Oncorhynchus clarki clarki*).

Candidate species: LCR ESU of coho salmon (*Oncorhynchus kisutch*), Oregon spotted frog (*Rana pretiosa*).

Species of concern: Pacific lamprey (*Lampetra tridentata*), river lamprey (*Lampetra ayresi*).

As required by the ESA, Storedahl is preparing a Habitat Conservation Plan (Plan). The Services are furnishing this notice to advise other agencies and the public of our intentions and to announce the initiation of a 30-day scoping period during which other agencies and the public are invited to provide written comments on the scope of issues and potential alternatives to be included in the EIS.

DATES: Written comments on this proposed action and the environmental review must be received at the appropriate address (See **ADDRESSES**) from interested parties no later than 5:00pm Pacific standard time on January 26, 2000.

ADDRESSES: Written comments should be sent to Tim Romanski, FWS, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503; or Sam Brenkman, NMFS, 510 Desmond Drive SE, Suite 103, Lacey, Washington 98503. Comments will not be accepted if submitted via e-mail or the internet.

FOR FURTHER INFORMATION CONTACT: Tim Romanski, FWS, telephone (360) 753–5823, e-mail Tim_Romanski@mail.fws.gov; or Sam Brenkman, NMFS, telephone (360) 534–9338, e-mail Sam.Brenkman@noaa.gov.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit ''take'' of species that are listed as endangered or threatened. The term ''take'' is defined under the ESA to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm is defined by FWS to include significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, sheltering, spawning, rearing and migrating. Harm is defined by NMFS as significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, feeding, and sheltering.

The Services may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. FWS regulations governing permits for endangered species are found in 50 CFR 17.22, and regulations governing permits for threatened species are found in 50 CFR 17.32. NMFS regulations governing permits for threatened and endangered species are found in 50 CFR 222.307.

Background

Storedahl owns and manages approximately 300 acres of land in rural Clark County, Washington adjacent to the lower reaches of the East Fork Lewis River. The property is located approximately 4 miles southeast of La Center, and approximately 1 mile downstream of Clark County's Daybreak Park at 27140 NE 61st Avenue, Battle Ground, Washington. Storedahl proposes to mine and process aggregate on this land in accordance with a variety of conservation measures as specified in the Plan.

Some of Storedahl's management activities have the potential to impact species subject to protection under the ESA. Section 10(a)(2)(B) of the ESA contains provisions for the issuance of incidental take permits to non-Federal landowners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. An applicant for a Permit under section 10 of the ESA must prepare and submit to the Services for approval a Plan containing a strategy for minimizing and mitigating the impacts of take on listed species associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for the Plan will be provided.

Storedahl initiated discussions with the Services regarding the development of a Plan and attaining a Permit for their activities. Activities proposed for Permit coverage include extraction of sand and gravel; transportation of sand and gravel to a processing area; processing of sand and gravel; all discharges regulated under a National Pollutant Discharge Elimination System permit; construction and maintenance activities; site preparation; tree planting and fertilization; and stream and riparian restoration, rehabilitation and enhancement. The Plan and Permit would also cover certain monitoring activities and related adaptive

management measures set forth in the Plan.

The Services will conduct an environmental review of the Plan and prepare an EIS. The environmental review will analyze the proposal as well as a full range of reasonable alternatives and the associated impacts of each. The Services are currently in the process of developing alternatives for analysis. Alternatives thus far include a No Action alternative and one Plan alternative. The scoping process will be used to identify additional alternatives.

The Plan alternative proposes that the Services issue incidental take permits and that Storedahl implement the Plan on approximately 300 acres. This action would apply various conservation measures and actions that meet or exceed the environmental and conservation standards and guidelines of the Washington Surface Mining Act, other state laws and regulations and applicable county regulations. In effect, the Services would issue a Permit and Storedahl would manage their lands in accordance with the conservation standards, guidelines and regime set forth in the Plan, including conveyance of lands to non-profit organizations or granting of conservation easements, or both.

Under the No Action alternative, a permit would not be issued by the Services and Storedahl would continue ongoing processing activities and undertake to resume mining at the site, implementing both so as to avoid take of federally listed species. However, such an alternative would likely not address long-term conservation measures, such as the granting of conservation easements or conveying real property to non-profit organizations.

Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to these proposed actions are addressed and that all significant issues are identified. Comments or questions concerning this proposed action and the environmental review should be directed to FWS or NMFS (see **ADDRESSES**).

The environmental review of this project will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 et seq.), Council on Environmental Quality regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and policies and procedures of the Services for compliance with those regulations. It is estimated that the draft EIS will be available for public review during the first quarter of calendar year 2000.

Dated: December 13, 1999.

Anne Badgley,

Regional Director, Region 1, U.S. Fish and Wildlife Service, Portland, Oregon.

Dated: December 17, 1999.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–33512 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–22–F, 4310–55–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102599A]

Pacific Fishery Management Council; Public Meetings; Correction

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

ACTION: Correction of a public meetings notice.

SUMMARY: The Pacific Fishery Management Council's Ad-Hoc Groundfish Strategic Plan Development Committee has scheduled six 2-day work sessions which are open to the public. The notice was published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence D. Six, Executive Director; telephohe: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The original notice was published in the Federal Register on November 4, 1999, 64 FR 60172. The meeting for Tuesday, January 18 and Wednesday, January 19, 2000 has been rescheduled to Monday, January 17, from 10 a.m. until 5 p.m, and Tuesday January 18, from 8 a.m. to 4 p.m.

All other previously published information remains unchanged.

Dated: December 20, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–33513 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

mendment of the Export Visa Arrangement to Include the New Certification Stamp for Outward Processed Goods for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia; Correction

December 20, 1999.

In the letter to the Commissioner of Customs published in the **Federal Register** on December 14, 1999 (64 FR 69743), please make the following corrections:

On page 69743, column 2, line 9 in the 1st paragraph under ''Visa Requirements'', correct ''Categories 433, 434, 435, 443 and 448'' to read ''Categories 200-239, 300-369, 400-469, 600-670 and 800-899''.

On page 69744, column 1, line 2 in the 1st paragraph under ''Certification Requirements for Outward Processing Program'', correct ''Categories 433, 434, 435, 442, 443, 444, 447 and 448'' to read ''Categories 433, 434, 435, 443 and 448''.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–33493 Filed 12–23–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Final Environmental Impact Statement for Approval of Land Use and Real Estate Investment Strategies in support of Real Property Master Planning at Fort Huachuca, Arizona

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability (NOA).

SUMMARY: This announces the availability of the Final Environmental Impact Statement (FEIS) which assesses the potential environmental impacts of the approval of updates to three components of the Fort Huachuca Real Property Master Plan (RPMP), and the authorization of the steps leading to project implementation.

DATES: Written comments received within 30 days of the publication of the Environmental Protection Agency's NOA for this action will be considered by the Army during final decision making.

ADDRESSES: To obtain copies of the FEIS, contact Commander, U.S. Army Garrison, Attn: ATZS–ISB (FEIS/Ms.

Chastain), Fort Huachuca, Arizona 85613–6000.

FOR FURTHER INFORMATION CONTACT: Major Dan Williams or Ms. Tanya Linton at (520) 533–1287 or 533–2752.

SUPPLEMENTARY INFORMATION: The Department of the Army prepared a Draft Environmental Impact Statement (DEIS) which assessed the environmental and human health impacts of the proposed action at Fort Huachuca, Arizona, and the surrounding communities. An NOA was published on June 10, 1998, in the **Federal Register** by the U.S. Environmental Protection Agency, which provided notice that the DEIS was available for comment. A public Information meeting was held on June 30, 1998. Comments from the DEIS and public meeting have been considered and included along with responses in the FEIS.

The proposed action is to approve three updates to the Installation RPMP: (1) Long-Range Component, (2) the Short-Range Component, and (3) the Capital Investment Strategy, which will be used to guide real property and facilities management at Fort Huachuca. The alternatives to the proposed action considered in the FEIS are (1) No Action (continuation of current management conditions) and (2) Other Action—approval of the Long-Range Component update but not the Short-Range Component and Capital Investment Strategy updates.

Approval of the three RPMP component updates as discussed in the proposed action would allow Fort Huachuca to establish a framework for managing limited financial and real property resources and ensure installation management is compatible with local community development. Minor positive impact to land use and personnel safety would result from corrections of land use incompatibilities within the cantonment. Minor indirect positive socio-economic impact may occur at Fort Huachuca as a result of approving steps toward the implementation of programmed construction projects.

The FEIS concludes that no significant environmental impacts to cultural resources, air quality, noise, geology and soils, hydrology and water resources, biological resources (including federally listed threatened and endangered species and critical habitat), energy, waste management, or transportation would result from the proposed action or either of the two alternatives.

The FEIS is available for public review at the Sierra Vista Public Library, 2950 E. Tacoma street, Sierra Vista, AZ 85635.

Dated: December 13, 1999.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 99–33514 Filed 12–23–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Introduction of the V–22 to the Second Marine Aircraft Wing in Eastern North Carolina

AGENCY: Department of the Navy, Department of Defense.

ACTION: Notice of Record of Decision.

SUMMARY: The Department of the Navy, after carefully weighing the operational, environmental, and cost factors associated with the introduction of the V–22 'Osprey' as a replacement for the CH–46E helicopters in present use by the Second Marine Aircraft Wing (2d MAW), announces its Carolina. The squadrons receiving the new aircraft are already decision to base the replacement aircraft at MCAS New River, North based at MCAS New River, so no relocation of personnel and family members will be required.

FOR FURTHER INFORMATION CONTACT: LtCol D.B. Bixler, USMC; Long Range Planner, Installations and Logistics Dept (LFL–3), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington DC 20380–1775; Telephone 703 695–8240.

SUPPLEMENTARY INFORMATION: The text of the entire Record of Decision (ROD) is attached as follows:

The Department of the Navy (DoN), pursuant to Section 102 (c) of the National Environmental Policy Act (NEPA) of 1969 (42 USC Section 4331 *et. seq.*), and the regulations of the Council of Environmental Quality that implement NEPA procedures (40 CFR Parts (1500–1508), hereby announces its decision to introduce the V–22 ''Osprey'', a new type of tiltrotor, aircraft, to the Second Marine Aircraft Wing of the US Marine Corps, based at Marine Corps Air Station, New River, North Carolina. The decision includes the replacement or renovation of the facilities used to house and maintain the aircraft, and development within the USMC of the skills needed to employ the new aircraft during wartime.

The introduction of the V–22, as mandated by Congress, is part of a Marine Corps-wide process of replacing the CH–46E and CH–53D helicopters currently used by the USMC MAWs. The USMC relies on a veteran fleet of CH–46Es and CH–53Ds for medium-lift operations, such as the delivery of troops and equipment in amphibious assault operations. These Fleet aircraft will be replaced by the V–22 on an essentially one-to-one basis.

The CH–46E aircraft represent 1960s technology, and are nearing the end of their lifecycles. The CH–46E cannot travel great distances, and is not well equipped for night or adverse weather operations. The V–22 is a tiltrotor aircraft capable of vertical/short takeoffs and landings, and significantly greater flight distances, at a faster speed and with a greater payload than the CH–46Es and CH–53Ds.

The basing and operating of the V–22 by the 2d MAW will be as described in the Final Environment Impact Statement (FEIS) of October, 1999. The FEIS identifies the basing of the V–22 at MCAS New River as the Preferred Alternative. To support the personnel, operations, and maintenance effort associated with basing the V–22 at MCAS New River, four construction projects will be required at that air station. These projects include constructing an aircraft rinse facility, widening taxiways, expanding the aircraft parking apron, and providing an addition to an existing training building to accommodate additional training simulators. Additionally, repavement of the runways at Outlying Landing Field Oak Grove, in Jones County, is planned.

Operations will include training activities by the V–22 Fleet Replacement and Fleet Replacement Enlisted Skills Training (FRS/FREST) squadrons to develop initial capabilities in piloting and maintaining the new aircraft. The action also includes readiness operations by the V–22 tactical squadrons to develop proficiency in use of the V–22 for warfighting. These training and readiness operations are similar to those that have been conducted in Eastern North Carolina by the CH–46 FRS and tactical squadrons in recent years.

Training and readiness operations will be conducted at established outlying landing fields (OLFs); established special use airspace such as military operations areas (MOAs) and restricted areas; established military training routes (MTRs), terrain-following routes (TERFs), and low altitude routes (LATs); established targets and landing zones (LZs); and civilian airports. No new OLFs, MOAS, MTRs, TERFs, LATs, or restricted areas will be required as the result of the proposed action.

The first V–22 aircraft will be delivered to the V–22 Fleet Replacement Squadron (FRS) during fiscal years 2000 and 2001, at which point that squadron will reach Initial Operating Capability.

The V–22 FRS squadron will receive 20 V–22 aircraft during the first five years of the program. The first four 2d MAW CH–46E tactical squadrons will be transitioned to the V–22 by about fiscal year 2006, and will each receive 12 V–22s, for a total of 48 V–22 aircraft.

Ultimately, by about fiscal year 2008, the six 2d MAW tactical squadrons that presently use the CH–46E helicopters will be re-equipped with the V–22. These Fleet squadrons are part of Marine Aircraft Group 26 and 29, currently stationed at MCAS New River. Initiating deployment through MCAS New River will therefore allow the DoN to take advantage of the existing facilities and organizational structure at the site.

The V–22 FRS staff will begin training in the operation and maintenance of the V–22 upon arrival of the first V–22, scheduled for February 2000. The training of these personnel will be completed during March 2001, at which time they will begin to train tactical squadron personnel, starting with the first four of the 2d MAW tactical squadrons that are to be equipped.

The air emissions from sources associated with construction and operation of the proposed action would occur in counties within the Southern Coastal Plain Intrastate Air Quality Control Region. Each of these counties is an air quality area for purposes of National Ambient Air Quality Standards (NAAQS) designations under the Clean Air Act (CAA), and each has been designated as being in attainment for all criteria pollutants (40 C.F.R. 81.334). Thus, the Federal General Conformity Rule implementing the CAA Sec. 176, and the North Carolina General Conformity Rule (15A NCAC 2D.1600) are not applicable.

Process

The NOI to prepare an Environmental Impact Statement (EIS) for the introduction of the V–22 to the 2d MAW was published in the **Federal Register** on August 14, 1998. Four public scoping meetings were held between August 31, 1998 and September 3, 1998 in the four North Carolina communities closest to where V–22 operations would occur: Atlantic, Pollocksville, Jacksonville, and Havelock.

The public scoping meetings were attended by a total of 25 persons, with only one formal comment offered. An additional 13 individuals and state/local agencies submitted comments via letter, facsimile, or electronic mail.

The Draft Environmental Impact Statement (DEIS) was distributed to Congressional members and committees, agencies and officials of federal, state, and local governments, citizen groups and organizations, and other interested parties during the week of June 14–18, 1999.

The Notice of Availability for the DEIS was published in the **Federal Register** on June 25, 1999. The DEIS was subject to public review during a 45-day public comment period. The Marine Corps also held four public hearings during the public comment period as follows: July 19, 1999—Jacksonville, NC; July 20, 1999—Havelock, NC; July 21, 1999—Atlantic, NC; and July 22, 1999—Pollocksville, NC.

Comments on the DEIS were received by letter, by oral statements provided to the court recorder at the public hearings, and written statements received by facsimile. Written and oral statements were received from a total of 21 commentors, including federal, state, regional, and local agencies, and private individuals. All comments received were reviewed and addressed in the FEIS.

The FEIS was distributed for public comment on October 25, 1999. The public comment period ended on December 6, 1999. Two comments were received on the FEIS, and were reviewed before issuing this ROD.

Alternatives Considered

The DoN conducted a two-tiered screening process to identify reasonable alternatives that would fulfull the purpose and need for the proposed action. The first stage identified all DoD aviation facilities that would meet certain fundamental criteria that are essential for the introduction of the V–22 within the 2d NAW. The second stage of the process screened those facilities that met the fundamental criteria against several preferential criteria that would significantly affect the cost and efficiency of the proposed action. The fundamental criteria included location within 200 nautical miles (nm) (370 kilometers [km]) of the ground forces that are supported by the 2d MAW (these ground forces are located at Marine Corps Base (MCB) Camp Lejeune); and the presence at the facility of a Marine Aviation Logistics Squadron (MALS).

The first criterion is based on the specified radius of action (200 nm) for the Marine Corps version of the V–22. It reflects the distance the V–22 can travel and return, without refueling with a full load of 18 to 24 combat troops.

The second criterion is necessary because the V–22 is a new aircraft, and there has been no opportunity to develop a maintenance capability through a MALS. The first opportunity for development of this capability will occur as the new aircraft is introduced to the FRS and initial fleet tactical squadrons. It is important that the V–22 squadrons be home-based at the same air station as a MALS, to avoid significant degradation of the maintenance, logistics, and training support that a MALS provides. Collocation with other USMC aviation assets would also significantly aid the integration of the new aircraft into the overall USMC aviation team.

Under these circumstances, establishing a new MALS at a non-Marine Corps facility would not be reasonable, as it would require the Marine Corps to undertake a change in force structure, necessitating higher support costs, and duplication of personnel and facilities at a time when DoD is streamlining.

Only two sites meet both fundamental criteria: MCAS Cherry Point and MCAS New River. These sites were then evaluated against the preferential criteria, namely operational readiness factors such as: the availability of adequate training areas (MTRs, LATs, TERFs, OLFs, LZs, restricted areas and associated targets, MOAs, and Warning Areas) within a reasonable distance of the home base; collocation of the FRS/FREST squadron with the majority of the V–22 Fleet squadrons; available capacity at the facility to accommodate the aircraft and personnel; costs associated with implementation of the alternative; and, proximity of the selected facility to the Fleet ground combat element (CGEs) requiring rotorcraft support at MCB Camp Lejeune. While MCAS New River is clearly the preferred alternative when evaluated against these factors, full basing at MCAS Cherry Point or partial basing of the FRS/FREST and six tactical squadrons at both New River or Cherry Point would also be reasonable. Thus, the EIS addressed the environmental impacts of these three alternatives.

Because Congress directed replacement, the No Action Alternative was not analyzed in detail.

Environmental Impacts

The DoN analyzed the potential impacts of the selected action on 15 categories of resources, namely: airfields and airspace, land use and coastal zone management, socioeconomics, community facilities and services, ground traffic and transportation, air

quality, noise, infrastructure and utilities, cultural resources, hazardous materials management, topography and soils, vegetation and wetlands, wildlife, water resources, and rare and protected species. The DoN also considered potential cumulative impacts of the proposed action and consistency of the proposed action with federal policies addressing environmental justice. None of the impacts of the preferred alternative are considered to be significant. This record of decision focuses on the issues of most concern to the public or other government agencies.

Noise—Public comments throughout the EIS process have indicated concern for aircraft noise, particularly overflights of national and state parks and other natural areas. The Day-Night Average Sound Level (DNL) was used to assess changes in the noise environment around the air stations and landing fields. The Onset-Rate Adjusted Day-Night Average Sound Level (L_{dnmr}) was used to assess changes along MTRs, within MOAs, and within Restricted Areas/Ranges. The Sound Exposure Level was used for representative sensitive receptor locations.

Full basing of the V–22 at MCAS New River will result in little change in flight patterns or noise levels in the vicinity of the air station. The V–22 is slightly less noisy than the CH–46E helicopter, and will conduct somewhat fewer operations than the CH–46Es. The same will be true for many of the areas to be used for training, including the OLFs, TERFs, MTRs and MOAs. In some areas, there will be a decrease in the noise levels due to a decrease in the number of flight operations projected for not only the V–22 (former CH–46E) squadrons, but also other aircraft squadrons, as well (Executive Summary).

There will be an increase in operations and therefore noise impacts at both OLF Oak Grove and the Albert J. Ellis Airport, in Jacksonville, NC. However, although the area affected by 65-dB DNL or greater will increase at both OLF Oak Grove and the Albert J. Ellis airport, it will not extend beyond the airport property, and will not, therefore, significantly impact people or dwellings.

Noise along the TERF routes will not change significantly. three of the TERF routes are located almost wholly over the Croatan National Forest and Hofmann Forest. The fourth TERF Route (Holly Shelter) is located over forest and agricultural land. The number of operations along the TERF routes will actually decrease. Average noise levels along the Great White and Ellis Lake routes are anticipated to remain the same; the average noise level on the Hofman Forest route will decrease by one dB; and the average level on Holly Shelter route will increase by one dB. Average noise levels would not exceed the 65 dB standard considered to be protective of humans and wildlife along any of the routes. While the number of operations along the MTRs will increase (the CH–46E helicopters do not use MTRs, but the V–22 aircraft will use these routes), these noise levels along these routes would remain below the 55 dB DNL.

Air Quality—The proposed action and alternatives occur in air quality areas (counties), that have always been designated as being in attainment of NAAQS for all criteria pollutants. Given this fact, the DoN selected the major stationary source definition from the CAA prevention of significant deterioration program—250 tons per year (tpy) or more of any air pollutant—that applies in these counties as the criteria for determining the potential significance of air quality impacts.

The DoN carefully analyzed the air quality impacts of the replacement of CH–46E operations with V–22 operations, and has continued to update and refine the analysis as new information has become available.

The most recent refinement (post FEIS) of the air quality impacts analysis included recalculating emissions attributable to CH–46E aircraft using new gaseous and particulate emission factors developed by the Navy's Aircraft Environmental Support Office during November and December 1999. Initial recalculations revealed potentially significant NO_x emissions for Onslow County. However, since all emissions from training areas were attributed in the FEIS analysis to Onslow County, even though they actually partially occur in neighboring counties, the NO_x emissions are still considered to be insignificant. When operational emissions are more accurately attributed among the counties that include the areas north and west of MCAS New River, the conclusion for all counties remains the same. The net increase in emissions for each county within the AQCR resulting from the proposed action and the alternatives (including operations at outlying landing fields and training areas) would be below 250tpy for all criteria pollutants. Thus, neither the proposed action nor any of the alternatives would have a potential significant adverse impact on air quality. The new emissions factors and the results of recalculation of operational emissions are not significant new information requiring re-publication of the FEIS.

Refinements of FEIS Tables 3.6–2; 4.6–2; 4.6–3; E–1 through E–3; E–7; and E–9 through E–1-, incorporating the recent CH–46E emission factors and distributing emissions among the counties that include the areas north and west of MCAS New River, appear in Appendix A of this Record of Decision.

Water Resources—Several agencies expressed concern over the filling of a channelized stream in connection with expansion of the aircraft parking apron at MCAS New River. An Army Corps of Engineers permit will be required under Section 404/401 of the Clean Air Act for relocating or culverting the stream channel. This channel has been previously modified as part of the stormwater conveyance system at MCAS New River. Mitigation for the loss of habitat will be developed as part of the Section 404/401 permitting process. Work at OLF Oak Grove will not directly impact any surface waters. Runoff would be carefully controlled during construction to comply with all applicable state policies, rules and regulations.

Wildlife, Threatened and Endangered Species—No protected (threatened or endangered) or significantly are species are documented as occurring within the construction areas at MCAS New River, MCAS Cherry Point, or OLF Oak Grove. At OLF Atlantic, no federally protected (threatened or endangered) species have been documented as occurring. One state endangered/federal species of concern, the Carolina goldenrod, and four state significantly rare species are present near the runways at OLF Atlantic. While no construction would occur at OLF Atlantic under the proposed action, downdraft from the V–22 could damage fragile species.

The U.S. Fish and Wildlife Service's comments on the DEIS expressed concern over low-level flight exercises, and their impact on bald eagles, red-cockaded woodpeckers, and other federally-listed coastal birds. They also expressed concern over colonial waterbirds and waterfowl. V–22 flights will mainly take place along the MTRs, the Holly Shelter, Hofmann Forest, Great White, and Ellis Lake TERF routes, and the LAT route within R–5306A. These routes have been in use many years. While flights along the MTRs would increase by 548 operations, flights along TERF routes would decrease by about 979 operations as compared to the level of CH–46E operations in recent years. Also, many of the flights on the MTRs occur at higher altitudes (300 ft to over 1,000 ft) [91 m to 305 m] than the operations

along the TERF routes. The DON does not anticipate that the proposed action will cause adverse impacts, such as changes in species distribution or populations within these areas, because the operational patterns and associated noise levels will be similar to current operations.

Response To Comments Received Regarding the Final Environmental Impact Statement

Two written letters were received. One commentor, EPA Region 4, Atlanta restated the Agency's lack of objection to the proposal. The State of North Carolina also submitted a comment which concurred with the proposed action.

Conclusions

In determining where to introduce the V–22 to the 2d MAW, I have considered the following: all DoD air facilities with an existing MALS within the operational radius of the aircraft; environmental impacts; operational readiness factors such as the availability of adequate training areas within a reasonable distance of the home base and collocation of the FRS/FREST squadron with the V–22 Fleet squadrons; available capacity at the selected facility to accommodate the aircraft and personnel; costs associated with implementation of the alternative; proximity of the selected facility to the units of the Ground Combat Element requiring rotorcraft support at MCB Camp Lejeune; and comments received during the DEIS and FEIS public involvement periods.

After carefully weighing all of these factors, analyzing the data presented in the FEIS along with the additional information concerning air emissions, and considering public comments, I have determined that the Preferred Alternative, homebasing of the V–22 at MCAS New River, best meets the operational requirements for the V–22, and is the least costly of the alternatives evaluated. This alternative is also the environmentally preferred alternative. Therefore, on behalf of the Department of the Navy, I have decided to implement the proposed action by basing the V–22 aircraft at MCAS New River.

Dated: December 20, 1999.

Duncan Holaday,

Deputy Assistant Secretary of the Navy (Installations and Facilities).

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Table 3.6-2
Existing CH-46 Emission Levels

Site	Criteria Pollutant Emissions (tpy)				
	CO	NO_x	VOCs	SO_x	PM10
MCAS New River	193.6	12.5	50.1	1.6	15.9
MCAS Cherry Point	0.0	0.0	**0.0**	0.0	0.0
Oak Grove	6.0	1.0	0.7	0.1	1.0
Camp Davis	13.1	2.1	1.6	0.3	2.2
Albert J. Ellis Airport	2.0	0.3	0.3	0.0	0.3
MCB Camp Lejeune	43.4	5.4	6.2	0.6	6.1
Other Training Areas	45.7	5.6	6.6	0.6	6.5
Total Emissions	303.8	26.9	65.5	3.2	32.0

Table 4.6-2
Summary of Net Changes in Emissions between CH-46E and V-22 Operations

Area	Criteria Pollutant Emissions (tpy)				
	CO	NO_x	VOCs	SO_2	PM10
Airfield – V-22 Based at MCAS New River					
MCAS New River	-151.0	78.6	-48.4	2.8	0.3
MCAS Cherry Point	0.0	0.0	0.0	0.0	0.0
Airfield – V-22 Based at MCAS Cherry Point					
MCAS New River	-193.6	-12.5	-50.1	-1.6	-15.9
MCAS Cherry Point	42.6	91.1	1.7	4.4	16.2
Airfield – V-22 Based at Both Air Stations					
MCAS New River	-163.8	51.3	-48.9	1.5	-4.6
MCAS Cherry Point	12.8	27.3	0.5	1.3	4.9
LFs – Common for All Alternatives					
Oak Grove	-5.3	11.6	-0.7	0.3	0.6
Camp Davis	-12.1	17.1	-1.6	0.3	-0.3
Atlantic	0.1	1.1	0.0	0.0	0.1
Bogue	0.0	0.7	0.0	0.0	0.1
Albert J. Ellis Airport	-1.5	7.9	0.3	0.3	0.8
Training Areas – Common for All Alternatives					
MCB Camp Lejeune	-38.7	73.7	-6.1	2.0	4.5
Other Areas	-40.1	131.6	-6.2	3.1	9.4
Total Net Emissions	-249.2	322.4	-63.6	9.0	16.1

Note: Refer to Table 4.6-3 for total net emissions of NO_x by county.

Table 4.6-3
Net Changes in NO_x Emissions between CH-46E and V-22 Operations by County

Area	NOx Emissions (tpy)				
	Onslow	Craven	Carteret	Jones	Others Counties
Airfield - V-22 Based at the MCAS New River					
MCAS New River	78.6	0.0	0.0	0.0	0.0
MCAS Cherry Point	0.0	0.0	0.0	0.0	0.0
LFs	25.0	0.0	1.8	11.6	0.0
Training Areas	120.6	0.0	0.0	13.2	71.5
Total Net Emissions	224.2	0.0	1.8	24.8	71.5
Airfield - V-22 Based at the MCAS Cherry Point					
MCAS New River	-12.5	0.0	0.0	0.0	0.0
MCAS Cherry Point	0.0	91.1	0.0	0.0	0.0
LFs	25.0	0.0	1.8	11.6	0.0
Training Areas	120.6	0.0	0.0	13.2	71.5
Total Net Emissions	133.1	91.1	1.8	24.8	71.5
Airfield - V-22 Based at Both Air Stations					
MCAS New River	51.3	0.0	0.0	0.0	0.0
MCAS Cherry Point	0.0	27.3	0.0	0.0	0.0
LFs	25.0	0.0	1.8	11.6	0.0
Training Areas	120.6	0.0	0.0	13.2	71.5
Total Net Emissions	196.9	27.3	1.8	24.8	71.5

Note: Operational emissions attributable to the areas north and west of MCAS New River were proportionally distributed among the counties in which they occur.

Table E-1
CH-46E Emissions Calculation Worksheet

Engine Type: T58-GE-16 APU Type: Solar T-62T-11 Scenario: Existing Condition and No Action Alternative Location: MCAS New River

Type of Operation	Operating Mode	Power Setting[1]	Time (hours)[2]	Fuel flow rate(lb/hr)[1]	Emission Factors (lb/1000lb)[1] CO	NOx	VOC	SO2	PM10	No. of Engines	Fuel Usage (tons)	Emission (tons/year) CO	NOx	VOC	SO2	PM10
APUs (4678 LTOs)[3]			1,169.6	102	42.77	3.94	9.04	0.40	0.22	1	60	2.55	0.24	0.54	0.02	0.01
Idling	Taxi in/out	20%Q	6,453.0	270	72.28	2.28	22.25	0.40	4.00	2	1742	125.93	3.97	38.77	0.70	6.97
Departure	Hover	45%Q	316.7	460	28.51	3.53	4.07	0.40	4.00	2	146	4.15	0.51	0.59	0.06	0.58
	Climbout	58%Q	633.3	570	18.15	4.08	1.52	0.40	4.00	2	361	6.55	1.47	0.55	0.14	1.44
Arrival	Approach	40%Q	1,069.0	420	34.22	3.30	5.82	0.40	4.00	2	449	15.36	1.48	2.61	0.18	1.80
Touch-and-Go[4]	Approach	40%Q	143.0	420	34.22	3.30	5.82	0.40	4.00	2	60	2.06	0.20	0.35	0.02	0.24
	Climbout	60%Q	226.5	590	16.88	4.17	1.27	0.40	4.00	2	134	2.26	0.56	0.17	0.05	0.53
	Circle	51%Q	226.5	510	22.99	3.79	2.60	0.40	4.00	2	116	2.66	0.44	0.30	0.05	0.46
Ground Controlled Approach (GCA) Pattern[4]	Approach	40%Q	237.3	420	34.22	3.30	5.82	0.40	4.00	2	100	3.41	0.33	0.58	0.04	0.40
	Climbout	60%Q	114.3	590	16.88	4.17	1.27	0.40	4.00	2	67	1.14	0.28	0.09	0.03	0.27
	Circle	51%Q	527.4	510	22.99	3.79	2.60	0.40	4.00	2	269	6.18	1.02	0.70	0.11	1.08
Low Work	Hover/Circle	45%Q	725.0	460	28.51	3.53	4.07	0.40	4.00	2	334	9.51	1.18	1.36	0.13	1.33
In-frame maintenance testing[5]												11.80	0.82	3.52	0.10	0.81
									Emissions Subtotal (tons/year):			193.56	12.50	50.12	1.63	15.93

Note:

1. Engine power settings, fuel flow rates and emission indices are provided in AESO report (Report No. 9816, Revision C, December 1999).
2. Time used under each operation type are provided in ATAC report (March 1999).
3. APU usage data was determined by multiplying total LTOs (ATAC, March 1999) excluding hot seat swaps by unit APU time in each LTO (AESO Report No. 9816, Revision C, December 1999)
4. Touch-and-Go and GCA Pattern cycle time are divided into approach, climbout and circle hours based on information provided by ATAC (Huber, December 31, 1998)
5. In-frame maintenance testing emissions were estimated based on the data provided in AESO report (Report No. 9816, Revision C, December 1999) .

Table E-2
CH-46E Emissions Calculation Worksheet

Engine Type: T58-GE-16 **Scenario: Existing Condition and No Action Alternative** **Location: Outlying Landing Fields**

Type of Operation	Operating Mode	Power Setting[1]	Time[2] (hours)	Fuel flow rate(lb/hr)[1]	Emission Factors (lb/1000lb)[1] CO	NOx	VOC	SO2	PM10	No. of Engines	Fuel Usage (tons)	Emission (tons/year) CO	NOx	VOC	SO2	PM10
Camp Davis Touch-and-Go[3]	Approach	40%Q	200.2	420	34.22	3.30	5.82	0.40	4.00	2	84	2.88	0.28	0.49	0.03	0.34
	Climbout	60%Q	317.0	590	16.88	4.17	1.27	0.40	4.00	2	187	3.16	0.78	0.24	0.07	0.75
	Circle	51%Q	317.0	510	22.99	3.79	2.60	0.40	4.00	2	162	3.72	0.61	0.42	0.06	0.65
Camp Davis Low Work	Hover/Circle	45%Q	257.9	460	28.51	3.53	4.07	0.40	4.00	2	119	3.38	0.42	0.48	0.05	0.47
Oak Grove Touch-and-Go[3]	Approach	40%Q	95.1	420	34.22	3.30	5.82	0.40	4.00	2	40	1.37	0.13	0.23	0.02	0.16
	Climbout	60%Q	150.6	590	16.88	4.17	1.27	0.40	4.00	2	89	1.50	0.37	0.11	0.04	0.36
	Circle	51%Q	150.6	510	22.99	3.79	2.60	0.40	4.00	2	77	1.77	0.29	0.20	0.03	0.31
Oak Grove Low Work	Hover/Circle	45%Q	106.8	460	28.51	3.53	4.07	0.40	4.00	2	49	1.40	0.17	0.20	0.02	0.20
Albert Ellis Touch-and-Go[3]	Approach	40%Q	25.1	420	34.22	3.30	5.82	0.40	4.00	2	11	0.36	0.03	0.06	0.00	0.04
	Climbout	60%Q	39.8	590	16.88	4.17	1.27	0.40	4.00	2	23	0.40	0.10	0.03	0.01	0.09
	Circle	51%Q	39.8	510	22.99	3.79	2.60	0.40	4.00	2	20	0.47	0.08	0.05	0.01	0.08
Albert Ellis Low Work	Hover/Circle	45%Q	59.3	460	28.51	3.53	4.07	0.40	4.00	2	27	0.78	0.10	0.11	0.01	0.11
											Emissions Subtotal (tons/year):	21.17	3.36	2.63	0.36	3.55

Note:

1. Engine power settings, fuel flow rates and emission indices are provided in AESO report (Report No. 9816, Revision C, December 1999).
2. Time used under each operation type are provided in ATAC report (March 1999).
3. Touch-and-Go and GCA Pattern cycle time are divided into approach, climbout and circle hours based on information provided by ATAC (Huber, December 31, 1998)

Table E-3
CH-46E Emissions Calculation Worksheet

Engine Type: T58-GE-16 **Scenario: Existing Condition and No Action Alternative** **Location: Training Areas**

Type of Operation	Operating Mode	Power Setting[1]	Time[2] (hours)	Fuel flow rate(lb/hr)[1]	Emission Factors (lb/1000lb)[1]					No. of Engines	Fuel Usage (tons)	Emission (tons/year)				
					CO	NOx	VOC	SO2	PM10			CO	NOx	VOC	SO2	PM10
Camp Lejeune	Cruise	45%Q	3,306.0	460	28.51	3.53	4.07	0.40	4.00	2	1521	43.36	5.37	6.19	0.61	6.08
Great White/Ellis TERF	Cruise	45%Q	503.0	460	28.51	3.53	4.07	0.40	4.00	2	231	6.60	0.82	0.94	0.09	0.93
Hoffmann Forest TERF	Cruise	45%Q	328.0	460	28.51	3.53	4.07	0.40	4.00	2	151	4.30	0.53	0.61	0.06	0.60
Holly Shelter TERF	Cruise	45%Q	368.0	460	28.51	3.53	4.07	0.40	4.00	2	169	4.83	0.60	0.69	0.07	0.68
Area North of MCAS New River	Cruise	45%Q	709.0	460	28.51	3.53	4.07	0.40	4.00	2	326	9.30	1.15	1.33	0.13	1.30
Area West of MCAS New River	Cruise	45%Q	1,135.0	460	28.51	3.53	4.07	0.40	4.00	2	522	14.89	1.84	2.12	0.21	2.09
R-5306A	Cruise	45%Q	264.0	460	28.51	3.53	4.07	0.40	4.00	2	121	3.46	0.43	0.49	0.05	0.49
Transit corrdor to/from R-5306A	Cruise	45%Q	178.0	460	28.51	3.53	4.07	0.40	4.00	2	82	2.33	0.29	0.33	0.03	0.33
										Emissions Subtotal (tons/year):		89.06	11.03	12.71	1.25	12.50

Note:

1. Engine power settings, fuel flow rates and emission indices are provided in AESO report (Report No. 9816, Revision C, December 1999).
2. Time used under each operation type are provided in ATAC report (March 1999).

Table E-7
Air Emissions Summary for No Action Alternative (Using CH-46E)

Area	Pollutant (tons per year)				
	CO	NO_x	VOC	SO_2	PM10
Airfield					
MCAS New River	193.6	12.5	50.1	1.6	15.9
MCAS Cherry Point	0.0	0.0	0.0	0.0	0.0
LFs					
Camp Davis	13.1	2.1	1.6	0.3	2.2
Oak Grove	6.0	1.0	0.7	0.1	1.0
Bogue	0.0	0.0	0.0	0.0	0.0
Atlantic	0.0	0.0	0.0	0.0	0.0
Albert J. Ellis Airport	2.0	0.3	0.3	0.0	0.3
Training Areas					
Camp Lejeune	43.4	5.4	6.2	0.6	6.1
Great White/Ellis TERF	6.6	0.8	0.9	0.1	0.9
Hoffman Forest TERF	4.3	0.5	0.6	0.1	0.6
Holly Shelter TERF	4.8	0.6	0.7	0.1	0.7
Area North of MCAS New River	9.3	1.2	1.3	0.1	1.3
Area West of MCAS New River	14.9	1.8	2.1	0.2	2.1
R-5306A	3.5	0.4	0.5	0.1	0.5
Transit Corridor to/from R-5306A	2.3	0.3	0.3	0.0	0.3
Visual MTR	0.0	0.0	0.0	0.0	0.0
Total Emissions for No Action Alternative	303.8	26.9	65.5	3.2	32.0

Table E-9
Summary of Net Changes in Emissions between CH-46E and V-22 Operations

Area	Pollutant (tons per year)				
	CO	NO_x	VOC	SO_2	PM10
Airfield - MCAS New River Alternative					
MCAS New River	-151.0	78.6	-48.4	2.8	0.3
MCAS Cherry Point	0.0	0.0	0.0	0.0	0.0
Airfield - MCAS Cherry Point Alternative					
MCAS New River	-193.6	-12.5	-50.1	-1.6	-15.9
MCAS Cherry Point	42.6	91.1	1.7	4.4	16.2
Airfield – Partial Basing at Both Air Stations					
MCAS New River	-163.8	51.3	-48.9	1.5	-4.6
MCAS Cherry Point	12.8	27.3	0.5	1.3	4.9
LFs - Common to All Action Alternatives					
Camp Davis	-12.1	17.1	-1.6	0.3	0.3
Oak Grove	-5.3	11.6	-0.7	0.3	0.6
Bogue	0.0	0.7	0.0	0.0	0.1
Atlantic	0.1	1.1	0.0	0.0	0.1
Albert J. Ellis Airport	-1.5	7.9	-0.3	0.3	0.8
Training Areas - Common to All Action Alternatives					
Camp Lejeune	-38.7	73.7	-6.1	2.0	4.5
Great White/Ellis TERF	-6.5	0.7	-0.9	0.0	-0.7
Hoffman Forest TERF	-4.2	0.6	-0.6	-0.1	-0.4
Holly Shelter TERF	-4.7	1.0	-0.7	0.0	-0.5
Area North of MCAS New River	-8.0	33.2	-1.3	0.8	2.7
Area West of MCAS New River	-13.3	41.0	-2.1	1.0	2.9
R-5306A	-2.3	33.9	-0.5	0.9	3.4
Preferred Routes	-1.5	10.2	-0.1	0.3	0.8
Visual MTR	0.4	11.0	0.0	0.3	1.2
Total Net Emissions for All Action Alternatives	-249.2	322.4	-63.6	9.0	16.1
Note: Refer to Table E-10 for total net emissions of NO_x by county.					

Table E-10
Net Changes in NO_x Emissions between CH-46E and V-22 Operations by County

Area	NO_x Emissions (tpy)				
	Onslow	Craven	Carteret	Jones	Others Counties
Airfield - V-22 Based at the MCAS New River					
MCAS New River	78.6	0.0	0.0	0.0	0.0
MCAS Cherry Point	0.0	0.0	0.0	0.0	0.0
LFs	25.0	0.0	1.8	11.6	0.0
Training Areas	120.6	0.0	0.0	13.2	71.5
Total Net Emissions	224.2	0.0	1.8	24.8	71.5
Airfield - V-22 Based at the MCAS Cherry Point					
MCAS New River	-12.5	0.0	0.0	0.0	0.0
MCAS Cherry Point	0.0	91.1	0.0	0.0	0.0
LFs	25.0	0.0	1.8	11.6	0.0
Training Areas	120.6	0.0	0.0	13.2	71.5
Total Net Emissions	133.1	91.1	1.8	24.8	71.5
Airfield - V-22 Based at Both Air Stations					
MCAS New River	51.3	0.0	0.0	0.0	0.0
MCAS Cherry Point	0.0	27.3	0.0	0.0	0.0
LFs	25.0	0.0	1.8	11.6	0.0
Training Areas	120.6	0.0	0.0	13.2	71.5
Total Net Emissions	196.9	27.3	1.8	24.8	71.5

Note: Operational emissions attributable to the areas north and west of MCAS New River were proportionally distributed among the counties in which they occur.

[FR Doc. 99–33505 Filed 12–23–99; 8:45 am]
BILLING CODE 3810–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–101–000, ER00–443–000, ER00–446–000, ER00–494–000, ER00–571–000, EL00–17–000 (Not consolidated)]

Allegheny Energy Unit 1 and Unit 2, L.L.C., Arco CQC Kiln, Inc., Ogden Martin Systems of Union, Inc., TransAlta Centralia Generation LLC, Jones Black River Services, Inc.; Notice of Issuance of Order

December 20, 1999.

Allegheny Energy Unit 1 and Unit 2, L.L.C., Arco CQC Kiln, Inc., Ogden Martin Systems of Union, Inc., TransAlta Centralia Generation LLC, Jones Black River Services, Inc. (hereafter, ''the Applicants'') filed with the Commission rate schedules in the above-captioned proceedings, respectively, under which the Applicants will engage in the wholesale electric power and energy transactions at market-based rates, and for certain waivers and authorizations. In particular, certain of the Applicants may also have requested in their respective applications that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by the Applicants. On December 16, 1999, the Commission issued an order that accepted the rate schedules for sales of capacity and energy at market-based rates (Order), in the above-docketed proceedings.

The Commission's December 16, 1999 Order granted, for those Applicants that sought such approval, their request for blanket approval under Part 34, subject to the conditions found in Appendix B in Ordering Paragraphs (2), (3), and (5):

(2) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by the Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(3) Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, if the Applicants have requested such authorization, the Applicants are hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purpose.

(5) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of the Applicants' issuances of securities or assumptions of liabilities.* * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 18, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. This issuance may also be viewed on the Internet at *http://www.ferc.fed.us/online rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–33417 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Regulatory Commission

[Docket No. EL00–25–000]

Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Inc., IES Utilities Inc., Interstate Power Company, and MidAmerican Energy Company; Notice of Filing

December 20, 1999.

Take notice that on December 13, 1999, Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Inc., IES Utilities Inc., Interstate Power Company and MidAmerican Energy Company (collectively Petitioners) filed a Petition for Declaratory Order (Petition). Petitioners request that the Commission issue an order finding that: (1) an independent transmission company (ITC), as described in the Petition, coupled with oversight by the Midwest Independent Transmission System Operator (Midwest ISO or MISO), will meet or exceed the minimum characteristics and functions for RTOs proposed in the RTO NOPR or adopted in any final rule issued by the Commission during the pendency of this declaratory order proceeding; (2) the incentive and performance-based rate mechanisms outlined in the Petition are appropriate ratemaking measures for encouraging the voluntary formation of, and enhanced performance by, such an ITC; and (3) it is appropriate to assign to such an ITC the RTO functions outlined in the Petition as contemplated by the recently proposed Appendix I to the Midwest ISO Agreement.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before January 12, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–33416 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3282–002]

CU Power Canada Limited; Notice of Filing

December 20, 1999.

Take notice that on November 29, 1999, CU Power Canada Limited filed their quarterly report for the quarter ending September 30, 1999, for information only. This filing may 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. 99–33485 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3666–011]

GPU Advanced Resources, Inc., Notice of Filing

December 20, 1999.

Take notice that on December 15, 1999, GPU Advanced Resources, Inc. filed their quarterly report for the quarter ending September 30, 1999, for information only. This filing may 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. 99–33486 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC00–38–000, ER00–803–000 and EL00–26–000]

PECO Energy Company; PECO Energy Power Company; Susquehanna Power Company; Notice of Filing

December 20, 1999.

Take notice that on December 16, 1999, PECO Energy Company filed an application under Section 203 of the Federal Power Act for authorization to implement a plan of corporate restructuring.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before January 18, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc 99–33415 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

[Project Nos. 3721–004, 4896–000]

Puget Sound Energy, Inc. and Dennis V. McGrew & Associates; Notice of Effective Date of Withdrawal of License Application and Reinstatement of Preliminary Permit Application

December 20, 1999.

On June 17,1981, Dennis V. McGrew and Associates (McGrew) filed a preliminary permit application for the proposed Nooksack Falls Project No. 4896, to be located on the North Fork Nooksack River near Glacier in Whatcom County, Washington. On February 23, 1982, Puget Sound Power and Light Company (Puget) filed a competing license application for the proposed Nooksack Falls Project No. 3721, to be located at the same site as McGrew's proposed project.[1] The Commission accepted both applications for filing and issued public notice of each.

In a subsequent order issued August 15, 1985,[2] the Commission concluded that McGrew had failed to meet the burden of proof for his proposal (*i.e.,* the application failed to substantiate important aspects of the proposal, including technical, environmental, and economic) as a necessary prerequisite to a comparative analysis with Puget's competing application for a license. Accordingly, the Commission dismissed McGrew's preliminary permit application without prejudice, stating that in the event Puget's application is subsequently dismissed or denied, the Commission would reinstate McGrew's permit application with its original filing date and without it being subject to a proceeding inviting new competitive filings.

On August 10, 1999, Puget withdrew its license application. No one filed a motion in opposition to the withdrawal, and the Commission took no action to disallow it. Accordingly, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure, 18 CFR 385.216, the withdrawal became effective on August 25, 1999.

By letter dated September 29, 1999, McGrew advised the Commission that it remains interested in pursuing its preliminary permit application for the Nooksack Falls Project. The application is therefore reinstated with its original filing date. The Commission will entertain no competing applications for the site.

David P. Boergers,

Secretary.

[FR Doc. 99–33419 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Puget subsequently changed its name to Puget Sound Energy, Inc.

[2] 32 FERC ¶ 61,229.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–48–000]

Tennessee Gas Pipeline Company; Notice of Application

December 20, 1999.

Take notice that on December 10, 1999, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act, 15 U.S.C. 717f(b) and 717f(c), as amended, and Subpart A of the Commission's regulations thereunder, 18 CFR 157.5 *et seq.*, Subpart A, for authorization to abandon approximately 19.3 miles of certain 8-inch pipeline segment that comprises part of Tennessee's Concord Lateral. Additionally, Tennessee requests that the Commission issue a Certificate of Public Convenience and Necessity authorizing Tennessee to (1) construct, install and operate approximately 19.3 miles of 20-inch replacement pipe commencing in Dracut, Massachusetts and terminating in Londonderry, New Hampshire; and (2) construct, install and operate delivery point facilities, including a meter station, to allow Tennessee to provide firm natural gas transportation service of up to 130,000 dekatherms per day of natural gas to a new industrial end-use customer, AES Londonderry, LLC (AES) (referred to hereinafter as the ''Londonderry 20'' Replacement Project'' or the ''Project''), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that as a result of an open season conducted between July 29, 1999 and August 11, 1999, Tennessee has entered into a binding precedent agreement with AES for a total of 130,000 dekatherms per day of firm transportation service on the Concord

Lateral from Dracut, Massachusetts to Londonderry, New Hampshire in Zone 6 of Tennessee's system. AES has committed to firm transportation service for a primary term of twenty years. Tennessee further states that transportation for AES will be provided under Tennessee's Rate Schedule FT–A.

After the open season, Tennessee indicates that it polled all of its shippers and did not obtain any permanently relinquished capacity that could be used for the proposed service.

Tennessee notes that AES will pay a negotiated rate that is fixed for the primary term of its FT–A service agreement. Further, Tennessee states that it will waive its right to file to change the negotiated rate pursuant to Section 4 of the NGA and AES will waive its right to request a change in its rate pursuant to Section 5 of the NGA. Tennessee requests any other authorizations, relief and/or waivers as the Commission deems necessary to enable Tennessee to perform the activities identified in its application.

Tennessee states that the total estimated cost for the Project is $32.4 million. Tennessee proposes to place the Project in service by October 1, 2001 and requests that the Commission grant the requested authority by September 1, 2000. Tennessee is not requesting rolled-in rate treatment for the cost of the facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 2000, 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 and 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 jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 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 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 Tennessee to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–33414 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–47–000]

Trans-Union Interstate Pipeline, L.P.; Notice of Application

December 20, 1999.

Take notice that on December 10, 1999, Trans-Union Interstate Pipeline, l.P., (Applicant) 4100 Spring Valley, Suite 1001, Dallas, Texas 75244, tendered for filing, an application, pursuant to Section 7(c) of the Natural Gas Act and Subpart A of Part 157 of the Commission's regulations, for a certificate of public convenience and necessity to construct, own, and operate a single use natural gas pipeline facility to transport natural gas from Sharon, Louisiana, to El Dorado, Arkansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The application may be viewed on the web at *www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance).

Applicant indicates that any questions regarding the application herein should be directed to project counsel, Ned Hengerer, at John & Hengerer, 1200 17th Street, N.W., Washington, D.C. 20036, (202) 429–8811.

Applicant proposed to construct, own, and operate, on an end-use basis, 41.7 miles of 30-inch diameter, high pressure natural gas pipeline, beginning at the receipt point interconnections with the interstate system of Texas Gas Transmission Corporation (Texas Gas) at Sharon, Louisiana, and with the extended intrastate system of Gulf States Pipeline (Gulf States) at the same location. Applicant states that the system will first run east out of Claiborne Parish, Louisiana, and then run north through Union Parish, Louisiana, crossing into Union County, Arkansas, just east of Junction City, Arkansas, and continue north, passing to the east of El Dorado, Arkansas. Applicant further states that its system will terminate at its only delivery point, the gas fired 2,700 megawatt electric power generation facility being developed by Union Power Partners (UPP), an affiliated entity, to be located three miles northeast of El Dorado, Arkansas.

Applicant further requests that the Commission waive all the regulatory requirements imposed on Part 284 open-access interstate pipelines, including but not limited to: (1) Commission approved open-access rates and tariffs; (2) § 157.6(b)(8) cost and rate data submission; (3) Part 201 Uniform System of Accounts; and (4) Part 250 and 260 reporting requirements.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, by or before January 10, 2000, in accordance with Sections 285.214 and 385.211 of the Commission's Rules and 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 proceeding. 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.

David P. Boergers,

Secretary.

[FR Doc. 99–33413 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–31–000, et al.]

PP&L Resources, Inc., *et al.*; Electric Rate and Corporate Regulation Filing

December 17, 1999.

Take notice that the following filings have been made with the Commission:

1. PP&L Resources, Inc.; CEP Group, Inc.; PP&L Global, Inc.; PP&L Generation Holdings, LLC; and PP&L Generation, LLC

[Docket No. EC00–31–000]

Take notice that on December 7, 1999, PP&L Resources, Inc., CEP Group, Inc., PP&L Global, Inc., PP&L Generation Holdings, LLC , PPL Generation, LLC

(collectively the Applicants) filed with the Commission a Joint Application for Authorization to Transfer Jurisdictional Facilities in connection with a proposed corporate realignment of PP&L Resources, Inc.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. PP&L Resources, Inc.;CEP Group, Inc.; PP&L, Inc. PP&L EnergyPlus Co., LLC; PPL Generation, LLC; PPL Martins Creek, LLC; PPL Montour, LLC; PPL Brunner Island, LLC; PPL Holtwood, LLC; and PPL Susquehanna, LLC

[Docket No. EC00–32–000]

Take notice that on December 7, 1999, PP&L Resources, Inc., CEP Group, Inc., PP&L, Inc., PP&L EnergyPlus Co., LLC, PPL Generation, LLC, PPL Martins Creek, LLC, PPL Montour, LLC, PPL Brunner Island, LLC, PPL Holtwood, LLC and PPL Susquehanna, LLC (collectively the Applicants) filed with the Commission a Joint Application for Authorization to Transfer Jurisdictional Facilities and for Acceptance of Related Rate Schedules in connection with a proposed corporate realignment of PP&L Resources, Inc.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Power & Light Company

[Docket No. EC00–33–000]

Take notice that on December 8, 1999, Wisconsin Power & Light Company filed an application under Section 203 of the Federal Power Act requesting authorization to transfer ownership and operational control of its jurisdictional transmission facilities to the Wisconsin Transco.

Comment date: January 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Atlantic City Electric Company; Delmarva Power & Light Company; PECO Energy Company

[Docket No. EC00–34–000]

Take notice that on December 9, 1999, Atlantic City Electric Company (ACE), Delmarva Power & Light Company (DP&L), and PECO Energy Company (PECO) (collectively, Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval of the transfer of certain jurisdictional facilities in connection with the sale of ACE's and DP&L's interests in Peach Bottom Atomic Power Station to PECO.

Comment date: January 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Atlantic City Electric Company; Delmarva Power & Light Company; PSEG Nuclear LLC

[Docket No. EC00–35–000]

Take notice that on December 9, 1999, Atlantic City Electric Company (ACE), Delmarva Power & Light Company (DP&L), and PSEG Nuclear LLC (PSEG Nuclear) (collectively, Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval of the transfer of certain jurisdictional facilities in connection with the sale of ACE's and DP&L's interests in Peach Bottom Atomic Power Station, Salem Nuclear Generating Station, and Hope Creek Generating Station to PSEG Nuclear.

Comment date: January 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Cleco Utility Group Inc.; Cleco Evangeline LLC

[Docket No. EC00–36–000]

Take notice that on December 10, 1999, Cleco Utility Group Inc. (Cleco Utility) and Cleco Evangeline LLC (Cleco Evangeline) tendered for filing an application under Section 203 of the Federal Power Act for approval of the sale of certain jurisdictional transmission facilities by Cleco Utility to Cleco Evangeline.

Comment date: January 11, 2000, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Minnesota Power, Inc.; Blandin Paper Company

[Docket No. EC00–37–000]

Take notice that on December 10, 1999, Minnesota Power, Inc. (Minnesota Power) and Blandin Paper Company (Blandin) tendered for filing with the Federal Energy Regulatory Commission (FERC or the Commission) a Joint Application for Approval of Disposition of Assets Pursuant to Section 203 of the Federal Power Act (Joint Application), in connection with the sale by Blandin to Minnesota Power of generating assets and other related FERC-jurisdictional facilities.

Comment date: January 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. IEC Operating Companies

[Docket No. ER99–4513–002]

Take notice that on December 13, 1999, Alliant Energy Corporate Services, Inc., on behalf of IES Utilities Inc. (IES), Interstate Power Company (IPC) and Wisconsin Power and Light Company (WPL), tendered for filing in compliance with the Commission's November 12, 1999, Order in the above-referenced docket. The purpose of Alliant Energy's initial filing in this docket was to reformat and to amend Alliant Energy's OATT to facilitate unbundled retail transmission service in the State of Illinois. The Commission's November 12, 1999 Order directed Alliant Energy to eliminate its proposal to ''hold the Eligible Retail Customer liable for energy imbalance payments if the Retail Energy Supplier (RES) defaults.''

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, the Public Service Commission of Wisconsin, and its transmission customers.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Central Maine Power Company

[Docket No. ER00–597–000]

Take notice that on December 7, 1999, Central Maine Power Company (CMP), tendered for filing its request to withdraw four executed service agreements filed with the Commission on November 17, 1999, in the above-referenced dockets between CMP and Constellation Power Source, Inc.

Comment date: December 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. PP&L, Inc.

[Docket No. ER00–756–000]

Take notice that on December 9, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement between PP&L and PG&E Energy Trading-Power, L.P. (PG&E), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5.

PP&L requests an effective date of December 9, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to PG&E and to the Pennsylvania Public Utility Commission.

Comment date: December 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Allegheny Power Service Corporation, on behalf of Monongahela Power Company The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–757–000]

Take notice that on December 9, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power

Company (Allegheny Power), tendered for filing Supplement No. 67 to add Edison Mission Marketing & Trading, Inc., to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreement is December 8, 1999 or a date ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: December 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. FirstEnergy System

[Docket No. ER00–758–000]

Take notice that on December 9, 1999, FirstEnergy System tendered for filing a Service Agreement to provide Firm Point-to-Point Transmission Service for Edison Mission Marketing & Trading, Inc., (the Transmission Customer). Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective date under this Service Agreement is December 3, 1999, for the above mentioned Service Agreement in this filing.

Comment date: December 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. FirstEnergy System

[Docket No. ER00–759–000]

Take notice that on December 9, 1999, FirstEnergy System tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for Edison Mission Marketing & Trading, Inc., (the Transmission Customer). Services are being provided under the FirstEnergy System Open Access Transmission Tariff in Docket No. ER97–412–000.

The proposed effective date under this Service Agreement is December 3, 1999, for the above mentioned Service Agreement in this filing.

Comment date: December 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER00–760–000]

Take notice that on December 10, 1999, Cinergy Services, Inc. (Cinergy) and NewEnergy, Inc. (NE), are requesting via a Notice of Assignment that NE will replace New Energy Ventures, Inc., of Cinergy's Cost-Based Power Sales Tariff Original Volume No. 6–CB, Service Agreement No. 205, dated May 1, 1999.

Cinergy and NE are requesting an effective date of one day after this filing.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Services, Inc.

[Docket No. ER00–761–000]

Take notice that on December 10, 1999, Cinergy Services, Inc. (Cinergy) and NewEnergy, Inc. (NE), are requesting via a Notice of Assignment that NE will replace New Energy Ventures, Inc. of Cinergy's Market-Based Power Sales Tariff Original Volume No. 7–MB, Service Agreement No. 208, dated May 1, 1999.

Cinergy and NE are requesting an effective date of one day after this filing.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Minnesota Power, Inc.

[Docket No. ER00–762–000]

Take notice that on December 10, 1999, Minnesota Power, Inc. (MP), tendered for filing its Electric Service Agreement with the City of Nashwauk, Minnesota (Nashwauk). MP states the term of the Agreement is from January 1, 2000 to December 31, 2005.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Company of Colorado

[Docket No. ER00–763–000

Take notice that on December 10, 1999, Public Service Company of Colorado tendered for filing a revision to Exhibit B to its Power Supply Agreement with the City of Glenwood Springs as contained in Public Service's Rate Schedule FERC No. 85.

Public Service requests an effective date of October 14, 1999, for this filing.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Public Service Company of Colorado

[Docket No. ER00–764–000]

Take notice that on December 10, 1999, Public Service Company of Colorado (Public Service), tendered for filing a Power Purchase Agreement with the City of Glenwood Springs (Glenwood). The Agreement allows Public Service to provide wind-generated power service to Glenwood.

Public Service requests an effective date of October 14, 1999, for this filing.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. New Century Services Inc.

[Docket No. ER00–765–000]

Take notice that on December 10, 1999, New Century Services, Inc., on behalf of Public Service Company of Colorado tendered for filing revisions to Exhibits 7, 9, 12, 19, 25, and 26 to its Consolidated Facility Arrangements Contract with the Western Area Power Administration as contained in Public Service's Rate Schedule FERC No. 47.

Public Service requests an effective date of August 6, 1999, for this filing.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Cleco Utility Group Inc.

[Docket No. ER00–766–000]

Take notice that on December 10, 1999, Cleco Utility Group Inc., tendered for filing an Interconnection and Operating Agreement between itself and Cleco Evangeline LLC in connection with Cleco Evangeline LLC's ownership of the Coughlin Units 6 and 7.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Atlantic City Electric Company

[Docket No. ER00–767–000]

Take notice that on December 10, 1999, Atlantic City Electric Company tendered for filing an Interconnection Agreement between Pedricktown Cogeneration Limited Partnership (PCLP) and Atlantic City Electric Company (ACE). The Interconnection Agreement provides for the continuing interconnection of PCLP's cogeneration facility to ACE's transmission system and sets forth the requirements, terms and conditions applicable thereto.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Virginia Electric and Power Company

[Docket No. ER00–768–000]

Take notice that on December 10, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Old Mill Power Company and a Service Agreement for Non-Firm Point-to-Point Transmission Service by Virginia

Electric and Power Company to Old Mill Power Company. The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreements, Virginia Power will provide point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of December 10, 1999, the date of filing of the Service Agreements.

Copies of the filing were served upon Old Mill Power Company, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–769–000]

Take notice that on December 10, 1999 Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (Companies), tendered for filing a fully executed Netting Agreement between the Companies and El Paso Power Services Company.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Central Maine Power Company

[Docket No. ER00–770–000]

Take notice that on December 10, 1999, Central Maine Power Company (CMP) tendered for filing pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, and Part 35 of the Rules and Regulations (Regulations), 18 CFR Part 35, of the Federal Energy Regulatory Commission (FERC or Commission), four executed agreements, as detailed in the accompanying letter, between CMP and Engage Energy US, L.P., for the purchase of CMP's entitlements to energy, capacity, and certain other benefits associated with its undivested generation assets.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Tucson Electric Power Company

[Docket No. ER00–771–000]

Take notice that on December 10, 1999, Tucson Electric Power Company (Tucson), tendered for filing proposed changes to its Open Access Transmission Tariff (OATT), FERC Electric Service Tariff No. 2. Tucson has filed a revised OATT to include terms and conditions governing the provision of unbundled retail transmission service.

These changes to Tucson's OATT are necessitated by the opening up of Arizona's retail electric markets to competition effective January 28, 2000.

Copies of the filing were served upon the Tucson's jurisdictional customers and the Arizona Corporation Commission.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Northern States Power Company (Minnesota Company)

[Docket No. ER00–772–000]

Take notice that on December 10, 1999, Northern States Power Company (Minnesota) (NSP), tendered for filing an Interconnection Study Agreement dated November 12, 1999 between NSP-Transmission Business Unit and NSP-Generation Business Unit. NSP also requests the Commission clarify that interconnection study agreements are not rate schedules under Part 35, and future interconnection study agreements need not be filed with the Commission.

NSP requests the Agreement be accepted for filing effective November 12, 1999 and requests waiver of the Commission's notice requirements in order for the termination notice to be accepted for filing on the date requested.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–33412 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1096–001, et al.]

Electric Rate and Corporate Regulation Filings; Southern Company Services, Inc., et al.

December 14, 1999.

Take notice that the following filings have been made with the Commission:

1. Southern Company Services, Inc.

[Docket No. ER98–1096–001]

Take notice that on December 3, 1999, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company), tendered for filing a compliance report pursuant to the Commission's orders dated September 17, 1999 [1] and October 18, 1999 in the above-referenced dockets. Those orders accepted for filing an Offer of Settlement filed by Southern Company on February 1, 1999 that established the rates under its Open Access Transmission Tariff (FERC Electric Tariff, Original Volume No. 5) and established the rates for service provided under Southern Company's preceding ''comparability'' tariffs (covering service provided since 1994). In the compliance report, Southern Company notified the Commission that it had provided refunds to the affected transmission customers on November 18, 1999 and provided summaries of those refunds and the corresponding billing determinants.

Southern Company served a copy of the compliance report to the parties of record, the affected transmission customers, and the public service commissions for the lower forty-eight (48) States.

2. Canal Emirates Power International, Inc.

[Docket No. EG00–42–000]

Take notice that on December 7, 1999, Canal Emirates Power International, Inc. (Canal), 22 Charles Street, Binghamton, New York 13905–2247, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Canal is a privately-held New York corporation having its principal place of

[1] *Southern Company Services, Inc.,* 88 FERC ¶ 61,244 (1999).

business at 22 Charles Street, Binghamton, New York 13905–2247. Canal is the owner of a 50 MW cogeneration facility that is located in Binghamton. Canal is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale. Canal does not have any affiliate corporations.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Frederickson Power, L.L.C.

[Docket No. EG00–46–000]

On December 10, 1999 Frederickson Power, L.L.C. (Frederickson Power), Stock Exchange Tower, 300 5th Avenue, SW, Suite 1600, P.O. Box 51, Calgary, Alberta, Canada T2P 3C4, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Frederickson Power is a Washington limited liability company. All of the membership interests of Frederickson Power are held by Westcoast Power Marketing Inc., a Delaware corporation which is an indirect wholly owned subsidiary of Westcoast Energy Inc., a Canadian corporation (Westcoast). Upon the closing of the transactions described in the Letter of Intent effective as of September 16, 1999 between the United States of America, Department of Energy, acting by and through the Bonneville Power Administration (Bonneville) and Westcoast Power Inc., a Canadian corporation which is an indirect wholly owned subsidiary of Westcoast, Frederickson Power will own a partially constructed natural gas-fired combined cycle combustion turbine electric generation facility located in the Frederickson Industrial Area in Pierce County near Tacoma, Washington (the Frederickson Project). When complete, major plant equipment for the Frederickson Project will consist of one combustion turbine-generator, one heat recovery steam generator with supplemental firing capability, and one steam turbine-generator, with a nominal net plant capacity of 249.5 MW.

The initial fuel supply for the Frederickson Project will be natural gas. No. 2 fuel oil will be used as a back-up fuel supply. The Frederickson Project will be used exclusively for sales at wholesale and includes only those interconnection components necessary to effect such sales.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Fulton Cogeneration Associates, L.P.

[Docket No. EG00–47–000]

Take notice that on December 10, 1999, Fulton Cogeneration Associates, L.P. (Applicant), Nine Greenway Plaza, Houston, Texas filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant, a New York limited partnership owns power generating facilities in Fulton, New York. These facilities consist of a 47 MW (net) topping cycle cogeneration facility, and facilities necessary to interconnect with Niagara Mohawk Power Corporation.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Great Yarmouth Power Limited

[Docket No. EG00–48–000]

Take notice that on December 13, 1999, Great Yarmouth Power Limited Incorporated in England and Wales, Ventureforth House, South Denes Road, Great Yarmouth, Norfolk, NR 30 3PT (the Applicant), filed with the Federal Energy Regulatory Commission, an application for determination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations.

The Applicant will be engaged directly or indirectly, through an affiliate as defined in Section 2(a) (11) (B) of the Public Utility Holding Company Act of 1935 (PUHCA), in owning and operating eligible facilities constructed in England: the 440 MW Great Yarmouth power plant located in the Great Yarmouth area, England, consisting of one single shaft GE 9FA turbines and associated equipment and real estate, all of which will be an eligible facility. The turbine will be natural gas-fired only.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Illinois Power Company

[Docket No. ER00–725–000]

Take notice that on December 3, 1999, Illinois Power Company filed their quarterly report for the quarter ending September 30, 1999. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. PG&E Power Services Company

[Docket No. ER00–745–000]

Take notice that on December 8, 1999, PG&E Power Services Company (PG&E), tendered for filing notice that effective December 8, 1999, Electric Rate Schedule FERC No. 1, effective August 22, 1994, is to be canceled.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. AmerGen Energy Company, L.L.C.

[Docket No. ER00–746–000]

Take notice that on December 8, 1999, AmerGen Energy Company, L.L.C. (AmerGen), tendered for filing a power sales agreement for wholesale power sales transactions between AmerGen and PECO Energy Company.

Comment date: January 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER00–747–000]

Take notice that on December 8, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated October 25, 1999, with Alternate Power Source, Inc. (APS), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds APS as an eligible customer under the Tariff.

PP&L requests an effective date of December 8, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to APS and to the Pennsylvania Public Utility Commission.

Comment date: December 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Light Company

[Docket No. ER00–748–000]

Take notice that on December 8, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements for three new customers, Conectiv Energy Supply, Inc., Delmarva

Power & Light Company and Engage Energy US, L.P.

CILCO requested an effective date of November 8, 1999, for the service agreements.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: December 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. ISO New England Inc.

[Docket No. ER00–749–000]

Take notice that on December 8, 1999, ISO New England Inc. (the ISO), tendered for filing new Market Rule 15—Monitoring and Correcting For Implementation Errors and Addressing System Emergencies, together with Appendix 15–A thereto.

Copies of said filing have been served upon all Participants in the New England Power Pool (NEPOOL) and all non-Participant entities that are customers under the NEPOOL Open Access Transmission Tariff, as well as, on the governors and utility regulatory agencies of the six New England States.

Comment date: December 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER00–750–000]

Take notice that on December 8, 1999, the transmission-owner members of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), tendered for filing executed signature pages to the ''Agreement of the Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., A Delaware Non-Stock Corporation,'' and the ''Agency Agreement for Open Access Transmission Service Offered by the Midwest ISO for Nontransferred Transmission Facilities'' executed by Alliant Energy Corporate Services, Inc., on behalf of South Beloit Water, Gas & Electric Company, IES Utilities, Inc., Interstate Power Company and Wisconsin Power & Light Company.

Comment date: December 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Deseret Generation and Transmission Co-operative, Inc.

[Docket No. ER00–751–000]

Take notice that on December 8, 1999, Deseret Generation & Transmission Co-operative, Inc. (Deseret), tendered for filing the following proposed tariff sheets to its FERC Electric Tariff, Original Volume No. 2:

Second Revised Sheet No. 65; Second Revised Sheet No. 66; Second Revised Sheet No. 150; Second Revised Sheet No. 157; Revised Sheet No. 164; Original Sheet No. 164–A; Second Revised Sheet No. 167.

The tariff sheets reflect an update to Attachment E: Index of Point-to-Point Transmission Service Customers as well as Deseret's change of address. Deseret has requested an effective date for the filing of December 19, 1999.

Copies of the filing were served upon all parties taking service under the tariff.

Comment date: December 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Commonwealth Edison Company

[Docket No. ER00–752–000]

Take notice that on December 9, 1999, Commonwealth Edison Company (ComEd), tendered for filing an executed Service Agreement for Network Integration Transmission Service (Service Agreement) between ComEd and the City of Rochelle, Illinois (Rochelle), and an executed Network Operating Agreement (Operating Agreement) between ComEd and Rochelle. These two agreements will govern ComEd's provision of network service to serve Rochelle under the terms of ComEd's Open Access Transmission Tariff (OATT). ComEd requests that the Commission substitute the Service Agreement and the Operating Agreement for the unexecuted agreements with Rochelle filed under the OATT in Docket No. ER99–4290–000 on August 30, 1999, and accepted on October 13, 1999.

ComEd requests that the Commission establish the same effective date as was established in the original filing for the unexecuted agreements for which these agreements are being substituted.

Copies of this filing were served on Rochelle.

Comment date: December 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Arizona Public Service Company

[Docket No. ER00–753–000]

Take notice that on December 9, 1999, Arizona Public Service Company (APS), tendered for filing a Service Agreement under APS'' FERC Electric Tariff, Original Volume No. 4, for service to The Energy Authority, Inc., (Energy Authority).

A copy of this filing has been served on the Arizona Corporation Commission and Energy Authority.

Comment date: December 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Avista Corp.

[Docket No. ER00–754–000]

Take notice that on December 9, 1999, Avista Corp., tendered for filing with the Federal Energy Regulatory Commission pursuant to Section 35.12 of the Commission's Regulations, 18 CFR 35.12, an executed long-term service agreement with Public Utility District No. 1, of Pend Oreille County for Dynamic Capacity and Energy Service, Spinning Reserve Service, and Supplemental Reserve Service at cost-based rates under Avista Corp.'s FERC Electric Tariff Volume No. 10 and Generation Exchange Service at market-based rates under Avista Corp.'s FERC Electric Tariff Volume No. 9.

Comment date: December 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Utility Management and Consulting, Inc.

[Docket No. ER96–525–011]

Take notice that on November 30, 1999, Utility Management and Consulting, Inc. filed their quarterly reports for quarters ending March 31, June 30, and September 30, 1999, for information only.

18. AI Energy, Inc.

[Docket No. ER98–3164–005]

Take notice that on December 8, 1999, AI Energy, Inc., tendered for filing notification of change in circumstances to its original application for market-based rate authority filed and accepted by the Commission in the above-referenced docket. The filing notifies the Commission that AI Energy, Inc., will be engaged in retail power marketing and brokering for energy services within the State of Pennsylvania. All other aspects of the Applicant's application remain unchanged at this time.

Comment date: December 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Western Systems Power Pool

[Docket No. ER91–195–040]

Take notice that on November 1, 1999, the Western Systems Power Pool (WSPP) filed certain information as required by Ordering Paragraph (D) of the Commission's June 27, 1991 Order (55 FERC ¶ 61,495) and Ordering Paragraph (C) of the Commission's June 1, 1992 Order On Rehearing Denying Request Not To Submit Information, And Granting In Part And Denying In Part Privileged Treatment. Pursuant to 18 CFR 385.211, WSPP has requested privileged treatment for some of the information filed consistent with the June 1, 1992 order.

Copies of WSPP's informational filing are on file with the Commission, and the non-privileged portions are available for public inspection.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–33411 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

December 20, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor new license.

b. *Project No.:* 2064–004.

c. *Date Filed:* November 26, 1999.

d. *Applicant:* North Central Power Company.

e. *Name of Project:* Winter Hydroelectric Project.

f. *Location:* On the East Fork of the Chippewa River near the town of Winter, Sawyer County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Dahlberg, North Central Power Company, 104 South Pine Street, P.O. Box 167, Grantsburg, Wisconsin 54840 (715) 463–5371.

i. *FERC Contact:* Michael Spencer, michael.spencer@FERC.fed.us, (202) 219–2846.

j. *Comment Date:* 60 days from the date of filing of the application.

k. *Description of Project:* The constructed project consists of a diversion dam with a reservoir, a power canal, a penstock and powerhouse containing two generating units with a total installed capacity of 600 kilowatts, and appurtenant facilities. The project generates about 2,130 megawatt-hours per year.

l. With this notice, we are initiating consultation with the Wisconsin State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

David P. Boergers,

Secretary.

[FR Doc. 99–33418 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

December 20, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Original Minor License.

b. *Project No.:* 11685–001.

c. *Date Filed:* September 10, 1999.

d. *Applicant:* The Stockport Mill Country Inn.

e. *Name of Project:* Stockport Mill Country Inn Water Power Project.

f. *Location:* On the Muskingum River Lock and Dam No. 6 near the town of Stockport, in Morgan County, Ohio. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)-825(r)..

h. *Applicant Contact:* David Brown Kinloch, Soft Energy Associates, 414 South Wenzel Street, Louisville, KY 40204, (502) 589–0975.

i. *FERC Contact:* Tom Dean, *thomas.dean@ferc.fed.us* (202) 219–2778.

j. *Deadline for Filing Motions To Intervene and Protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status on Environmental Analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The proposed project would consist of the following facilities: (1) the existing 20-foot-high, 482-foot-long Muskingum Lock and Dam No. 6; (2) an existing 476-acre reservoir with a normal pool elevation of 640.1 feet msl; (3) an existing 20 foot by 24 foot forebay with a 19-foot-wide vertical trashrack; (4) an existing powerhouse in the basement of the mill containing two proposed generating units with a total installed capacity of 235 kW; and (5) other appurtenances. The lock and dam is owned by the Ohio Department of Natural Resources, Division of Parks and Recreation.

m. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any completing development application

must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready or environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters, the title ''PROTEST'' or ''MOTION TO INTERVENE''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 99–33420 Filed 12–23–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6514–9]

National Drinking Water Advisory Council Request for Nominations

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites all interested persons to suggest individuals to serve as members of the working groups that will be formed under the National Drinking Water Advisory Council (NDWAC) on specific matters relating to implementation of the Safe Drinking Water Act (SDWA). The Advisory Council was established to provide practical and independent advice, consultation, and recommendations to the Agency on the activities, functions and policies related to the Act as amended. At the November 2–4, 1999, meeting of the Council, it was decided that two new working groups should be formed on the following subjects: (1) Contaminant Identification, Regulation Review, and Occurrence; and (2) Drinking Water Research.

1. Contaminant Identification, Regulation Review, and Occurrence

The Safe Drinking Water Act, as amended, requires EPA to make regulatory determinations for at least five contaminants from the Contaminant Candidate List (CCL) every five years. The SDWA deadline for the first set of contaminant identification regulatory determinations is August 6, 2001. In order to make an affirmative determination to regulate, the SDWA requires three findings be made for each contaminant: (1) It adversely affects public health; (2) is known or likely to occur in public water systems with a frequency and at levels posing a health concern; and (3) regulation of the contaminant must present a meaningful opportunity for reduction of health risks.

SDWA also requires that EPA review all existing National Primary DrinkingWater Regulations (NPDWRs) every six years and revise as appropriate The SDWA deadline for completing the first review of existing NPDWRs is August 6, 2002. In reviewing existing NPDWRs, EPA proposes to subject regulated contaminants to rigorous evaluation based on available data to determine whether the Agency could justify possible rule revisions. According to SDWA, any revision to a regulation must result in an equal or greater level of public health protection. The process by which EPA will review existing regulations will be outlined in a protocol currently under development.

EPA hopes the NDWAC working group members will develop a framework and specific recommended processes to assist the Agency in evaluating the scientific data available to inform regulatory determinations from the CCL and in reviewing and selecting existing NPDWRs for possible revision. Also, the group would be asked to recommend processes in evaluating what occurrence data are needed and how to obtain this information to assist the Agency in its future reviews of NPDWRs.

2. Drinking Water Research

EPA is developing a Comprehensive Research Strategy that considers the broad range of research needed to support the Agency's drinking water regulatory activities. This research strategy will include an assessment of research needs for microbes and disinfection by-products (M/DBPs), arsenic, CCL contaminants, and other critical research issues. Ensuring that EPA has the science needed to make sound regulatory decisions has been an ongoing concern of the Council. A Research working group would be charged with two major activities: (1) Consider the research needs associated with this broad range of issues, including but not limited to those covered by the existing M/DBP and Arsenic Research Plans and the CCL Research Plan that is under development; and (2) consider the overall needs for drinking water research and provide advice to the NDWAC on how the Agency might prioritize research in the context of annual budget allocation demands. The working group will be asked to produce a ''white paper'' on drinking water research needs and priorities that NDWAC could forward to the Agency for consideration in the development of the Comprehensive Research Strategy.

Because membership on these groups will be limited and must be representative of balanced views, selections will be made by the Director, Office of Ground Water and Drinking Water, based on drinking water expertise and demonstrated interest in drinking water policy. Any interested person or organization may suggest an individual for a position on the working groups. Candidates should be identified by name, occupation, position, address and telephone number and the working group for which they wish to be considered for membership.

Persons selected for membership are responsible for any expenses that would be incurred while attending meetings. Suggestions should be submitted to Charlene E. Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4601), 401 M Street SW, Washington, DC 20460, no later than January 26, 2000. The Agency will not formally acknowledge or respond to nominations. E-Mail your questions to *shaw.charlene@epa.gov* or call 202/260–2285.

Dated: December 17, 1999.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 99–33450 Filed 12–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6515–1]

Science Advisory Board; Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Integrated Risk Project Peer Review Subcommittee, a subcommittee comprised of members from the Research Strategies Advisory Committee (RSAC) of the Science Advisory Board (SAB) and the Board of Scientific Counselors (BOSC) of the Office of Research and Development (ORD), will meet on Wednesday and Thursday, January 12 and 13, 2000 in room 4630 at the U.S. Environmental Protection Agency (US EPA), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC. The meeting will begin at 8:30 am and end no later than 5:30 pm each day. The meeting is open to the public; however, seating is limited and available on a first-come basis.

Purpose of the Meeting

The purpose of this meeting is to review the Office of Research and Development's Science To Achieve Results (STAR) Program.

Proposed Charge

The Subcommittee has been asked to address the following issues: (1) Is the STAR Program structured to support outstanding scientists and technically meritorious research? Is the outreach to potential applicants, the review of proposals, and the management of awards structured to foster high quality science?; (2) Is the STAR Program effectively integrated with ORD's in-house programs and with other EPA programs? Are the topics for STAR solicitations selected consistent with the priorities identified in the Agency's Strategic Plan? Are there other opportunities where the STAR Program could significantly contribute to the Agency's strategic goals?; (3) Is the STAR Program communicating well within the Agency, with the external scientific and regulatory communities, and with other stakeholders? Is there sufficient leveraging and coordination of research efforts?; (4) What systems should be in place to monitor the Program's impacts, costs, credibility, and effectiveness, and to what extent are these in place already? What metrics of success should be developed to determine the effectiveness of grants in terms of impacts on agency decisions? What information should be collected today on metrics of success for the STAR grants? How should program offices and other agency customers for the grant products be involved in the establishment of criteria for measuring the impacts of the program?

For Further Information Concerning the Meeting

Members of the public desiring additional information about the meeting should contact Dr. John R. Fowle III, Designated Federal Officer, Research Strategies Advisory Committee, Science Advisory Board (1400A), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4547; fax at (202) 501–0323; or via e-mail at <*fowle.jack@epa.gov* or Ms. Shirley Hamilton, Designated Federal Officer, Board of Scientific Counselors, Office of Research and Development (8701R), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–6853; fax at (202) 565–2444; or via email at <hamilton.shirley@epa.gov>. A copy of the draft agenda and copies of the background material will be available approximately two weeks prior to the meeting on the SAB website (www.epa.gov/sab) or from Ms. Betty Fortune at the fax or address noted above for Dr. Fowle and or by phone at (202) 564–4533.

Members of the public who wish to make a brief oral presentation to the Subcommittee must contact Dr. Fowle in writing (by email, by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Tuesday, January 5, 2000 in order to be included on the Agenda. Public comments will be limited to ten minutes per speaker or organization. The request should identify the name of the individual making the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (*e.g.*, overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or of the presentation itself.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week before the meeting), may be mailed to the relevant SAB committee or subcommittee; comments received too close to the meeting date will normally be provided to the committee at its meeting, or mailed soon after receipt by the Agency. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in the Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access, should contact Dr. Fowle or Ms. Hamilton at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: December 20, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–33451 Filed 12–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66273; FRL 6393–3]

Notice of Receipt of Requests to Voluntary Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on June 26, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm. 224, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Additional Information or Copies of Support Documents?

1. *Electronically*. You may obtain electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

2. *In person*. The Agency has established an official record for this action under docket control number OPP–66273. 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 4:00 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel some 75 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24 number) in the following Table 1.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000100–00587	Metolachlor Technical	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100–00597	Dual 8E Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100–00673	Dual Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100–00691	Pennant Liquid Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100–00710	Bicep II Herbicide	2-Chloro-4-(ethylamino)-6-(isopropylamino)-*s*-triazine
		2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100–00711	Dual II Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100–00712	Dual IIG Granular Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100–00766	Bicep Lite II Herbicide	2-Chloro-4-(ethylamino)-6-(isopropylamino)-*s*-triazine
		2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100 OR–90–0024	Solicam DF Herbicide	4-Chloro-5-(methylamino)-2-(alpha,alpha,alpha-trifluoro-m-tolyl)-3(2*H*)-
000100 WA–90–0032	Solicam DF Herbicide	4-Chloro-5-(methylamino)-2-(alpha,alpha,alpha-trifluoro-m-tolyl)-3(2*H*)-
000239–02426	Pest-B-Gon Insect Bait	*o*-Isopropoxyphenyl methylcarbamate
000264 MI–95–0003	Buctril Herbicide	3,5-Dibromo-4-hydroxybenzonitrile octanoate
000264 WI–92–0008	Buctril Herbicide	3,5-Dibromo-4-hydroxybenzonitrile octanoate
000270–00272	TPC Sevin 5% Dust	1-Naphthyl-*N*-methylcarbamate
000279 ID–77–0009	Thiodan 3 E.C.	6,7,8,9,10-Hexachloro-1,5,5*a*,6,9,9*a*-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide
		Xylene range aromatic solvent

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
000279 IN–89–0003	Thiodan 3 E.C.	6,7,8,9,10-Hexachloro-1,5,5*a*,6,9,9*a*-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide
000279 OR–95–0007	Thiodan 3 EC Insecticide	6,7,8,9,10-Hexachloro-1,5,5*a*1,6,9,9*a*-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide
000279 WA–92–0001	Thiodan 3 E.C. Insecticide	6,7,8,9,10-Hexachloro-1,5,5*a*,6,9,9*a*-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide
000506–00143	Tat-1 Ant Trap	Bendiocarb (2,2-dimethyl-1,3-benzoldioxol-4-yl methylcarbamate)
002393 WY–92–0003	Zinc Phosphide Bait	Zinc phosphide (Zn3P2)
004306–00010	Sulfodene Scratchex Power Dust	1-Naphthyl-*N*-methylcarbamate
		N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
007401–00127	Ferti Lome Complete Rose Spray	2,4-Dinitro-6-octyl* phenyl crotonate, 2,6-dinitro-4-octyl* phenyl crotonate and
		O,O-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
009688–00097	Chemsico Multi-Purpose Fungicide A	Tetrachloroisophthalonitrile
009779–00061	Riverside 50% Concentrate Dust Insecticide	1-Naphthyl-*N*-methylcarbamate
009779–00156	Riverside 5% Sevin Granular	1-Naphthyl-*N*-methylcarbamate
010182–00423	BP–1007 Film Fungicide	3-(3,4-Dichlorophenyl)-1,1-dimethylurea
		Tetrachloroisophthalonitrile
		Diiodomethyl p-tolyl sulfone
010182 OR–97–0016	Ambush Insecticide	Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl-,
011715–00189	SPI Total Release Aerosol Fogger	(1-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cycloprop
		(*S*-(*R**,*R**))-4-Chloro-alpha-(1-methylethyl)benzeneacetic acid,
028293–00078	Unicorn Pressurized Fogger	*N*-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		2,2-Dichlorovinyl dimethyl phosphate
028293–00097	Unicorn Wasp Killer	1-Naphthyl-*N*-methylcarbamate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
032802–00064	1.33 Turcam Plus Granular Insect Control Plus Fertilize	Bendiocarb (2,2-dimethyl-1,3-benzoldioxol-4-yl methylcarbamate)
050534–00116	Tuffcide 750G	Tetrachloroisophthalonitrile
050534–00157	Bravo 90 DG	Tetrachloroisophthalonitrile
050534–00159	Bravo S	Sulfur
		Tetrachloroisophthalonitrile
050534–00161	Bravo Flowable Fungicide	Tetrachloroisophthalonitrile
050534–00189	Chlorothalonil 75 WP	Tetrachloroisophthalonitrile
050534–00191	Bravo C/M	Manganese ethylenebis(dithiocarbamate)
		Copper oxychloride (Cu2Cl(OH)3)
		Tetrachloroisophthalonitrile
050534–00195	Daconil 2787 WDG	Tetrachloroisophthalonitrile
050534–00205	Bravo W–75 WSB	Tetrachloroisophthalonitrile
050534–00206	Dacobre DG Agricultural Fungicide/bactericide	Copper oxychloride (Cu2Cl(OH)3)
		Tetrachloroisophthalonitrile
050534–00207	Daconil 2787 WSB	Tetrachloroisophthalonitrile
050534–00219	Dacobre (Chlorothalonil)	Copper oxychloride (Cu2Cl(OH)3)
		Tetrachloroisophthalonitrile

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
050534 AL–90–0003		Tetrachloroisophthalonitrile
050534 CA–78–0209	Bravo W–75 Agricultural Fungicide	Tetrachloroisophthalonitrile
050534 CA–85–0067	Bravo W–75 Agricultural Fungicide	Tetrachloroisophthalonitrile
050534 CA–87–0079	Daconil 2787 Flowable Fungicide	Tetrachloroisophthalonitrile
050534 NC–95–0007	Bravo 720	Tetrachloroisophthalonitrile
050534 NC–95–0008	Bravo 825	Tetrachloroisophthalonitrile
050534 OR–77–0060	Bravo 500 Agricultural Fungicide	Tetrachloroisophthalonitrile
050534 OR–77–0061	Daconil 2787 Flowable Fungicide	Tetrachloroisophthalonitrile
050534 OR–81–0032	Bravo 500 Agricultural Fungicide	Tetrachloroisophthalonitrile
050534 OR–86–0005	Bravo 500	Tetrachloroisophthalonitrile
050534 OR–87–0014	Daconil 2787 Flowable Fungicide	Tetrachloroisophthalonitrile
050534 OR–93–0016	Bravo C/M	Manganese ethylenebis(dithiocarbamate)
		Copper oxychloride (Cu2Cl(OH)3)
		Tetrachloroisophthalonitrile
050534 OR–96–0001	Bravo 720	Tetrachloroisophthalonitrile
050534 OR–96–0002	Bravo 825	Tetrachloroisophthalonitrile
050534 OR–96–0014	Bravo 720	Tetrachloroisophthalonitrile
050534 OR–96–0015	Bravo 825	Tetrachloroisophthalonitrile
050534 OR–96–0016	Bravo 720	Tetrachloroisophthalonitrile
050534 OR–97–0025	Bravo 720	Tetrachloroisophthalonitrile
050534 OR–97–0026	Bravo 825	Tetrachloroisophthalonitrile
050534 OR–99–0017	Bravo 500	Tetrachloroisophthalonitrile
050534 OR–99–0018	Bravo 500	Tetrachloroisophthalonitrile
050534 PR–83–0002	Bravo 500 Agricultural Fungicide	Tetrachloroisophthalonitrile
050534 WA–77–0033	Daconil 2787 Flowable Fungicide	Tetrachloroisophthalonitrile
050534 WA–87–0043	Daconil 2787 Flowable Fungicide	Tetrachloroisophthalonitrile
050534 WA–88–0023	Daconil 2787 Flowable Fungicide	Tetrachloroisophthalonitrile
050534 WA–93–0017	Bravo Plus (Bravo C/M)	Basic copper chloride
		Manganese ethylenebis(dithiocarbamate)
		Tetrachloroisophthalonitrile
050534 WA–94–0013	Daconil 2787 Flowable Fungicide	Tetrachloroisophthalonitrile
050534 WA–96–0015	Bravo 720	Tetrachloroisophthalonitrile
051036–00205	Azinphosmethyl 50W Soluble	*O,O*-Dimethyl *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl) phosphorodithioate
051036–00207	Azinphosmethyl 2 EC	*O,O*-Dimethyl *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl) phosphorodithioate
051036 AZ–99–0005	Azinphosmethyl 50W	*O,O*-Dimethyl *S*-((4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl) phosphorodithioate
067751 OR–94–0001	Select 2EC Herbicide	2-Cyclohexen-1-one, 2-(1-(((3-chloro-2-propenyl)oxy)imino)propyl)-5-(2-
067760 OR–97–0020	Cheminova Methyl Parathion 4 EC	*O,O*-Dimethyl *O*-p-nitrophenyl phosphorothioate

Unless a request is withdrawn by the registrant within 180 days (30 days when requested by registrant) of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant during this comment period.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Novartis Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000239	The Scotts Co., D/B/A The Ortho Group, Box 1749, Columbus, OH 43216.
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000270	Farnam Companies Inc., 301 W. Osborn Rd., Phoenix, AZ 85013.
000279	FMC Corp., Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.
000506	RegWest Co., Agent For: Walco-Linck Co., Box 2220, Greeley, CO 80632.
002393	HACO, Inc., Box 7190, Madison, WI 53707.
004306	Technology Sciences Group, Inc., Agent For: Combe Inc., 1101 17th St., NW, Suite 500, Washington, DC 20036.
007401	Brazos Associates, Inc., Agent For: Voluntary Purchasing Group Inc., Box 460, Bonham, TX 75418.
009688	Chemsico, Div of United Industries Corp., Box 15842, St Louis, MO 63114.
009779	Terra International, Inc., 600 Fourth St., Sioux City, IA 51102.
010182	Zeneca Ag Products, Box 15458, Wilmington, DE 19850.
011715	Speer Products Inc., 4242 B.F. Goodrich Blvd., Memphis, TN 38181.
028293	Unicorn Laboratories, 12385 Automobile Blvd., Clearwater, FL 33762.
032802	Howard Johnson's Enterprises Inc., 700 W. Virginia St., Ste 222, Milwaukee, WI 53204.
050534	GB Biosciences Corp., c/o Zeneca Ag Products, 1800 Concord Pike, Box 15458, Wilmington, DE 19850.
051036	Micro-Flo Co., Box 772099, Memphis, TN 38117.
067751	OMG Meadowfoam Oil Seed Growers, Box 4306, Salem, OR 97302.
067760	Cheminova Inc., Oak Hill Park 1700, Route 23 – Ste. 210, Wayne, NJ 07470.

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before June 26, 2000. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received by the Agency. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exception to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: December 9, 1999.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–33457 Filed 12–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34204; FRL–6391–7]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by

registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on June 26, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm. 224, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, 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** listing at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34204. 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.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in seven pesticide registrations. These registrations are listed in the following Table 1 by registration number, product name, active ingredient and specific uses deleted.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
000499–00323	Whitmire PT 20 Dairy & Farm Insect Fogger and Repellent	Piperonyl butoxide; Pyrethrins	Use in restaurants / food handling establishments
004816–00559	Permanone Technical Insecticide	Permethrin, mixed *cis, trans*	Use for mosquito control
008278–00003	Metro All Purpose Bug Bait	Metaldehyde; Carbaryl	All food uses
010163–00236	Supracide 2E	Methidation	Use on sorghum, tobacco
010163–00237	Methidation 50S	Methidation	Use on sorghum, tobacco
010163–00238	Supracide Insecticide-Miticide	Methidation	Use on sorghum, tobacco
011715–00278	Speer Neoperm Total Release Indoor Fogger IV	Piperonyl butoxide; Tetramethrin; Permethrin, mixed *cis, trans*	Use in greenhouses (non-commercial)

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before June 26, 2000 to discuss withdrawal of the application for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company Number	Company Name and Address
000499	Whitmire Micro-Gen, Research Laboratories, Inc., 3568 Tree Court Industrial Boulevard, St. Louis, MO 63122.
004816	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
008278	Metro Biological Laboratory, c/o Robinson Associates, 1183 Adler Tree Way, Sacramento, CA 95831.
010163	Gowan, P.O. Box 5569, Yuma, AZ 85366.
011715	Speer Products, Inc., P.O. Box 18993, Memphis, TN 38181.

III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked June 26, 2000.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

Dated: November 8, 1999.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–33455 Filed 12–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64044; FRL–6397–9]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on June 26, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 224, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under *''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** listing at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–64044. 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 this official record, which includes printed, paper versions of any electronic comments submitted during as 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 4:00 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in 10 pesticide registrations. These registrations are listed in the following Table 1 by registration number, product name, active ingredient and specific uses deleted.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
000499–00450	ULD BP–300 Insecticide	Piperonyl butoxide; *N*-Octyl bicycloheptene dicarboximide; Pyrethrins	Use on respirators
000499–00452	ULD BP–100 Insecticide	*N*-Octyl bicycloheptene dicarboximide; Piperonyl butoxide; Pyrethrins	Use on respirators
000499–00453	ULD BP–50 Insecticide	Piperonyl butoxide; Pyrethrins	Use on respirators
002724–00262	Zoecon RF–43 Emulsifiable Liquid	Phosmet	Dip vat applications
007401–00010	Ferti-Lome Malathion Garden Spray	Malathion	Use on beans

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
007401–00255	Hi-Yield 5 lb. Malathion	Malathion	Use on stored grains, residual spray before storing grain; grains going into storage; after grains are stored
007401–00257	Ferti-Lome Malathion Spray	Malathion	Use on beans
007401–00267	Hi-Yield 5% Malathion Dust	Malathion	Use on cabbage, turnips, mustard greens, kale, cauli flower, brussel sprouts, broccoli, collards, lettuce, beans, peas, spinach, carrots, radishes. okra, potatoes, tomatoes, peppers, onions, honeydews, muskmelons, canta loupes, watermelons, cucumbers, squash, pumpkins, sweet potatoes, black berries, boysen berries, dewberries, loganberries, rasp berries, blueberries, strawberries, dogs & cats, cattle (beef & non-milking), cattle (dairy), sheep & goats, swine, chickens, ducks, geese, turkeys & premise treatment
007401–00438	Ferti-Lome Liquid Fruit Tree Spray	Malathion; Captan	Use on plums
034911–00002	Hi-Yield Malathion Insect Spray	Malathion	Use on citrus trees, beans

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before June 26, 2000 to discuss withdrawal of the application for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company Number	Company Name and Address
000499	Whitmire Micro-Gen, Research Laboratories, Inc., 3568 Tree Court, Industrial Boulevard, St. Louis, MO 63122.
002724	Wellmark International, 1000 Tower Lane, Suite 245, Bensenville, IL 60106.
007401	Voluntary Purchasing Groups Inc., P.O. Box 460, Bonham, TX 75418.
034911	Hi-Yield Chemical Company, P.O. Box 460, Bonham, TX 75418.

III. What is the Agency Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked June 26, 2000.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: December 9, 1999.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–33456 Filed 12–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6515–2]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Denton Pretreatment Project XL Draft Final Project Agreement.

SUMMARY: EPA is today requesting comments on a draft Project XL Final Project Agreement (FPA) for the City of Denton. The FPA is a voluntary agreement developed collaboratively by Denton, stakeholders, the state of Texas, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated sources the flexibility to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits.

Between 1996–1998, the City of Denton Environmental Services Division and the University of North Texas (UNT) Institute of Applied Sciences conducted an 18 month study to assess the feasibility of integrating the industrial pretreatment program activities with those required under the Phase II Stormwater regulations. Funding was made possible by an EPA 104 (b)(3) grant. If implemented, the Denton's draft FPA and a site specific rulemaking would allow Denton to continue implementation of recommendations resulting from that study, which was completed in April of 1998. Denton would like to reduce its monitoring and annual inspections for certain individually approved facilities and focus on pollutants in the urban stormwater drainage. Saved resources will be reapportioned to watershed protection activities including inspections of vehicle maintenance facilities, recycling centers, junkyards, salvage yards, municipal and school district fleet service operations, construction sites, establishment of a remote creek monitoring network, and incorporation of pollution prevention (P2) BMPs into the local code of ordinances. The site specific rulemaking setting forth the specific regulatory flexibility to be implemented will be developed with the assistance of stakeholders.

DATES: The period for submission of comments ends on January 18, 2000.

ADDRESSES: All comments on the draft Final Project Agreement should be sent to: Adele Cardenas, 6EN-XP, U.S. EPA REGION 6, 1445 Ross Avenue, Suite # 1200, Dallas, TX 75202–2733, or Chad Carbone, U.S. EPA, 401 M Street, SW, Room 1027WT (1802), Washington, DC 20460. Comments may also be faxed to Ms. Cardenas at (214) 665–3177 or Mr. Carbone at (202) 401–2474. Comments will also be received via electronic mail sent to: cardenas.adele@epa.gov or carbone.chad@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the draft Final Project Agreement, contact: Adele Cardenas, 6EN–XP, U.S. EPA REGION 6, 1445 Ross Avenue, Suite # 1200, Dallas, TX 75202–2733, or Chad Carbone, U.S. EPA, 401 M Street, SW, Room 1027WT (1802), Washington, DC 20460. The documents are also available via the Internet at the following location: ''http://www.epa.gov/ProjectXL''. In addition, public files on the Project are located at EPA Region 6 in Dallas. Questions to EPA regarding the documents can be directed to Adele Cardenas at (214) 665–7210 or Chad Carbone at (202) 260–4296. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, application information, and descriptions of existing XL projects and proposals, is available via the Internet at ''http://www.epa.gov/ProjectXL''.

Dated: December 10, 1999.

Lisa Lund,

Deputy Associate Administrator for Reinvention Programs, Office of Reinvention.

[FR Doc. 99–33452 Filed 12–23–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

December 16, 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 February 25, 2000. 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, SW, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les

Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0242.

Title: Section 74.604 Interference Avoidance.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1.

Estimated time per response: 3 hours.

Total annual burden: 2.

Total annual costs: $600.

Needs and Uses: Licensees assigned a common channel for TV pickup, TV studio transmitter link, or TV relay purposes in the same area, where simultaneous operation is contemplated, shall take such steps as may be necessary to avoid mutual interference. Section 74.604 requires that the Commission be notified if a mutual agreement to avoid interference cannot be reached. The data is used by FCC staff to take such action as may be necessary to assure an equitable distribution of available frequencies, thereby preventing mutual interference.

OMB Control Number: 3060–0241.

Title: Section 74.633 Temporary Authorizations.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 115.

Estimated time per response: 2 hours (1–2 hours respondent; 1 hour consulting engineer or attorney).

Total annual burden: 121 hours.

Total annual costs: $58,362.

Needs and Uses: Section 74.633 requires that licensees of television auxiliary broadcast stations submit an informal request for special temporary authority to operate that station on a temporary basis under certain circumstances. The data is used by FCC staff to ensure that interference will not be caused to other established stations.

OMB Control Number: 3060–0240.

Title: Section 74.651 Equipment Changes.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 10.

Estimated time per response: 1 hour/respondent.

Total annual burden: 10.

Total annual costs: $0.

Needs and Uses: Section 74.651(b) requires licensees of TV auxiliary broadcast stations to notify the FCC in writing of equipment changes which may be made at licensee's discretion without use of a formal application form. The data is used by FCC staff to maintain complete technical records regarding a licensee's facilities.

OMB Control Number: 3060–0474.

Title: Section 74.1263 Time of Operation.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 75.

Estimated time per response: 0.5 hours.

Frequency of Response: Reporting on occasion.

Total annual burden: 38 hours.

Total annual cost: $0.

Needs and Uses: Section 74.1263(c) requires licensees of FM translator or booster stations to notify the Commission of its intent to discontinue operations for 30 or more consecutive days. In addition, licensees must notify the Commission within 48 hours of the station's return to operation. Section 74.1263(d) requires FM translator or booster station licensees to notify the Commission of its intent to permanently discontinue operations and to forward the station license to the FCC for cancellation. The data is used by FCC staff to keep records up-to-date. These notifications inform FCC staff that frequencies are not being used for a specified amount of time and that frequencies have become available for other users.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–33388 Filed 12–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

December 17, 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 February 25, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.

Title: Commission Registration System (CORES) Registration Form.

Form No.: FCC Form 160.

Type of Review: New collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, state, local or tribal governments.

Number of Respondents: 500,000.

Estimated Time Per Response: .166 (10 minutes).

Frequency of Response: One-time filing requirement.

Total Annual Burden: 83,000 hours.

Total Annual Cost: N/A.

Needs and Uses: Used for fees, fines, and debts owed the Commission. This form is used to obtain a FCC registration number. The purpose of the form is implement the concept of a Commission-wide FCC registration number. The Commission-wide identifier will be implemented with a unique entity identifier, which is the FCC Registration Number (FRN). The FRN will be assigned to everyone doing business with the Commission. The

FRN process and data repository will be available through the functionality of the Commission registration system (CORES). The registrant address stored in the CORES will be used as the official mailing address. This information facilitates the efficient and accurate processing of the Commission's goal of verifying fee sufficiency. Since the FCC registration number identifies a registrant across the entire Commission, the licensing systems will be required to utilize the FCC registration number in all inter-system communication that involves identifying a registrant (Example: Fee sufficiency checks with the newly developed Revenue Accounting Management Information System (RAMIS).

OMB Control No.: 3060–XXXX.

Title: Commission Registration System (CORES) Update/Change Form.

Form No.: FCC Form 161.

Type of Review: New collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, state, local or tribal governments.

Number of Respondents: 250,000.

Estimated Time Per Response: .166 (10 minutes).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 41,500 hours.

Total Annual Cost: N/A.

Needs and Uses: Used for fees, fines, and debts owed the Commission. This form is the Commission's registration system (CORES) update/change form and should be utilized to update/change entity name, address, telephone number, fax number, entity contact representative name, address, telephone fax number, e-mail and password. The purpose of the form is to maintain current and accurate information in the Commission registration system (CORES). The Commission-wide registration process and data repository will be available through the functionality of the Commission Registration System (CORES). This information facilitates the efficient and accurate collection of current and update data in CORES for all registrants.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–33390 Filed 12–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

December 8, 1999.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214. Federal Communications Commission.

OMB Control No.: 3060–0867.

Expiration Date: 07/31/2002.

Title: Request for Waiver of Section 20.18(c) of the Commission's Rules Regarding Compatibility with Enhanced 911 Emergency Calling Systems.

Form No.: N/A.

Estimated Annual Burden: 9,000 burden hours annually, hours per response; 450 responses.

Description: This rule section is necessary to identify users of a shared land mobile radio station. The information is used by the Commission personnel to investigate interference complaints.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–33389 Filed 12–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Submitted to OMB for Review and Approval

December 16, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, 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 January 26, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0017.

Title: Application for a Low Power TV, TV Translator, or TV Booster Station License.

Form Number: FCC 347.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; State, local, or Tribal government(s).

Number of Respondents: 1,000.

Estimate Time Per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 1,500 hours.

Total Annual Costs: $110,000.

Needs and Uses: The Commission adopted a Report and Order in MM Docket Nos. 98–43 and 94–149 substantially revising the FCC Form 347 to facilitate electronic filing by replacing narrative exhibits with the use of certifications and an engineering technical box. The Commission also

deleted and narrowed overly burdensome questions from FCC Form 347, which is required to be filed when applying for a Low Power Television, TV Translator, or TV Booster Station License. FCC Form 347 will be supplemented with detailed instructions to explain processing standards and rule interpretations to help ensure that applicants certify accurately. These changes will streamline the Commission's processing of FCC Form 347 applications. The Commission also adopted a formal program of pre- and post-application grant random audits to preserve the integrity of our streamlined application process.

The FCC staff use data provided in FCC Form 347 to confirm that the TV facility has been built to terms specified in the outstanding construction permit. The data are also included subsequently in the license to operate the station.

OMB Control Number: 3060–0120.

Title: Broadcast Equal Employment Opportunity Model Program Report.

Form Number: 396–A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 2,526.

Estimate Time Per Response: 1.0 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 2,526 hours.

Total Annual Costs: None.

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 are 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.

OMB Control Number: 3060–0250.

Title: Section 74.784, Rebroadcasts.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; and State, local, or Tribal government(s).

Number of Respondents: 1,080.

Estimate Time Per Response: 1.0 hour.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 1,080 hours.

Total Annual Costs: None.

Needs and Uses: Section 74.784(b) states that a licensee of a low-power television or TV translator station shall not rebroadcast the programs of any other TV broadcast station without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. Section 74.784(b) requires licensees of low power or TV translator stations to notify the Commission when rebroadcasting programs or signals of another station. This notification shall include the call letters of each station rebroadcast. The licensee of the low power television or TV translator station shall certify that written consent has been obtained from the licensee of the station whose programs are retransmitted. The data are used by FCC staff to ensure compliance with Section 325(a) of the Communications Act of 1934, as amended, which states that no broadcasting station shall rebroadcast the programs or any part thereof from another broadcasting station without the express authority of the originating station.

OMB Control Number: 3060–0390.

Title: Broadcast Station Annual Employment Report.

Form Number: 395–B.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 14,000.

Estimate Time Per Response: 0.88 hours (avg.).

Frequency of Response: Annual reporting requirements.

Total Annual Burden: 12,320 hours.

Total Annual Costs: None.

Needs and Uses: The Annual Employment Report (FCC Form 395–B) was required to be filed by all licensees and permittees of AM, FM, TV, international, and low power TV broadcast stations. It is a data collection device used to assess industry employment trends. The report identifies each staff member by gender, race, color and/or national origin in each of the nine major job categories. The data are used to assess industry employment trends.

On September 30, 1998, the Commission suspended the requirement that television and radio broadcast licensees and permittees submit the FCC Form 395–B. This suspension is to remain in effect at least until the Commission revises the EEO rules to be consistent with the Court of Appeals Lutheran Church decision. If the Commission chooses to reinstate the FCC 395–B, 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 Form 395–B needs to retain a current OMB Control Number.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–33469 Filed 12–23–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Head Start Family and Child Experience Survey (FACES).

OMB No.: 0970–0151.

Description: The Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF) of the Department of Health and Human Services (DHHS) is requesting Office of Management and Budget (OMB) clearance for interview instruments to be used in the Head Start Family and Child Experience Survey (FACES). This study is being conducted under contract with Westat, Inc., with Ellsworth Associates as their subcontractor to collect information on Head Start performance measures. This revision is intended as follow-on to the current design in order to follow the

sample through the end of their first grade year of school.

FACES currently involves five phases of data collection. The first phase was a Spring, 1997 field test in which approximately 2400 parents and children were studied in a nationally stratified random sample of 40 Head Start programs. The second and third phases occurred in Fall, 1997 (Wave 1) and Spring, 1998 (Wave 2) when data were collected on a sample of 3200 children and families in the same 40 programs. The Spring, 1998 data collection included assessments of both Head Start children completing the program and former Head Start children completing kindergarten (kindergarten field test), as well as interviews with their parents and ratings by their kindergarten teachers. In the fourth and fifth phases, follow-up continued for a second program year, plus a kindergarten follow-up. The current plan is to extend data collection in Spring of the first-grade year for both cohorts of children, those completing kindergarten in Spring, 1999, and those completing kindergarten in Spring, 2000.

This schedule of data collection is necessitated by the mandates of the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62), which requires that the Head Start Bureau move expeditiously toward development and testing of Head Start Performance Measures, and by the 1994 reauthorization of Head Start (Head Start Act, as amended, May 18, 1994, Section 649(d)), which requires assessment of Head Start's quality and effectiveness. These mandates were reinforced by the Head Start Act Reauthorization of October, 1998, which called for planning for a study of Head Start children to continue follow-up through first grade.

Respondents: Individuals or Households.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Year 2000—First grade parents	1987	1	.5	994
Year 2000—First grade children	1987	1	.67	1331
Year 2000—First grade teachers	1987	1	.33	656
Year 2001—First grade parents	1168	1	.5	584
Year 2001—First grade children	1168	1	.67	783
Year 2001—First grade teachers	1168	1	.33	385
Estimated Average Annual Burden Hours				2,367

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 17, 1999.

Bob Driscoll,

Acting Reports Clearance Officer.

[FR Doc. 99–33291 Filed 12–23–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Subcommittee of the Biological Response Modifiers Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Subcommittee of the Biological Response Modifiers Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 13, 2000, 8:30 a.m. to 5:30 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Gail M. Dapolito or Rosanna L. Harvey, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12389. Please call the Information Line for up-to-date information on this meeting.

Agenda: The Xenotransplantation Subcommittee will discuss the following public health issues concerning xenotransplantation: (1) Update of scientific data concerning porcine endogenous retrovirus, (2) blood donor deferral, and (3) examination of risks posed by different types of xenotransplantation products.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 3, 2000. Oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:45 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 3, 2000, and

submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 15, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–33393 Filed 12–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 27 and 28, 2000, 8 a.m. to 5 p.m.

Location: Hilton, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Sandra L. Titus, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, or e-mail TITUSS@CDER.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12543. Please call the Information Line for up-to-date information on this meeting.

Agenda: On January 27, 2000, the committee will consider the safety and efficacy of new drug application (NDA) 20–914, Promem™ (metrifonate, Bayer Corp., Pharmaceutical Division), proposed to treat mild to moderate dementia of the Alzheimer's type. On January 28, 2000, the committee will consider the safety and efficacy of NDA 21–120, Novantrone® (mitoxantrone, Immunex Corp.) proposed to treat secondary progressive multiple sclerosis, including progressive relapsing disease.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 20, 2000. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on both days. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 20, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 16, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–33395 Filed 12–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–4461]

Withdrawal of Guidance Document on Selegiline Hydrochloride Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a guidance for industry entitled ''Selegiline Hydrochloride Tablets: In Vivo Bioequivalence and In Vitro Dissolution Testing.'' This guidance, which was issued in December 1995, is being withdrawn because it does not represent current agency thinking on in vivo bioequivalence (BE) and in vitro testing for selegiline hydrochloride.

DATES: General comments on agency guidance documents are welcome at any time.

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

FOR FURTHER INFORMATION CONTACT: Aida L. Sanchez, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–857–5847.

SUPPLEMENTARY INFORMATION: FDA is withdrawing a guidance for industry entitled ''Selegiline Hydrochloride Tablets: In Vivo Bioequivalence and In Vitro Dissolution Testing.'' This guidance addresses BE and dissolution testing for selegiline. This guidance is being withdrawn because it does not include the appropriate acceptance criteria for parent selegiline in plasma. Based on a new understanding of the pharmacokinetics of selegiline hydrochloride developed since the publication of the selegiline guidance, FDA has been requesting applicants to demonstrate that the point estimate of the test to reference ratio for area under plasma concentration-time curve (AUC) and peak blood plasma concentration (Cmax) of the parent falls within 80 to 125 percent. These criteria have been used for the demonstration of bioequivalence of all selegiline tablets and capsules currently on the market. In addition, the guidance, which was issued in December 1995, includes information only on selegiline tablets and not selegiline capsules, which have been approved by FDA since the issuance of the guidance to be withdrawn.

The withdrawal of this guidance is part of a long-term effort in the Office of Generic Drugs (OGD) to review guidance documents on the development of generic drug products with the goal of identifying documents that need to be revised, reformatted, or withdrawn because they are no longer current (64 FR 36886, July 8, 1999). OGD hopes the guidance review process will result in guidances for industry that better reflect the current thinking of the agency on generic drug development and that will eliminate the need for drug-specific bioavailability (BA) and BE guidances. A guidance currently under development on BA and BE studies for orally administered drug products will serve as a core guidance on BA and BE once it has been finalized and will replace most product-specific guidances.

The agency welcomes comments on its efforts to review existing guidances related to the development of drug products and revise, reformat, or withdraw them, as appropriate. This information is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It does not create or confer any rights for or on any

person and does not operate to bind FDA or the public.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on agency guidance documents. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 15, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–33396 Filed 12–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Healthcare Integrity and Protection Data Bank for Final Adverse Information on Health Care Providers, Suppliers, and Practitioners—(OMB 0915–0239)—Extension

Section 221(a) of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 specifically directs the Secretary to establish a national health care fraud and abuse data collection program for the reporting and disclosure of certain final adverse actions taken against health care providers, suppliers, and practitioners. A final rule was published October 26, 1999 in the **Federal Register** to implement the statutory requirements of section 1128E of the Social Security Act (The Act) as added by Section 221(a) of HIPAA. The Act requires the Secretary to implement the national health care fraud and abuse data collection program. This data bank is known as the Healthcare Integrity and Protection Data Bank (HIPDB). It contains the following types of information: (1) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service; (2) Federal or State criminal convictions against a health care provider, supplier, or practitioner related to the delivery of a health care item or service; (3) actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, or practitioners; (4) exclusion of a health care provider, supplier, or practitioner from participation in Federal or State health care programs; and (5) any other adjudicated actions or decisions that the Secretary shall establish by regulations. Access to this data bank is limited to Federal and State Government agencies and health plans.

The estimated response burden is as follows:

Regulation citation	Number of respondents	Responses per respondent	Total responses	Hours per responses	Total burden hours
61.6, Errors & Omissions	1,200	1	1,200	[1] 25	500
61.6, Revisions/Appeal Status	1,000	1	1,000	[1] 75	1,250
61.7, Licensure actions:					
Disclosure by State Licensing Boards	1,836	22	40,400	[1] 75	50,500
Reporting By State Licensing Authorities	216	187	40,400	[1] 15	10,100
61.8, Reporting of State Criminal Convictions	54	13	700	[1] 75	875
61.9, Reporting of Civil Judgments	62	8	500	[1] 75	625
61.11, Reporting of Adjudicated Actions/Decisions	66	12	800	[1] 75	1,000
61.12, Access to Data (Queries/Self Queries):					
State Licensure Boards	1,000	75	75,000	[1] 5	6,250
State Certification Agencies	54	3	162	[1] 5	14
States/District Attorneys & Law Enforcement	2,000	25	50,000	[1] 5	4,166
State Medicaid Fraud Units	47	50	2,350	[1] 5	196
Health Plans	2,500	400	1,000,000	[1] 5	83,333
Health Care Providers, Suppliers and Practitioners (self query)	60,000	1	60,000	[1] 25	25,000
Entity Registration	5,000	1	5,000	[1] 30	2,500
Entity Registration Update	250	1	250	[1] 15	62
Authorized Agent Designation	100	1	100	[1] 10	16
Authorized Agent Designation Update	5	1	5	[1] 5	0.42
61.15, Disputed Reports/ Secretarial Review:					
Initial Request	750	1	750	[1] 10	125
Request for Secretarial Review	37	1	37	[1] 480	296
Total	76,177		1,278,654		186,808

[1] Minutes.

Other forms used in the management of the HIPDB include the following:

Form name	Number of respondents	Responses per respondent	Total responses	Hours per responses	Total burden hours
Account Discrepancy	2,000	1	2,000	[1] 5	166
Electronic Funds Transfer Authorization	850	1	850	[1] 5	70
Entity Reactivation	500	1	500	[1] 15	125
Total	3,350		3,350		361

[1] Minutes.

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: December 17, 1999.

Claude Earl Fox,

Administrator.

[FR Doc. 99–33399 Filed 12–23–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Johnny Lam Animal Shows, c/o Mitchel Kalmanson, Maitland, FL, PRT–020184.

The applicant requests a permit to import and re-export captive-born Chimpanzees (*Pan troglodytes*) and Orangutans (*Pongo pygmaeus*) and progeny of the animals currently held by the applicant to/from the United States to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: International Center for Gibbon Studies, Santa Clarita, CA, PRT–020342.

The applicant requests a permit to export one male captive-bred capped gibbon (*Hylobates pileatus*) to the Zoo Lisboa, Lisboa, Portugal, for the purpose of enhancing the survival of the species through propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice:

Dated: December 20, 1999.

Kristen Nelson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–33408 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Environmental Impact Statement/ Environmental Impact Report for the Trinity River Mainstem Fishery Restoration

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of comment period.

SUMMARY: This notice announces the reopening of the public comment period of the draft Environmental Impact Statement/Environmental Impact Report for the Trinity River Mainstem Fishery Restoration. The public comment period will be open until January 20, 2000. As announced in the **Federal Register** on October 19, 1999 (FR, Vol. 64, No. 201, pages 56364–56365), the draft Environmental Impact Statement/ Environmental Impact Report for the Trinity River Mainstem Fishery Restoration is available for public comment.

DATES: Written comments on the draft Environmental Impact Statement/ Environmental Impact Report must be received on or before January 20, 2000.

ADDRESSES: Written comments should be addressed to Mr. Joe Polos, Fish and Wildlife Service, 1655 Heindon Road, Arcata, California 95521.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Polos, Fish and Wildlife Service, 1655 Heindon Road, Arcata, California 95521; (707) 822–7201.

Dated: December 20, 1999.

Elizabeth H. Stevens,

Manager, California/Nevada Operations Office, Region 1, Sacramento, California.

[FR Doc. 99–33443 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–00–1040–JF]

Gila Box Riparian National Conservation Area Advisory Committee Meeting

SUMMARY: The purpose of this notice is to announce the next meeting of the Gila Box Riparian National Conservation Area Advisory Committee Meeting. The purpose of the Advisory Committee is to provide informed advice to the Safford Field Manager on management of public lands in the Gila Box Riparian National Conservation Area. The committee meets as needed, generally between two and four times a year.

The meeting will take place at the Bureau of Land Management, Safford Field Office on February 4, 2000 commencing at 9:00 a.m. The meeting will consist of a field trip to Bonita Creek within the NCA to look at the Red Knolls designated road and its condition, road closures, water pumping stations, reeingineering of solar powered water pumping station, administrative vehicle access, habitat for proposed endangered native fish, and an update on the Lee Trail water pump diesel spill and cleanup. A public comment period will be provided from 9:15 a.m. to 9:45 a.m. at the BLM Safford Field Office prior to departing for the field trip. The public is invited to participate on the field trip but must provide their own transportation to and from the field. Field trip will depart at 10:00 a.m. and arrive back to the BLM Safford Field Office at 4:00 p.m.

DATES: Meeting will be held on February 4, 2000 starting at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Jon Collins, Gila Box NCA Project Coordinator, Safford Field Office, 711 14th Ave., Safford AZ 85546, (520) 348–4400.

Dated: December 14, 1999.

William T. Civish,

Safford Field Manager.

[FR Doc. 99–33495 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: National Park Service, Interior.

ACTION: Notice and request for comments on information collection regarding National Park Service mining regulations.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Park Service's (NPS) intention to request that the Office of Management and Budget (OMB) extend and revise the currently approved information collection budget for the NPS's minerals management regulatory program inside park boundaries. Under 36 CFR part 9, the NPS regulates mineral development activities in parks associated with mining claims located under the 1872 Mining Law and with non-Federal oil and gas rights.

DATES: Comments on this notice must be received by February 25, 2000.

ADDITIONAL INFORMATION OR COMMENTS: Contact Carol McCoy, Chief, Policy and Regulations Branch, Geologic Resources Division, National Park Service, P.O.Box 25287, Lakewood, Colorado 80225, (303) 969–2096.

SUPPLEMENTARY INFORMATION:

Title: NPS/Minerals Management Program/Mining Claims and Non-federal Oil and Gas Rights.

OMB Number: 1024–0064.

Expiration Date of Approval: January 31, 2000.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: While surprising, outstanding mineral rights exist in many units of the National Park System. In most cases, these rights predate the establishment of the units. Currently, approximately 2,100 mining claims, which were located under the 1872 Mining Law, exist in a total of 20 park units. The majority of these claims are located in Mojave National Preserve that was added to the National Park System through the California Desert Protection Act of 1994 (16 U.S.C. 410aaa). With respect to non-Federal oil and gas rights in park units, 597 non-Federal oil and gas operations exist in 11 park units. The potential for additional non-Federal oil and gas operations in additional units is tied to market forces and the quality and quantity of oil and gas reserves in park boundaries that coincide with the presence of private rights.

The NPS regulates mineral development activities inside park boundaries on mining claims and on non-Federal oil and gas rights under regulations codified at 36 CFR part 9: Subpart A for mining claims and Subpart B for non-Federal oil and gas rights. The NPS promulgated both sets of regulations in the late 1970's. In the case of mining claims, the NPS did so under Congressional authority granted under the Mining in the Parks Act of 1976 (16 U.S.C. 1901 *et seq.*) and individual park enabling statutes. For non-Federal oil and gas rights, the NPS regulates development activities pursuant to authority under the NPS Organic Act of 1916 as amended (16 U.S.C. 1 *et seq.*) and individual enabling statutes. As directed by Congress, the NPS developed the regulations in order to protect park resources and visitor values from the adverse impacts associated with mineral development in park boundaries.

The heart of the regulations is the approved ''plan of operations'' requirement. Essentially, a plan of operations is a prospective operator's blueprint setting forth all intended activities from access to extraction to reclamation related to developing a particular mineral right in a given park unit. The information required in a plan of operations is set forth in NPS regulations. Before an operator can commence development activities in a park unit, the NPS must approve the plan of operations and the operator must secure a bond in an amount sufficient to cover the cost of reclamation to the Federal Government in the event the operator defaults on his/her obligations.

Usually, an approved plan of operations covers the life of the mine or well, from development and production to reclamation. Under NPS regulations, such plans may be revised. No set form is required for a plan of operations. Each plan is tailored to the intended activities of an operator and the particulars of the environment, e.g., hardwood forest or desert, presence of endangered species or cultural resources, location and extent of water resources including wetlands.

Because of the variability among plans of operations and the duration of such plans, assessing the annual paperwork burden of complying with the NPS's mining regulations is difficult. Below is the NPS's best estimate, pro-rated on an annual basis, as to the number of respondents and number of hours involved in complying with the Service's regulations governing mining claims and non-Federal oil and gas rights.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 80 hours per response.

Respondents: Publicly held companies, private companies and individuals.

Estimate of Number of Respondents: On an annual basis, the NPS estimates that it receives a range of between 15 to 30 plans of operations under its regulations: 5 to 10 plans of operations for mining claims, and 10 to 20 plans of operations for non-Federal oil and gas rights.

Estimated Number of Responses per Respondent: One. To conduct mineral development operations in park units, a prospective operator must submit a proposed plan of operations to the NPS for review and approval. Once approved, such a plan covers the life of the operation. If the plan is for geophysical work associated with private oil and gas rights it may only cover a period of a few months. In contrast, a plan for a production oil and gas well or a hardrock mine may cover a period of 10 or more years.

Estimated Total Annual Burden: 1200 to 2400 hours. The NPS estimates that on an annual basis, it will take operators a range of 400 to 800 hours to prepare complete plans of operations for review and approval under the Service's mining claim regulations at 36 CFR part 9, Subpart A. In the case of non-Federal oil and gas rights, the NPS estimates it will take all operators a range of 800 to 1600 hours to prepare complete plans of operations for review and approval under the Service's non-Federal oil and gas regulations at 36 CFR part 9, Subpart B.

Please send comments regarding the accuracy of the burden estimates, ways to improve them and any other related comments on the collection of information under the NPS's mining regulations at 36 CFR part 9 to the noted addressee above. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 3, 1999.

David B. Shaver,

Chief, Geologic Resources Division, Natural Resource Program Center.

[FR Doc. 99–33446 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Record of Decision, Missouri National Recreational River (59-Mile District)

SUMMARY: Pursuant to regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2) and implementing procedures of the National Park Service (NPS) and U.S. Army Corps of Engineers (COE) for the National Environmental Policy Act of 1969 (40 U.S.C. 1501 et seq.), the NPS and COE have prepared this Record of Decision for the general management plan and final environmental impact statement (GMP/FEIS), Missouri National Recreational River (59-Mile District), Nebraska and South Dakota. This Record of Decision describes the recreational river management alternatives considered, mitigating measures adopted to avoid or minimize environmental impacts, and the reasoning behind the decisions reached.

FOR ADDITIONAL INFORMATION: Superintendent, Missouri National Recreational River, P.O. Box 591, O'Neill, Nebraska 68763, 402–336–3970; or Chief, Environmental and Economics Section, Planning Branch, U.S. Army Corps of Engineers, 215 North 17th Street, Omaha, Nebraska 68102, 402–221–4575.

Background Information:

Public Law 95–625 of November 10, 1978, amended section 3(a) of the Wild and Scenic Rivers Act of 1968 by designating a fifty-nine mile reach of the Missouri River between the Gavins Point Dam, Nebraska-South Dakota, and Ponca State Park, Nebraska, as a recreational river in the National Wild and Scenic Rivers System. The amending legislation declared that this segment would be administered by the secretary of the interior, acting through the National Park Service. Accordingly, the segment is considered a unit of the national park system. The Act also directed the secretary of the interior to enter into a written cooperative agreement with the secretary of the army, acting through the Corps of Engineers, for construction and maintenance of bank stabilization work and appropriate recreational development. The NPS and COE jointly produced the GMP/FEIS, updating previous management plans and memoranda written respectively in 1980 by the Heritage Conservation and Recreation Service (HCRS) and Corps of Engineers but only partially implemented.

Decisions for Management and Boundary

The preferred alternative for the Missouri National Recreational River (59-Mile District) is identified in the GMP/FEIS as Alternative 2. The preferred alternative provides for the maintenance and restoration of biologic values within the reach and has the greatest potential to protect and enhance the values for which the river was designated, consistent with the general intent of the Wild and Scenic Rivers Act. It also provides for management activities that emphasize the history and culture of the river and its surroundings. In this preferred alternative, as well as in other alternatives, the NPS and COE will manage the area through a cooperative agreement, with the NPS generally administering land-related resources and the COE generally managing water-related resources. The agencies will work together where responsibilities overlap.

Among specific actions, the preferred alternative encourages the maintenance of the rural scene while allowing development in ways emphasizing the river's natural attributes. Land in fee or less-than-fee title might be acquired to provide new river accesses or for critical habitat preservation, but generally county zoning would be encouraged as the principal landscape protection measure.

Although new visitor use facilities are not specifically included in Alternative 2, the Resource and Education Center proposed by the Nebraska Game and Parks Commission is consistent with the goals for the recreational river. Scenic drives, overlooks, and river trails could be also be developed or enhanced as opportunities allowed, and the safety and appearance of extant access facilities would be enhanced.

Habitat protection, enhancement, and restoration would be encouraged, with the NPS, COE, and other partners cooperating in inventory and monitoring of river-related resources and enhancement of biologic and cultural values. Floodplains and adjacent wetlands would be protected to the greatest extent possible, and endangered and threatened species would continue to be protected in all areas under federal or state jurisdiction.

Additional riverbank stabilization authorized in the enabling legislation will be undertaken as needed so long as all actions are in full conformance with appropriate and required environmental compliance laws, and a federal interest is established and funds are allocated for such construction.

The boundary for the 59–Mile MNRR is described as commencing at the downstream end of the Gavins Point Dam excavated discharge channel (downstream boundary of the Lewis and Clark Project), 59 miles downstream to, and inclusive of, Ponca State Park, and including the river, its islands, and adjacent banks and hills reasonably encompassing the natural and cultural resources of the unit. This boundary is a revision from the 1978 determination by including areas of active erosion and several large archaeological or cultural sites, among them an archaeological site north of St. Helena, Nebraska, and the Spirit Mound north of Vermillion, South Dakota, the latter particularly added to facilitate the preservation of that nationally significant Lewis and Clark landmark. The identified boundary excludes portions of Clay County Park some distance from the river, and certain distant croplands. The total acreage inside the revised boundary is about 17,734.

Mitigating Measures

Alternative 2 proposes limited developments such as boat and canoe accesses and trails consistent with the objectives of the unit. The Alternative also would include additional bank stabilization consistent with congressional authorization. Site-specific environmental compliance would be done when and if such construction occurred. Some increased use, some continued conversion of agricultural land to residential and other private development, and land purchases by the government may have adverse impacts on county government. Preservation of the river environs in a more natural state may be viewed as a beneficial effect of such impacts.

Other Management Alternatives Considered

Two other management alternatives were considered. The no-action alternative (Alternative 1) would have continued actions prescribed in HCRS's 1980 GMP and COE's 1980 General Design Memorandum and would have generally perpetuated existing land use conditions with minimal oversight and

condoned continued reactive rather than proactive federal involvement in all matters of visitor use and development, resource management, and interpretation. Alternative 1 served chiefly as a baseline for comparing the Preferred Alternative and Alternative 3. Alternative 3, the so-called recreation emphasis alternative, would have shifted focus to recreational enhancements and development at the potential occasional expense of resource enhancement and management. Most management actions prescribed therein were also present in alternative 2, but the recreational interests were more heavily weighted.

The boundary in Alternative 1 would have remained the same as described in the 1978 legislation. The boundaries for Alternatives 2 and 3 were identical. Both boundaries include important examples of the river's outstandingly remarkable values.

Public Review

More than 1,000 copies of the Draft GMP/EIS were mailed to federal, state, tribal, and local officials, organizations, and individuals in October 1998, commencing a 60-day public comment period that closed December 16, 1998. Between November 12 and December 10 public meetings were held in Hartington, Ponca, and Newcastle, Nebraska; and Vermillion and Yankton, South Dakota. The Missouri River Bank Stabilization Association was briefed on November 23, Nebraska Game and Parks officials on November 24, the Cedar County Commission on December 8, and Nebraska and South Dakota Congressional staff on December 9.

A total of 836 written comments were received during the public review period, including 779 identical cards from the Sierra Club. A majority of the comments came from Nebraska and South Dakota and suggested attention be given to increased recreational opportunities within the unit, increased protection of the Missouri River's natural landscape, that additional river banks be stabilized, that the ''local voice'' be heeded in management actions, and expressed concern over perceived loss of landowner rights. Responses to these and other questions were provided in the final EIS.

In October 1999 the Final GMP/EIS was printed and distributed to more than 170 federal, state, tribal, and local officials, public repositories in the project area, and to individuals providing written comments. A thirty-day review period closed on November 15, 1999. In the document the NPS and COE affirmed a preferred alternative and boundary. During the closing review two responses were received, including one from a correspondent whose letter received during the sixty-day public review period was not printed in the final GMP/EIS as it pertained wholly to issues on a separate Missouri River reach; and from Representative Doug Bereuter of Nebraska's First Congressional District, who particularly sought clarification on the matter of cost sharing in project management. While cost sharing is a legislative requirement in most COE projects, and while the NPS endorses the cost share concept because it engenders broad support for projects, NPS does not mandate cost sharing for its projects.

Selection of the Preferred Alternative

Alternatives two and three for management of the Missouri National Recreational River were considered equally acceptable from an environmental standpoint. The Preferred Alternative is selected because it is considered the most effective alternative for protecting river values and maintaining existing economic uses along the river consistent with the Wild and Scenic Rivers Act and the 1978 amending act. The selected alternative is not expected to have any significant effects on natural or cultural values within the designated boundaries. The selected Boundary is preferable environmentally, and is chosen for that reason.

Dated: December 17, 1999.

William W. Schenk,

Regional Director , Midwest Region, National Park Service.

Dated: December 17, 1999.

Mark E. Tillotson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 99–33447 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Agenda for the February 2, 2000 Public Meeting of the Advisory Commission for the San Francisco Maritime National Historical Park

Public Meeting; Fort Mason Building F (Firehouse), 10:00 AM–12:00 PM

10:00 a.m.
- Welcome—Neil Chaitin, Chairman
- Opening Remarks—Neil Chaitin, Chairman
- Approval of Minutes from Previous Meeting

10:15 a.m.
- Update—Haslett Warehouse, William Thomas, Superintendent

10:30 a.m.
- STAFF REPORTS
- Ships, Wayne Boykin
- Operations, Marc Hayman
- Collections, Tom Mulhern
- National Maritime Museum Association, Kathy Lohan

11:30 a.m.
- Public Comments and Questions

11:45 a.m.
- Election of Officers

12:00 p.m.
- Agenda items/Date for next meeting

William Thomas,

Superintendent.

[FR Doc. 99–33507 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Watershed Cooperative Agreement Program

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice of availability of funds for the Watershed Cooperative Agreement Program.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior is announcing its intent to solicit applications from eligible, not-for-profit candidates for funding under the Watershed Cooperative Agreement Program to undertake local acid mine drainage reclamation projects.

DATES: Applications for the cooperative agreements should be submitted to the appropriate individual listed under **ADDRESSES AND FURTHER INFORMATION** starting December 27, 1999. Applications will be accepted until June 1, 2000, or until all available funds have been awarded, whichever is sooner.

ADDRESSES AND FURTHER INFORMATION: Requests for an application package, which includes further information on the program, the application forms and evaluation criteria, should be directed to the appropriate Appalachian Clean Streams Coordinator: *Alabama:* Jeannie O'Dell, Birmingham Field Office, 135 Gemini Circle, Suite 215, Homewood, AL 35209, Telephone 205–290–7282, ext. 21; *Illinois:* Ken Foit, Indianapolis Field Office, Minton-Capehart Federal Building, 575 N. Pennsylvania Street, Room 392, Indianapolis, IN 46204, Telephone 317–226–6166 ext 230; *Indiana:* Michael Kalagian, Indianapolis Field Office, Minton-Capehart Federal Building, 575 N. Pennsylvania Street, Room 392, Indianapolis, IN 46204,

Telephone 317–226–6166 ext 234; *Iowa:* Stephen Preston, Mid-Continent Regional Coordinating Center, Alton Federal Center, 501 Belle Street, Room 216, Alton, IL 62002, Telephone 618–463–6463 ext 120; *Kentucky:* Dave Beam, Lexington Field Office, 2675 Regency Road, Lexington, KY 40503, Telephone 606–233–2896; *Maryland:* Peter Hartman, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220; Telephone 412–937–2905; *Missouri:* Jeff Gillespie, Mid-Continent Regional Coordinating Center, Alton Federal Center, 501 Belle Street, Room 216, Alton, IL 62002, Telephone 618–463–6463 ext 128; *Ohio:* Max Luehrs, Columbus Area Office, 4480 Refugee Road, Suite 201, Columbus, OH 43232, Telephone 614–866–0578 ext. 110; *Oklahoma:* Daniel Trout, Tulsa Field Office, 5100 East Skelly Drive S–550, Tulsa, OK 74135, Telephone 918–581–6430 ext 25; *Pennsylvania:* David Hamilton, Harrisburg Field Office, 415 Market Street, Suite 3, Harrisburg, PA 17101, Telephone 717–782–2285; *Tennessee:* Danny Ellis, Knoxville Field Office, 530 Gay Street, Suite 500, Knoxville, TN 37902, Telephone 423–545–4103 ext 147; *Virginia:* Ronnie Vicars, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, VA 24219, Telephone 540–523–5053; *West Virginia:* Rick Buckley, Charleston Field Office, 1027 Virginia Street East Charleston, WV 25301, Telephone 304–347–7162 ext 3024.

SUPPLEMENTARY INFORMATION: For Fiscal year 2000, OSM expects to award up to 1.75 million dollars to eligible not-for-profit groups to undertake actual construction projects to clean up streams impacted by acid mine drainage The cooperative agreements will be in the $5,000–$80,000 range in order to assist as many groups as possible. The cooperative agreements will have a performance period of two years.

Eligible applicants are not-for-profit, established organizations with IRS 501(c)(3) status. Applicants must have other partners, contributing either funding or in-kind services; the partners must provide a substantial portion of the total resources needed to complete the project.

Projects in the following States are eligible: Alabama, Illinois, Indiana, Iowa, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia and West Virginia. Projects must meet eligibility criteria for coal projects outlined in Section 404 of the Surface Mining Control and Reclamation Act of 1977:

Lands and water eligible for reclamation or drainage abatement expenditures under this title are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes * * * and abandoned or left in an inadequate reclamation status prior to the date of enactment of this Act [August 3, 1977], and for which there is no continuing reclamation responsibility under State or other Federal laws.

There must be demonstrated public support for the project. The project should propose to use proven or innovative technology that has a high probability of success. The project must produce tangible results, e.g., fishery restored, stream miles improved, educational and community benefits, pollutants removed from the streams. The funds must be used primarily for the construction phase of a project; reimbursement of administrative costs will be carefully scrutinized. There must be a plan to address any ongoing operation/maintenance considerations.

Two copies of a complete application should be submitted to the appropriate Appalachian Clean Streams Coordinator identified under **ADDRESSES AND FURTHER INFORMATION.** Awards are subject to the availability of funds. Applications will receive technical and financial management reviews.

Dated: December 17, 1999.

Kathy Karpan,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 99–33463 Filed 12–23–99; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–288]

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports

AGENCY: United States International Trade Commission.

ACTION: Notice of Determination.

EFFECTIVE DATE: December 20, 1999.

SUMMARY: Section 7 of the Steel Trade Liberalization Program Implementation Act, as amended (19 U.S.C. 2703 note), which concerns local feedstock requirements for fuel ethyl alcohol imported by the United States from CBI-beneficiary countries, requires the Commission to determine annually the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. The domestic market determination made by the Commission is to be used to establish the ''base quantity'' of imports that can be imported with a zero percent local feedstock requirement. The base quantity to be used by the U.S. Customs Service in the administration of the law is the greater of 60 million gallons or 7 percent of U.S. consumption as determined by the Commission. Beyond the base quantity of imports, progressively higher local feedstock requirements are placed on imports of fuel ethyl alcohol and mixtures from the CBI-beneficiary countries.

For the 12-month period ending September 30, 1999, the Commission has determined the level of U.S. consumption of fuel ethyl alcohol to be 1.32 billion gallons. Seven percent of this amount is 92.3 million gallons (these figures have been rounded). Therefore, the base quantity for 2000 should be 92.3 million gallons.

FOR FURTHER INFORMATION CONTACT: Devry Boughner (202) 205–3313 in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at (202) 205–3091. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Background

For purposes of making determinations of the U.S. market for fuel ethyl alcohol as required by section 7 of the Act, the Commission instituted Investigation No. 332–288, Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports, in March 1990. The Commission uses official statistics of the U.S. Department of Energy to make these determinations as well as the PIERS database of the Journal of Commerce, which is based on U.S. export declarations. Section 225 of the Customs and Trade Act of 1990 (Pub. L. 101–382, August 20, 1990) amended the original language set forth in the Steel Trade Liberalization Program Implementation Act of 1989. The amendment requires the Commission to make a determination of the U.S. domestic market for fuel ethyl alcohol for each year after 1989.

Issued: December 21, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–33478 Filed 12–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–419]

Certain Excimer Laser Systems for Vision Correction Surgery and Components Thereof and Methods for Performing Such Surgery; Notice of Decision To Extend the Deadline for Determining Whether To Review an Initial Determination Finding No Violation of Section 337 of the Tariff Act of 1930

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend by seven (7) days, or until January 28, 2000, the deadline for determining whether to review an initial determination (ID) finding no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–3152. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on March 1, 1999, based on a complaint by VISX, Inc. (''VISX''), 64 Fed. Reg. 10016–17. The respondents named in the investigation are Nidek Co., Ltd., Nidek Inc., and Nidek Technologies, Inc. Complainant alleges importation and sale of certain excimer laser systems for vision correction surgery that infringe claims of U.S. Letters Patent Nos. 4,718,418 and 5,711,762 (''the '762 patent''). An evidentiary hearing was held from August 18, 1999 to August 27, 1999.

On December 6, 1999, the presiding ALJ (Judge Debra Morriss) issued her final ID finding that complainant VISX failed to establish the required domestic industry, that there was no infringement of any claim at issue, and that the '762 patent was invalid and unenforceable.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42(h)(2) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.42(h)(2).

Copies of the public version of the ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000.

Issued: December 17, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–33479 Filed 12–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–385–386 (Review)]

Granular Polytetrafluoroethylene Resin From Italy and Japan

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty orders on granular polytetrafluoroethylene resin from Italy and Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on May 3, 1999 (64 FR 23677, May 3, 1999) and determined on August 5, 1999 that it would conduct expedited reviews (64 FR 44537, August 16, 1999).

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on December 21, 1999. The views of the Commission are contained in USITC Publication 3260 (December 1999), entitled Granular Polytetrafluoroethylene Resin from Italy and Japan: Investigations Nos. 731–TA-385–386 (Review).

Issued: December 14, 1999.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioners Crawford and Askey dissenting.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–33477 Filed 12–23–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98–38]

Theodore Neujahr, D.V.M., Continuation of Registration

On July 16, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Theodore A. Neujahr, D.V.M. (Respondent) of Eatonville, Washington, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AN1015331, pursuant to 21 U.S.C. 824(a)(4), and deny any pending applications for renewal or modification of such registration as a practitioner under 21 U.S.C 823(f), for reason that his registration is inconsistent with the public interest.

By letter dated July 28, 1998, Respondent filed a request for a hearing, and following prehearing procedures, a hearing was held in Tacoma, Washington on March 3, 1999, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties submitted proposed findings of fact, conclusions of law, and argument. On July 19, 1999, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision (Opinion), recommending that Respondent's registration be continued and any pending applications be granted. Neither party filed exceptions to Judge Bittner's Opinion, and on August 19, 1999, the record was transmitted to the Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, with one noted exception, the Opinion of the Administrative Law Judge. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent received his degree in veterinary medicine in 1979. In 1981, Respondent started his own practice in Eatonville, Washington, where he continues to practice.

Respondent testified that he developed a chemical dependency problem in 1988 or 1989 while going through a divorce. He further testified that ''I found that the pain relievers that I had purchased for animals helped to relieve some of my pain, and I found that the amphetamines made me feel better too.'' According to Respondent, he took approximately three Dexedrine 5 mg. tablets per week and two or three Percodan tablets per week for a period of more than a year. Both of these drugs are Schedule II controlled substances.

Respondent testified that he became concerned about his drug use and contacted a treatment program. On February 23, 1990, Respondent and his receptionist, who was also a close personal friend, met with the doctor in charge of the program. It was agreed that the doctor and Respondent's receptionist would monitor Respondent by requesting that Respondent submit to a urinalysis if they suspected that he had taken a mood altering substance.

In April 1990, a DEA investigator was reviewing DEA order forms used for purchasing Schedule II controlled substances and noticed that Respondent had purchased Dexedrine, which is not commonly used in veterinary practice, and Percodan, which is occasionally used in veterinary practice. On April 6, 1990, the DEA investigator and an investigator with the Washington Board of Pharmacy went to Respondent's office where they discovered that Respondent kept controlled substances in an unlocked drawer in his office and at his residence, which is an unregistered location. Initially, Respondent told the investigators that he was going to use the Dexedrine to treat obese dogs, but ultimately admitted that he had taken the Dexedrine himself. Respondent also said at some point that he had used the Percodan to treat dogs. However, the record does not indicate whether he admitted to the investigators during this meeting that he had taken the Percodan himself.

At the conclusion of this meeting, the DEA investigator gave Respondent the opportunity to voluntarily surrender his Schedule II and IIN privileges. Respondent signed the voluntary surrender form and checked the box that indicated that he was surrendering his DEA registration in Schedules II and IIN ''[i]n view of my alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part.''

Respondent testified that at the time that he surrendered his Schedule II privileges, he was abstaining from controlled substances and alcohol, but that he felt threatened by the two investigators and signed the voluntary surrender form out of fear. Judge Bittner credited Respondent's testimony on this point and found that Respondent perceived that he was being threatened.

On May 23, 1990, Respondent began an outpatient treatment which he completed on January 16, 1991. At the time Respondent entered the program, he had been drug-free for several months. This program consisted of random urinalysis which were all negative, and counseling sessions.

On January 7, 1991, the Washington State Veterinary Board of Governors (Veterinary Board) issued a Statement of Charges against Respondent seeking suspension or revocation of his license to practice veterinary medicine on grounds that he had possessed Schedule II controlled substances for other than legitimate or therapeutic purposes by possessing them for his own use. It is unclear from the record, but it appears that at some point Respondent entered into a stipulation with the Veterinary Board admitting that he possessed Schedule II controlled substances including, but not limited to, Dexedrine, Percodan, and oxycodone with aspirin for other than legitimate or therapeutic purposes. The Veterinary Board suspended Respondent's license to practice veterinary medicine for at least 24 months, but stayed the suspension subject to various terms of probation. Specifically, the Veterinary Board required Respondent to submit quarterly progress reports on his methods of handling stress, his use of and handling of drugs, his mental and physical health, his methods of dealing with legal charges, professional responsibilities and activities and personal activities relating to his practice; to attend at least two Narcotics Anonymous or Alcoholics Anonymous (12-step) meetings per week; to submit to random and observed biological fluid testing at least once per month; not to possess a Schedule II or IIN registration for two years; and not to submit a request for reinstatement of his license for at least two years.

On April 27, 1992, the Veterinary Board accepted a stipulation between Respondent and the State of Washington Department of Health which provided, among other things, that Respondent would sign a contract with the Washington Health Professional Services (WHPS) program and comply with the terms and conditions of that contract, and that if Respondent failed to comply with that contract his license would be subject to disciplinary action by the Veterinary Board.

The WHPS is a division of the Washington Department of Health and is a monitoring program that provides an alternative to license discipline for various health care professions. The WHPS referred Respondent to a chemical dependency and family therapist who reported to the WHPS monthly on Respondent's progress. The therapist testified that he did not recall making any adverse reports regarding Respondent; that he felt that Respondent ''was doing all of the things that a person who is successful in recovery does;'' that he did not violate any of the rules of the program; that he was convinced that Respondent was continuing his recovery and was stable in his lifestyle, and that he thought it would be in the public interest for Respondent to have a DEA registration.

Respondent's case manager with WHPS from December 1993 until November 1994 testified that Respondent complied with his contract with the WHPS; that he consistently attended more 12-step meetings than required; and that all of his urinalyses were negative.

On October 5, 1992, Respondent executed a renewal application for his DEA registration, answering ''No'' to the question, hereinafter referred to as the liability question, which asks, ''Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?'' Respondent testified while he knew that he had surrendered a portion of his DEA registration in 1990, he did not know how to answer the liability question. According to Respondent, he asked the instructors at continuing education courses that, ''if you voluntarily give up a portion of your DEA registration is that for cause and does that mean that you have to answer that question 'yes' and they told me that it was not true if you voluntarily give it up.'' Respondent also testified that he relied upon statements of the investigators that his ''license'' would not be affected if he signed a confession and if he did whatever the treatment program told him to do; that he tended to confuse his

license to practice veterinary medicine and his DEA registration; and that the investigators also told him that he could reapply for registration to handle Schedule II and IIN substances later.

Respondent testified that he was ''quite nervous'' when he sent off his application but that when he received his updated Certificate of Registration, he concluded that he had answered the question properly. On September 30, 1995, Respondent executed another renewal application for his DEA registration and answered ''No'' to essentially the same liability question. Respondent testified that in executing this application, he did not give the question ''any thought at all'' because he knew how he had answered the similar question on the 1992 application and it had been granted with no difficulty. In 1995, Respondent sought registration in Schedules II, IIN, III, IIIN, IV and V.

On November 3, 1995, another DEA investigator telephoned Respondent to verify information on his 1995 renewal application. The investigator testified that she read the liability question from the 1995 application to Respondent and that Respondent said that the answer to the question was ''No.'' According to the investigator, she then asked Respondent, ''[Y]ou've never had any action taken?'' and Respondent again stated ''No.''

Respondent testified that the investigator caught him off guard and he was convinced that he had answered the liability question on the 1992 and 1995 renewal applications correctly. Respondent further testified that after he hung up with the investigator he realized that he had made a mistake, but he did not know how to contact the investigator. Respondent also testified that if he remains registered with DEA, he would find someone to help him answer the liability questions properly on his next renewal application.

At the hearing, Respondent testified that he has not had any relapses since he stopped using controlled substances in 1990, and that he has a good support network in place. Respondent's case manager with the WHPS testified that completing an adequate number of years in a monitored recovery program greatly decreases the likelihood of a relapse, and that she was not aware of any reason that Respondent should not be authorized to handle controlled substances.

Pursuant to 21 U.S.C. 824(a)(1), the Deputy Administrator may revoke a DEA Certificate of Registration upon a finding that the registrant has materially falsified an application for registration. DEA had previously held that in finding that there has been a material falsification of an application, it must be determined that the applicant knew or should have known that the response given to the liability question was false. See Martha Hernandez, M.D., 62 FR 6145 (1997); Herbert J. Robinson, M.D., 59 FR 6304 (1994).

It is undisputed that Respondent answered ''No'' to the liability question on his 1992 and 1995 renewal applications despite the fact that his state veterinary license was placed on probation and he had surrendered his Schedule II and IIN privileges. Respondent testified that he did not know how to answer the question, since he did not think that he had surrendered his Schedule II privileges ''for cause.'' However, there is no indication that Respondent even attempted to contact the DEA investigator who obtained the surrender from Respondent for guidance. Yet, even if one were to accept Respondent's explanation, it would not explain why Respondent did not disclose that his state veterinary license was placed on probation.

The Acting Deputy Administrator finds that Respondent knew or should have known that his responses were false. Answers to the liability question are always material because DEA relies on the answers to these questions to determine whether it is necessary to conduct an investigation prior to granting an application. See Bobby Watts, M.D., 58 FR 46995 (1993); Ezzat E. Majd Pour, M.D., 55 FR 47547 (1990). DEA has previously held that it is the registrant's ''responsibility to carefully read the question and to honestly answer all parts of the question.'' Martha Hernandez, M.D., 62 FR at 61147. Therefore, grounds exist to revoke Respondent's DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(1).

Also, pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive, the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwartz, Jr., M.D., 54 FR 16422 (1989).

As to factor one, it is undisputed that Respondent's state veterinary license was suspended for 24 months, with the suspension stayed and his license placed on probation subject to various conditions. It is also undisputed that Respondent entered into a Stipulation with the state where by he agreed to enter into a contract with the WHPS. However, his state license is now unrestricted and he is authorized to handle controlled substances in the State of Washington. But as Judge Bittner noted, ''inasmuch as State authorization is a necessary but not sufficient condition for a DEA registration, * * * this factor is not determinative.''

Regarding factor two, it is undisputed that Respondent used his DEA Certificate of Registration and official order forms to obtain Schedule II controlled substances which he then abused himself for about a year in 1988 or 1989. However, this behavior was a result of Respondent's chemical dependency for which he has received treatment. He has not abused controlled substances since 1990, and he has a good support network in place to help prevent any relapse. There is no other evidence that Respondent has improperly dispensed controlled substances.

As to factor three, there is no evidence that Respondent has ever been convicted under State or Federal laws relating to the manufacture, distribution, or dispensing of controlled substances.

Regarding factor four, there is evidence in the record that Respondent has failed to comply with applicable laws relating to controlled substances. By furnishing false information on his applications for DEA registration, Respondent violated 21 U.S.C. 843(a)(4)(A). By using DEA order forms to obtain controlled substances for his own use, Respondent violated 21 U.S.C. 828(e), and by dispensing controlled substances for other than legitimate medical purposes, Respondent violated 21 U.S.C. 841(a)(1). Further, Respondent

violated 21 CFR 1301.75(b) by failing to maintain adequate physical security of controlled substances. It also appears from evidence in the record that Respondent violated various provisions of Washington state law.

As to factor five, other than Respondent's material falsification of his applications for registration, there is no evidence that Respondent has engaged in any other conduct that may threaten the public health and safety.

The Acting Deputy Administrator agrees with Judge Bittner's conclusion that the Government has made a *prima facie* case that Respondent's continued registration would be inconsistent with the public interest. Respondent used his privileges as a DEA registrant to obtain controlled substances to support his chemical dependency, and he materially falsified his 1992 and 1995 renewal applications.

However, he has undergone treatment for his chemical dependency and has not abused controlled substances since 1990. Further, evidence in the record suggests that there is little likelihood of Respondent relapsing. The Acting Deputy Administrator finds it noteworthy that Respondent first sought treatment for his chemical dependency on his own and not at the direction of another.

Judge Bittner also found it significant that ''there is no evidence that [Respondent] improperly handled controlled substances in any way since 1992, when he regained a DEA registration.'' However, the Acting Deputy Administrator can find no evidence in the record that Respondent ever completely lost his DEA privileges. It is true that he surrendered his Schedule II and IIN privileges in 1990. But it appears from the evidence in the record that Respondent has had a DEA registration since 1981. Therefore, the Acting Deputy Administrator finds it significant that there is no evidence that Respondent has improperly handle controlled substances in any way since 1990.

Regarding the material falsification of Respondent's renewal applications, the Acting Deputy Administrator agrees with Judge Bittner who noted that ''Respondent acknowledged that he falsified his applications, he apparently regretted that conduct, and I believe that he will not repeat it.''

Judge Bittner concluded ''that the evidence that Respondent has remained drug free for more than eight years prior to the hearing and it remorseful about his prior behavior weighs in favor of continuing his registration.'' As a result, Judge Bittner recommended that Respondent's DEA registration be continued. The Acting Deputy Administrator agrees.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AN1015331, previously issued to Theodore Neujahr, D.V.M. be, and it hereby is, continued and renewed in Schedules II, IIN, III, IIIN, IV and V.

Dated: December 14, 1999.

Julio F. Mercado,

Acting Deputy Administrator.

[FR Doc. 99–33506 Filed 12–23–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the Provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''general Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None.

Volume II

District of Columbia
DC990001 (MAR. 12, 1999)
Maryland
MD990010 (MAR. 12, 1999)

Volume III

None

Volume IV

Ohio
OH990002 (MAR. 12, 1999)

Volume V

Iowa
IA990004 (MAR. 12, 1999)

Volume VI

None

Volume VII

California
CA990001 (MAR. 12, 1999)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 17th day of December 1999.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–33120 Filed 12–23–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0129(2000)]

Benzene Standard; Extension of the Office of Management of Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed reduction in, and extension of, the information collection requirements contained in the Benzene Standard (29 CFR 1910.1028).

Request for comment

The Agency is particularly interested in 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 February 25, 2000.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0129(2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625,200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Nancy Dorris, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements in the Benzene Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Nancy Dorris or Todd R. Owen at (202) 693–2444. For electronic copies of the ICR on the Benzene Standard, contact OSHA on the Internet at *http://www.osha-slc.gov.*

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 clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). In this regard, the information collection requirements in the Benzene Standard provides protection for employees from the adverse health effects associated with exposure to benzene.

II. Proposed Actions

OSHA proposes to extend the OMB approval for the collection of information (paperwork) contained in the Benzene Standard (29 CFR 1910.1028). The Benzene Standard requires employers to monitor employees' exposure to benzene, monitor employee health, and provide employees with information about their exposures and the health effects of exposure to benzene.

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 Benzene Standard (29 CFR 1910.1028).

Type of Review: Extension of currently approved information collection requirements.

Title: Benzene Standard.

OMB Number: 1218–0129.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 13,498.

Frequency: On occasion.

Total Responses: 335,944.

Average Time per Response: Time per response ranges from 5 minutes to maintain records to 4 hours to complete a referral medical examination.

Estimated Total Burden Hours: 125,195.

Estimated Cost (Operation and Maintenance): $8,179,921.

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) and Secretary of Labor's Order No. 6–96 (62 FR 111).

Signed at Washington, D.C., on December 17, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–33480 Filed 12–23–99; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL CREDIT UNION ADMINISTRATION

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Notice of application period.

SUMMARY: The National Credit Union Administration (NCUA) will accept applications for participation in the Community Development Revolving Loan Program for Credit Unions throughout calendar year 2000, subject to availability of funds. Application procedures for qualified low-income credit unions are set forth in Part 705, NCUA Rules and Regulations.

ADDRESSES: Applications for participation may be obtained from and should be submitted to: NCUA, Office of Community Development Credit Unions, 1775 Duke Street, Alexandria, VA 22314–3428.

DATES: Applications may be submitted throughout calendar year 2000.

FOR FURTHER INFORMATION CONTACT: The Office of Community Development Credit Unions at the above address or telephone (703)518–6610.

SUPPLEMENTARY INFORMATION: Part 705 of the NCUA Rules and Regulations implements the Community Development Revolving Loan Program for Credit Unions. The purpose of the Program is to assist officially designated ''low-income'' credit unions in providing basic financial services to residents in their communities which result in increased income, ownership and employment. The Program makes available low interest loans and deposits in amounts up to $300,000 in the aggregate to qualified participating ''low-income'' credit unions. Program participation is limited to existing credit unions with an official ''low-income'' designation. Student credit unions are not eligible to participate in this program.

This notice is published pursuant to Part 705.9 of the NCUA Rules and Regulations which states that NCUA will provide notice in the **Federal Register** when funds in the program are available.

By the National Credit Union Administration Board on December 16, 1999.

Becky Baker,

Secretary, NCUA Board.

[FR Doc. 99–33275 Filed 12–23–99; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Company, Turkey Point Unit Nos. 3 and 4; Notice of Partial Denial of Amendment to Facility Operating Licenses and Opportunity For Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a portion of a request by Florida Power and Light Co. (licensee), for an amendment to Facility Operating License Nos. DPR–31 and DPR–41 issued to the licensee for operation of the Turkey Point Plant, Unit Nos. 3 and 4, located in Dade County, Florida. Notice of Consideration of Issuance of these amendments was published in the **Federal Register** on June 2, 1999.

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to correct the TS Index, remove inconsistencies, and make administrative changes. The NRC staff has concluded that a portion of the licensee's request, related to the proposed deletion of dates for approved security plans, cannot be granted. The basis of the denial is detailed in the safety evaluation related to Amendment Nos. 203 and 197 dated December 20, 1999.

By January 26, 2000, the licensee may demand a hearing with respect to the partial denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Mitchell Ross, General Counsel, Florida Power and Light Company, P.O. Box 14000, Juno Beach, Florida, 33408–0420, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated April 26, 1999, (2) Amendment Nos. 203 and 197 to Facility Operating License Nos. DPR–31 and DPR–41, and (3) the Commission's related safety evaluation.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room).

Dated at Rockville, Maryland, this 20th day of December 1999.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–33483 Filed 12–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Company, et al. (Millstone Nuclear Power Station, Unit 3); Order Approving Application Regarding Merger of New England Electric System and the National Grid Group PLC

I

Northeast Nuclear Energy Company is authorized to act as agent for the joint owners of the Millstone Nuclear Power Station, Unit 3 (Millstone 3), and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility as reflected in Facility Operating License No. NPF–49. New England Power Company (NEP), one of the joint

owners, holds a 12.2-percent [1] possessory interest in Millstone 3. The U.S. Nuclear Regulatory Commission issued Facility Operating License No. NPF–49 on January 31, 1986, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located in New London County, on the southern coast of the State of Connecticut.

II

Under cover of a letter dated March 15, 1999, NEP, a subsidiary of New England Electric System (NEES), and National Grid Group plc (National Grid) submitted an application requesting approval of the transfer of control of the license, to the extent held by NEP in connection with its 12.2-percent ownership interest in Millstone 3, regarding a proposed change in the economic ownership of NEES. The application was supplemented May 20 and June 17, 1999 (collectively hereinafter ''the application'').

NEP is incorporated in the Commonwealth of Massachusetts. NEES owns all of NEP's common stock and 99.71-percent of its voting securities, with the other 0.29-percent being owned by the public in the form of preferred stock with common voting rights. The requested transfer approval relates to a proposed merger in which NEES is to be acquired by National Grid, a British company. NEES and National Grid entered into a merger agreement on December 11, 1998.

National Grid is a public limited company incorporated under the laws of England and Wales. It is the only transmission company in England and Wales and is an independent company created as a result of the privatization and restructuring of the British electric system in 1990. The application states that National Grid, with its United Kingdom assets and through interconnections with Scotland and France and through its acquisitions of interests in transmission systems in other nations, is the largest privately owned transmission company in the world.

National Grid has formed NGG Holdings LLC (NGG Holdings), a U.S. entity that is a limited liability company organized in Massachusetts and a wholly owned subsidiary of National Grid. NGG Holdings will merge with and into NEES, with NEES being the surviving entity from that transaction and maintaining its status as a U.S. entity subject to all applicable U.S. laws and regulations. The application states that, for tax purposes, immediately after the merger, NEES will be converted from a Massachusetts business trust into a corporation; specifically, NEES will be merged into a Massachusetts corporation to be named NEES Holdings, Inc., which will then be the surviving entity. The post-acquisition capital structure of NEES Holdings, Inc., will be identical to the capital structure of NEES, and NEES Holdings, Inc., will become a wholly owned indirect subsidiary of National Grid, with NEP being a subsidiary of NEES Holdings, Inc., and thus also becoming an indirect subsidiary of National Grid. The application also provides details regarding several companies that will be created for various business reasons as intermediates between National Grid and NEES Holdings, Inc., after the merger is approved, and all of these companies will be either directly or indirectly wholly owned by National Grid. National Grid will register as a public utility holding company under the Public Utility Holding Company Act of 1935.

Approval of the indirect license transfer that would result from the foregoing transactions was requested pursuant to 10 CFR 50.80. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on June 30, 1999 (64 FR 35191). Pursuant to such notice, joint Millstone 3 owners Connecticut Light and Power Company (CL&P) and Western Massachusetts Electric Company (WMECO) filed a timely intervention petition and hearing request. Following the submission of further pleadings by the applicants and petitioners, the Commission found that the petitioners had demonstrated standing and proffered two admissible issues (regarding foreign ownership and financial qualifications). The Commission set the case for hearing and issued a schedule for the proceeding. Subsequently, on November 4, 1999, the petitioners filed a notice of withdrawal of their petitions to intervene, and the petitioners and the applicants jointly moved for termination of the proceeding due to a settlement reached between the parties. The Commission granted the motion on November 19, 1999. In doing so, it noted that the staff, in its review of transfer applications, examines financial qualifications and foreign ownership issues, and should consider concerns specifically raised in the proceeding relating to those matters when it takes action on the transfer application. North Atlantic Energy Service Corp., *et al.* (Seabrook, Unit 1 and Millstone Station, Unit 3), CLI–99–28, 50 NRC _____, slip op. (Nov. 19, 1999). The staff has considered those concerns, which are addressed in the safety evaluation supporting this Order.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that the proposed merger of National Grid and NEES will not affect the qualifications of NEP as a holder of Facility Operating License NPF–49, and that the indirect transfer of the license, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. The foregoing findings are supported by a safety evaluation dated December 10, 1999.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954 (AEA), as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the indirect license transfer referenced above is approved, subject to the following conditions:

(1) No later than the time the proposed merger with National Grid is consummated, NEP shall establish and make operational a Special Nuclear Committee, as described in the application, having the composition, authority, responsibilities, and obligations specified in the application, provided, however, the Special Nuclear Committee may also have exclusive authority on behalf of NEP over taking any action which is ordered by the NRC or any other agency or court of competent jurisdiction. No material changes with respect to the Special Nuclear Committee may be made without the prior written consent of the Director, Office of Nuclear Reactor Regulation. The foregoing provisions may be modified by the Commission upon application and for good cause shown.

(2) The Special Nuclear Committee shall have the responsibility and exclusive authority to ensure, and shall ensure, that the business and activities of NEP with respect to the Millstone 3 license are at all times conducted in a manner consistent with the protection of the public health and safety and

[1] A pending merger of New England Electric System with Eastern Utilities Associates, which owns Montaup Electric Company, would result in an increase in NEP's ownership interest in Millstone 3 to approximately 16.2 percent.

common defense and security of the United States.

(3) NEP shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from NEP to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10 percent) of NEP's consolidated net utility plant, as recorded on its books of account.

(4) Should the proposed merger not be completed by December 30, 2000, this Order shall become null and void, provided, however, upon application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated March 15, 1999, and the supplements dated May 20 and June 17, 1999, and the safety evaluation dated December 10, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site *http://www.nrc.gov.*

Dated at Rockville, Maryland, this 10th day of December 1999.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–33482 Filed 12–23–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Director, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on November 23, 1999 (64 FR 65738). Individual authorities established or revoked under Schedules A and B and established under Schedule C between October 1, 1999, and October 31, 1999, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30, is published each year.

Schedule A

No Schedule A authorities were established or revoked during October 1999.

Schedule B

No Schedule B authorities were established or revoked during October 1999.

Schedule C

The following Schedule C authorities were established during October 1999.

Broadcasting Board of Governors

Staff Director to the Chairman, Advisory Board for Cuba Broadcasting. Effective October 1, 1999.

Writer to the Director, Office of Policy, International Broadcasting Bureau. Effective October 1, 1999.

Confidential Assistant to the Director, Office of Cuba Broadcasting. Effective October 1, 1999.

Public Affairs Officer to the Director, Voice of America. Effective October 1, 1999.

Department of Agriculture

Administrative Assistant to the Administrator, Cooperative State Research, Education, and Extension Service. Effective October 6, 1999.

Associate Administrator to the Administrator, Agricultural Marketing Service. Effective October 7, 1999.

Confidential Assistant to the Administrator, Rural Utilities Service. Effective October 7, 1999.

Special Assistant to the Administrator, Agricultural Research Service. Effective October 12, 1999.

Department of Commerce

Special Assistant to the Director, Office of Business Liaison. Effective October 1, 1999.

Senior Advisor to the Director, Minority Business Development Agency. Effective October 7, 1999.

Director of Communications to the Under Secretary for Technology. Effective October 22, 1999.

Confidential Assistant to the Director, Minority Business Development Agency. Effective October 28, 1999.

Department of Defense

Special Assistant to the Assistant Secretary of Defense, Strategy and Threat Reduction. Effective October 12, 1999.

Foreign Affairs Specialist to the Deputy Assistant Secretary for Peacekeeping and Humanitarian Affairs. Effective October 28, 1999.

Foreign Affairs Specialist to the Deputy Assistant Secretary for Inter-American Affairs. Effective October 29, 1999.

Department of Education

Confidential Assistant to the Special Assistant, Office of the Counselor to the Secretary. Effective October 14, 1999.

Confidential Assistant to the Director, Office of Public Affairs. Effective October 20, 1999.

Special Assistant to the Director, Office of Public Affairs. Effective October 20, 1999.

Special Assistant to the Assistant Secretary, Office for Civil Rights. Effective October 28, 1999.

Department of Energy

Staff Assistant to the Director of Scheduling and Advance. Effective October 12, 1999.

Special Assistant to the Deputy Secretary of Energy. Effective October 15, 1999.

Special Assistant to the Director, Office of Consumer Information. Effective October 20, 1999.

Special Assistant to the Principal Deputy Assistant Secretary. Effective October 20, 1999.

Daily Scheduler to the Director, Office of Scheduling and Advance. Effective October 27, 1999.

Special Assistant to the Assistant Secretary for International Affairs. Effective October 28, 1999.

Senior Policy Advisor to the Assistant Secretary for Defense Programs. Effective October 28, 1999.

Senior Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 28, 1999.

Department of Health and Human Services

Speechwriter to the Director of Speechwriting. Effective October 14, 1999.

Confidential Assistant (Scheduling) to the Director of Scheduling. Effective October 22, 1999.

Special Assistant to the Director, Office of Intergovernmental Affairs. Effective October 28, 1999.

Special Assistant to the Principal Deputy Assistant Secretary for Children and Families. Effective October 29, 1999.

Department of Housing and Urban Development

Deputy Director, Office of Executive Scheduling to the Director of Executive Scheduling. Effective October 22, 1999.

Special Assistant to the General Counsel. Effective October 28, 1999.

Special Assistant to the Assistant Secretary for Public Affairs. Effective October 28, 1999.

Department of the Interior

Staff Assistant to the Director, Office of Surface Mining. Effective October 20, 1999.

Special Assistant for Hawaiian Affairs to the Director, Office of Insular Affairs. Effective October 22, 1999.

Department of Justice

Special Assistant to the Chairman, U.S. Parole Commission. Effective October 22, 1999.

Department of Labor

Special Assistant to the Deputy Director of Labor. Effective October 6, 1999.

Chief of Staff to the Assistant Secretary, Employment Standards Administration. Effective October 22, 1999.

Department of State

Special Assistant to the Director, Bureau of Education and Cultural Affairs. Effective October 1, 1999.

Deputy Chief to the Chief, Cultural Programs Division, Bureau of Educational and Cultural Affairs. Effective October 1, 1999.

Legislative Management Officer to the Assistant Secretary, Bureau of Legislative Affairs. Effective October 1, 1999.

Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs. Effective October 1, 1999.

Senior Advisor to the Director, Bureau of Educational and Cultural Affairs. Effective October 1, 1999.

Program Officer to the Director, Bureau of Educational and Cultural Affairs. Effective October 1, 1999.

Senior Technology Advisor to the Director, Office of International Information Programs. Effective October 1, 1999.

Public Affairs Specialist to the Deputy Assistant Secretary, Bureau of Public Affairs. Effective October 1, 1999.

Special Assistant to the Director, Office of International Information Programs. Effective October 1, 1999.

Chief, Voluntary Visitors to the Director, Bureau of Educational and Cultural Affairs. Effective October 1, 1999.

Special Projects Officer to the Director, Bureau of Educational and Cultural Affairs. Effective October 1, 1999.

Special Assistant to the Director, Office of International Information Programs. Effective October 1, 1999.

Senior Advisor to the Deputy Assistant Secretary, Bureau of Public Affairs. Effective October 1, 1999.

Director, New York Foreign Press Center to the Deputy Assistant Secretary, Bureau of Public Affairs. Effective October 1, 1999.

Senior Program Officer to the Director, New York Foreign Press Center. Effective October 1, 1999.

Special Assistant to the Special Assistant, New York Reception Area. Effective October 1, 1999.

Deputy Director to the Director, Intergovernmental Affairs, Bureau of Public Affairs. Effective October 1, 1999.

Special Assistant to the Director, Office of White House Liaison. Effective October 1, 1999.

Staff Assistant to the Senior Advisor, Office of the Under Secretary. Effective October 6, 1999.

Department of the Treasury

Senior Advisor to the Deputy Assistant Secretary, Government Financial Policy. Effective October 14, 1999.

Federal Communications Commission

Special Assistant for Policy and Communication to the Chief, Office of Public Affairs. Effective October 28, 1999.

General Services Administration

Senior Policy Advisor for Congressional and Intergovernmental Affairs to the Associate Administrator, Office of Congressional and Intergovernmental Affairs. Effective October 14, 1999.

Office of Management and Budget

Special Assistant for Policy and Legislation to the Associate Director for Legislative Affairs. Effective October 22, 1999.

Office of Personnel Management

Special Assistant to the Director. Effective October 1, 1999.

Office of the United States Trade Representative

Deputy Assistant U.S. Trade Representative for Congressional Affairs to the Assistant U.S. Trade Representative. Effective October 12, 1999.

Securities and Exchange Commission

Public Affairs Specialist to the Director, Office of Public Affairs, Policy Evaluation and Research. Effective October 22, 1999.

Small Business Administration

Special Assistant to the Assistant Administrator Office of International Trade. Effective October 28, 1999.

United States Tax Court

Secretary (Confidential Assistant) to the Judge. Effective October 20, 1999.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–33362 Filed 12–23–99; 8:45 am]

BILLING CODE 6325–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3212; Amendment #4]

State of North Carolina

In accordance with information received from the Federal Emergency Management Agency dated December 14, 1999, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster from December 14, 1999 to January 18, 2000.

All other information remains the same, i.e., the deadline for filing applications for economic injury is June 16, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 14, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–33489 Filed 12–23–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3230]

State of Oregon

Lincoln County and the contiguous counties of Benton, Lane, Polk, and Tillamook in the State of Oregon constitute a disaster area as a result of heavy rain on November 24–26, 1999 that caused flooding and landslides. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 14, 2000 and for economic injury until the close of business on Sept. 14, 2000 at the address listed below or other locally announced locations: U.S. Small Business

Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	7.500
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.750
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	6.750
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The numbers assigned to this disaster are 323006 for physical damage and 9G1900 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 14, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–33488 Filed 12–23–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 6.250 (6¼) percent for the January–March quarter of FY 2000.

Arnold S. Rosenthal,

Acting Deputy Associate Administrator for Financial Assistance.

[FR Doc. 99–33487 Filed 12–23–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–6684]

Navigation Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Navigation Safety Advisory Council (NAVSAC). NAVSAC advises the Coast Guard on the prevention of vessel collision, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment; routing measures; marine information; diving safety; and aids to navigation systems.

DATES: Application forms should reach us on or before February 18, 2000.

ADDRESSES: You may request an application form by writing to Commandant (G–MW), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001; by calling 202–267–6164; by faxing 202–267–4700; or by e-mail Jshort@comdt.uscg.mil. Send your application in written form to the above street address. This notice and the application form are available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Margie Hegy, Executive Director of NAVSAC at (202) 267–0415, fax (202) 267–4700.

SUPPLEMENTARY INFORMATION: The Navigation Safety Advisory Council (NAVSAC) is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Secretary of Transportation, via the Commandant of the Coast Guard, on the prevention of vessel collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment; routing measures; marine information; diving safety; and aids to navigation systems.

NAVSAC meets at least twice a year at various locations in the continental United States. It may also meet for extraordinary purposes. Its subcommittees and working groups may meet to consider specific problems as required.

We will consider applications for seven positions that expire or become vacant in June 2000. To be eligible, you should have experience in the above mentioned subject areas. To assure balanced representation of subject matter expertise, members are chosen, insofar as practical, from the following groups: (1) Recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety; (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry; (3) individuals with an interest in maritime law; and (4) Federal and State officials with responsibility for vessel and port safety. Each member serves for a term of 3 years. A few members may serve consecutive terms. All members serve without compensation from the Federal Government, although travel reimbursement and per diem may be provided.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups of apply.

If you are selected, we may require you to complete a Confidential Financial Disclosure Report (OGE Form 450). We may not release the report or the information in it to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: December 15, 1999.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–33471 Filed 12–23–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–45]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified

requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 17, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9__,–NPRM_____,–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 20, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29745.

Petitioner: C&S Aviation, Limited.

Section of the FAR Affected: 14 CFR 135.25(b) and (c).

Description of Relief Sought: To permit C&S to operate under part 135 without having exclusive use of at least one aircraft that meets the requirements for at least one kind of operation authorized by C&S's operations specifications.

Docket No.: 29742.

Petitioner: National Airlines, Inc.

Section of the FAR Affected: 14 CFR section V.B of appendix I of part 121.

Description of Relief Sought: To permit National employees who perform a safety-sensitive function and who are required to undergo a medical examination under 14 CFR part 67 to be excluded from periodic drug testing.

Dispositions of Petitions

Docket No.: 25233.

Petitioner: Alaska Air Carriers Association.

Section of the FAR Affected: 14 CFR 121.709(b)(3) and 135.443(b)(3).

Description of Relief Sought/ Disposition: To permit certificated and appropriately trained pilots employed by an AACA-member airline to remove and reinstall passenger seats in aircraft type certificated for 10 to 19 passenger seats used by that AACA-member airline in operations conducted under part 121 or part 135 and permit those pilots to make required logbook entries. *Grant, 10/20/99, Exemption No. 7048.*

Docket No.: 27819.

Petitioner: Celsius Aerotech, Inc. formerly known as FFV Aerotech, Inc.

Section of the FAR Affected: 14 CFR 145.45(f).

Description of Relief Sought/ Disposition: To permit Celsius to establish and maintain a number of fixed locations within Celsius for the repair station Inspection Procedures Manual (IPM) and to assign IPM's to key individuals within departments. *Grant, 7/29/99, Exemption No. 6657B.*

Docket No.: 29761.

Petitioner: Champion Air.

Section of the FAR Affected: 14 CFR 121.344(b)(3).

Description of Relief Sought/ Disposition: To permit Champion to operate two Boeing 727–200 (B–727–200) airplanes (Registration Nos. N292AS and N295AS; Serial Nos. 21458 and 22147, respectively) without installing, in each airplane, the required digital flight data recorder (DFDR) upgrade until 90 days after the completion of the first heavy maintenance check after August 18, 1999, for each airplane. The two B–727–200 airplanes are scheduled to complete heavy maintenance checks on September 26, 1999, and October 1, 1999, respectively. *Grant, 10/1/99, Exemption No. 7014.*

Docket No.: 29790.

Petitioner: Red Baron Stearman Squadron.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I and J of part 121.

Description of Relief Sought/ Disposition: To allow Red Baron to conduct a local sightseeing flight for a charity auction on October 6, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 10/6/99, Exemption No. 7025.*

Docket No.: 29758.

Petitioner: Taunton Airport Association, Inc.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I and J of part 121.

Description of Relief Sought/ Disposition: To allow the TAA to conduct local sightseeing flights at the Taunton Municipal Airport for the seventh annual TAA charity fundraising event on October 16, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 10/7/99, Exemption No. 7030.*

Docket No.: 29807.

Petitioner: Denmark Volunteer Fire Department and Fryeburg Aviation.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I and J of part 121.

Description of Relief Sought/ Disposition: To allow Fryeburg Aviation to conduct local sightseeing flights at the Eastern Slope Regional Airport for the annual Denmark Volunteer Fire Department charity airlift on October 16, 1999, with a raindate of October 17, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 10/15/99, Exemption No. 7039.*

Docket No.: 29656.

Petitioner: Marvin S. Weinreb.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I and J of part 121.

Description of Relief Sought/ Disposition: To allow Marvin S. Weinreb to conduct local sightseeing flights to raise funds for tax-exempt charities in his local area, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 10/14/99, Exemption No. 7043.*

Docket No.: 29668.

Petitioner: Jet Solutions, L.L.C.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Jet Solutions to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 10/14/99, Exemption No. 7045.*

Docket No.: 28289.

Petitioner: Carver Aero, Inc.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To allow Carver to continue to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in each aircraft. *Grant, 10/14/99, Exemption No. 6229B.*

Docket No.: 29611.

Petitioner: Kent State University Flight Operations.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I and J of part 121.

Description of Relief Sought/ Disposition: To allow the Kent State University Flying Club and the Kent State University Intercollegiate Flight Team to conduct local sightseeing flights for Homecoming activities on October 16, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 10/15/99, Exemption No. 7038.*

Docket No.: 29414.

Petitioner: North American Airlines.

Section of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought/ Disposition: To permit pilots of North American Airlines (NAA) to act as pilots in supplemental operations conducted under part 121 after reaching their 60th birthday. *Denial, 9/3/99, Exemption No. 7037.*

Docket No.: 29748.

Petitioner: Gortner Pilots Association.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I and J of part 121.

Description of Relief Sought/ Disposition: To allow GPA to conduct local sightseeing flights at Greater Gortner Airport for the Greater Gortner Airport Fly-In and Open House on October 17, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 10/7/99, Exemption No. 7031.*

Docket No.: 28918.

Petitioner: Cherry-Air, Inc.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Cherry-Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in each aircraft. *Grant, 10/8/99, Exemption No. 7036.*

Docket No.: 29778

Petitioner: Raytheon Systems Company.

Section of the FAR Affected: 14 CFR 25.815.

Description of Relief Sought/ Disposition: To exempt Raytheon from 25.815 to the extent necessary to allow a movement of passenger seats into the required aisle space under certain circumstances on the Boeing Model 737–700 IGW airplane defined in the Raytheon DAS Project P–581. *Partial Grant, 10/7/99, Exemption No. 7028.*

Docket No.: 29655.

Petitioner: Rolls-Royce plc.

Section of the FAR Affected: 14 CFR 34.21(d)(1)(iv).

Description of Relief Sought/ Disposition: To allow Rolls-Royce to manufacture up to 150 RB211–535E4/E4B engines with current combustor configurations after the effective compliance date of December 31, 1999, for reduced NO_X standards. *Grant, 10/15/99, Exemption No. 7042.*

[FR Doc. 99–33402 Filed 12–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of Motor Carrier Safety

[OMCS Docket No. OMCS–99–6579]

Hours-of-Service of Drivers; Exemption Application from Van Wyk Freight Lines, Inc.

AGENCY: Office of Motor Carrier Safety (OMCS), DOT.

ACTION: Notice of application for exemption and proposal to deny exemption; request for comments.

SUMMARY: The OMCS is announcing its proposal to deny the application of Van Wyk Freight Lines, Inc. (Van Wyk) for an exemption from the records of duty status (log book) provisions of the hours-of-service regulations. Van Wyk indicated that its drivers meet all of the maximum driving time limitations in the Federal Motor Carrier Safety Regulations (FMCSRs) and that it satisfies three of the five conditions for using the OMCS' 100 air-mile radius driver exception to the requirement for log books. Van Wyk's drivers exceed the 100 air-mile distance, and the 12 hours on-duty limitations in the exception. Van Wyk believes its computerized payroll records, and compliance with the remaining conditions listed in the 100 air-mile radius driver exception would achieve a level of safety comparable to that provided under the exception. The OMCS proposes to deny the exemption because Van Wyk did not explain how it would ensure that it could achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the 100-air mile radius exception to the log book requirements. Also, Van Wyk did not describe the impacts (*e.g.,* inability to test innovative safety management control systems, *etc.*) it could experience if the exemption is not granted by the OMCS. The exemption, if granted, would preempt inconsistent State and local requirements applicable to interstate commerce.

DATES: Comments must be received on or before January 26, 2000.

ADDRESSES: Submit written, signed comments with the docket number appearing at the top of this document to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HMCS–10, (202) 366–4009, Office of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590–0001; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590–0001. 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

Internet users may access all comments that are submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590-0001, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Creation of New Agency

Section 338 of the FY 2000 Department of Transportation and Related Agencies Appropriations Act prohibits the expenditure of any funds appropriated by that Act ''to carry out the functions and operations of the

Office of Motor Carriers within the Federal Highway Administration'' (Pub. L. 106–69, October 9, 1999, 113 Stat. 986, at 1022). Section 338 further provides that, if the authority of the Secretary of Transportation on which the functions and operations of the Office of Motor Carriers are based is redelegated outside the FHWA, the funds available to that Office under the Act may be transferred and expended to support its functions and operations.

The Secretary has rescinded the authority previously delegated to the FHWA to perform motor carrier functions and operations. This authority has been redelegated to the Director, Office of Motor Carrier Safety (OMCS), a new office within the Department of Transportation (64 FR 56270, October 19, 1999).

The motor carrier functions of the FHWA's Resource Centers and Division (i.e., State) Offices have been transferred to OMCS Resource Centers and OMCS Division Offices, respectively. Rulemaking, enforcement and other activities of the Office of Motor Carrier Safety while part of the FHWA will be continued by the OMCS. The redelegation will cause no changes in the motor carrier functions and operations previously handled by the FHWA. For the time being, all phone numbers and addresses are unchanged.

Background

On June 9, 1998, the President signed the Transportation Equity Act for the 21st Century (TEA–21) (Public Law 105–178, 112 Stat. 107). Section 4007 of TEA–21 amended 49 U.S.C. 31315 and 31136(e) concerning the Secretary of Transportation's (the Secretary's) authority to grant exemptions from the FMCSRs for a person(s) seeking regulatory relief from those requirements. An exemption may be granted for no longer than two years from its approval date, and may be renewed upon application to the Secretary. The Secretary must provide the public with an opportunity to comment on each exemption request prior to granting or denying the exemption.

Section 4007 requires the OMCS to publish a notice in the **Federal Register** for each exemption requested, explaining that the request has been filed, and providing the public with an opportunity to inspect the safety analysis and any other relevant information known to the agency, and to comment on the request. Prior to granting a request for an exemption, the agency must publish a notice in the **Federal Register** identifying the person or class of persons who will receive the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption. The terms and conditions established by the OMCS must ensure that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation.

On December 8, 1998, the FHWA published an interim final rule implementing section 4007 of TEA–21 (63 FR 67600). The regulations at 49 CFR part 381 establish the procedures persons must follow to request waivers and to apply for exemptions from the FMCSRs, and the procedures used to process the requests for waivers and applications for exemptions.

As indicated earlier in this notice, the Secretary has rescinded the authority previously delegated to the FHWA to carry out motor carrier functions and operations. Therefore, the regulations issued by the FHWA are now regulations of the OMCS. On October 29, 1999 (64 FR 58355), the OMCS issued a final rule amending the heading for chapter III of title 49 of the Code of Federal Regulations to reflect the organizational changes.

Van Wyk's Application for an Exemption

Van Wyk applied for an exemption from 49 CFR 395.8, which provides requirements concerning drivers' records of duty status or ''log books.'' A copy of the application is in the docket identified at the beginning of this notice. Generally, motor carriers must require each of their CMV drivers to record his/her duty status for each 24-hour period using the methods prescribed in the regulations. The regulation provides motor carriers with two options: manually recording the duty status in a log book, or using an automatic on-board recording device. Section 395.1(e) of the hours-of-service regulations provides an exemption to the requirements of § 395.8 for certain drivers operating CMVs within a 100 air-mile radius of the normal work reporting location. The 100 air-mile radius exemption is applicable if:

(1) The driver, except a driver salesperson, returns to the work reporting location and is released from work within 12 consecutive hours;

(2) At least 8 consecutive hours off-duty separate each 12 hours on duty;

(3) The driver does not exceed 10 hours maximum driving time following 8 consecutive hours off-duty; and,

(4) The motor carrier that employs the driver maintains and retains for a period of six months accurate and true time records showing:

(i) The time the driver reports for duty each day;

(ii) The total number of hours the driver is on-duty each day;

(iii) The time the driver is released from duty each day; and,

(iv) The total time for the preceding seven days in accordance with § 385.8(j)(2) [1] for drivers used for the first time or intermittently.

Van Wyk believes that its motor carrier operations meet most of the conditions in the 100 air-mile radius exception and that the differences—Van Wyk's drivers exceed the 100 air-mile distance, and the drivers sometimes remain on duty for 15 consecutive hours—should not preclude the company from obtaining relief from the log book requirement. Van Wyk indicated that its drivers normally work a 10-hour day, take at least an 8-hour break between each tour of duty; return to the same point of origin at the end of each shift; do not exceed 10 hours of driving time on any given shift, and do not work on Saturday and Sunday. The company keeps track of drivers' hours through an electronic time clock that indicates the start time, number of hours on-duty, and the time the driver gets off work each day. The company can also show the last 12 months of ''activity'' through computerized payroll records.

Basis for Proposal to Deny the Exemption

The OMCS has carefully reviewed Van Wyk's application and does not believe that it would be appropriate to grant an exemption solely on the basis that the applicant meets most of the conditions of an existing exception developed through notice-and-comment rulemaking procedures.

On April 3, 1980 (45 FR 22042), as part of the FHWA's effort to reduce the paperwork burden on the drivers and motor carriers while retaining adequate controls over the hours-of-service, the agency published the final rule creating an exception to the log book requirements for drivers who operate commercial motor vehicles within a 100 air-mile radius of the place where the driver reports for work. The preamble to the final rule included a discussion of commenters' concerns about various aspects of the rulemaking. The FHWA received 112 responses to the notice of

[1] Section 395.8(j)(2) requires that motor carriers, when using a driver for the first time or intermittently, must obtain from the driver a signed statement giving the total time on duty during the immediately preceding seven days and the time at which the driver was last relieved from duty prior to beginning work for the motor carriers.

proposed rulemaking published on October 13, 1977 (42 FR 55109). The agency indicated that eight respondents opposed the proposal as written. Fifty-eight respondents supported the proposal as written. Thirty respondents submitted conditionally favorable responses predicated on variations of one or more elements of the proposal and 16 comments were considered beyond the scope of the proposal. The agency stated:

Those respondents who submitted conditionally favorable responses objected to particular elements that would require:

1. The [driver] to prepare a log every day if the driver operates beyond the 100-mile radius more than one day per month;

2. The driver to return (within 12 hours) to the place the driver reported for work; and,

3. Time records related to those exempt operations to be retained at the carrier's principal place of business unless permission is obtained to retain the records at another location.

It is agreed that the one day per month limitation may be overly restrictive. The requirement that the motor carrier prepare and retain true and accurate time records, coupled with the 12-hour limitation, ensures that adequate records are available to determine driver compliance with the hours-of-service regulations.

Therefore, the proposed exemption is being modified to require log preparation on a daily basis by drivers who operate beyond the 100-mile radius more than one time in any 7 consecutive day period. If a driver operates beyond the 100-mile radius more than one time in any 7 consecutive days, a pattern of operation would be established that would require preparation of a log every day. If a motor carrier demonstrates that the driver will no longer be required to operate beyond the 100-mile radius, the exemption could then be reinstated for that particular driver. This action is in harmony with the present interpretation covering operations beyond the 50-mile radius (42 FR 60078). [2]

Many of the commenters who favored the proposal, in general, objected to the 12-hour limitation. Those commenters indicated that there are certain places such as piers, oil refineries, steel mills, etc., where waiting times of 6–7 hours occur frequently and a driver would not exceed the 10-hour driving rule, but because of the delays could exceed the 12-hour limit proposed in the 100-mile exemption rule and on those days not be entitled to the exemption. On the other hand, other commenters pointed out that the 12-hour limitation was fair considering the benefits to be gained by not having to prepare a log.

Another argument raised by certain commenters against the 12-hour limit was that some drivers may now be operating within the 50-mile radius exemption who, under the 100-mile radius exemption, would now have to prepare a log. However, since FHWA is expanding the area of operation four-fold, a limitation is necessary to ensure that the hours-of-service are not violated. This limitation applies only if one wants to take advantage of the 100-mile log exemption. The exemption does not alter or should not be confused with the present hours-of-service limitations set forth in section 395.3 of the Federal Motor Carrier Safety Regulations (FMCSRs). It should be clearly understood that once a driver exceeds that 12-hour limitation, the 100-mile exemption would no longer be applicable for that day and the hours-of-service for that day would have to be recorded on a driver's log. [45 FR 22042, 22043; April 3, 1980]

The preamble to the 1980 final rule thus demonstrates that the FHWA fully considered industry concerns about the time limit for returning to the work-reporting location. Van Wyk has not provided any new information to support increasing either the time or the distance restrictions in the current exception. Expanding both would enable Van Wyk to dispatch drivers a distance of almost 300 statute miles from the work reporting location (if the driver averages approximately 60 miles per hour for 5 hours), perform non-driving tasks for almost 5 hours, and then return to the work-reporting location with no readily apparent means of ensuring that the driver does not exceed 10 hours driving time. The drivers could operate almost anywhere in a geographic area of approximately 282,600 square miles (using a radius (R) of 300 miles from the work reporting location, and the formula Area = 3.14 X (R)2) and not be required to present a log book to their supervisors documenting their total driving time, or to enforcement officials in any of the jurisdictions in which the vehicle operates. By contrast, the current exemption limits the geographic area to 41,527 square miles (using a radius of 115 statute miles [3] and the previous formula) and requires the driver to return to the terminal within 12 hours.

The OMCS believes that allowing Van Wyk to operate its vehicles in an area of approximately 282,600 square miles without requiring log books would make it difficult both for the motor carrier and enforcement officials to ensure compliance with the maximum driving time regulations. Since Van Wyk has requested that its drivers be allowed up to 15 hours to return to the work reporting location, enforcement officials who encounter Van Wyk drivers would have difficulty determining whether the driver has exceeded the 10-hour rule. The driver would not have a log book so the inspector would not be able to determine the time the driver started working, the total amount of driving time before the driver was stopped, the amount of time the driver spent performing non-driving tasks, or the time the driver was supposed to return to the work reporting location. If there were proof of the time the driver started working, the enforcement official would still be unable to determine the total driving time, and time spent on non-driving tasks.

Generally, if the enforcement official contacted the motor carrier, it is unlikely that the carrier could state with certainty the driver's total driving time for the day and the time spent on non-driving tasks. This is especially the case if the carrier had no practicable means of verifying the driver's whereabouts at any given time during the day. The increase in the 12-hour return-to-terminal time limit would provide drivers with three additional hours away from the work reporting location with no apparent safeguards to ensure that the driver adhered to the driving time limitations. The current rule, by contrast, requires that the driver return to the work reporting location within 12 hours. This means the 10-hour rule could be exceeded by substantially less than two hours, considering a 30-minute lunch break for the driver, loading and unloading time, etc.

Irrespective of Van Wyk's intentions, the OMCS does not believe that a motor carrier should be allowed to put itself into a situation in which it could not effectively monitor its drivers' compliance with the maximum driving time restriction. Van Wyk has not indicated how, or even whether, it intends to carefully review drivers' assignments (e.g., look at the specific

[2] On November 26, 1982 (47 FR 53383) the FHWA published a final rule revising the requirements for recording a driver's duty status. Section 395.9 concerning drivers' multi-day logs, which included the log preparation requirements for drivers who operate beyond the 100-mile radius more than once in any 7 consecutive day period, was removed and reserved. The FHWA has since published regulatory guidance about drivers who fail to meet the provisions of the 100 air-mile radius exemption. (62 FR 16370, 16421; April 4, 1997).

[3] The term ''air mile'' is internationally defined as a ''nautical mile'' which is equivalent to 6,076 feet or 1,852 meters. Therefore, 100 air miles are equivalent to 115.08 statute miles or 185.2 kilometers (62 FR 16370, 16421; April 4, 1997).

locations the driver is dispatched to during the work day, the amount of time required to travel from location to location, the amount of time spent at each location, etc.) to supplement the electronic time records, which typically would only prove when the driver reported for work and when the driver was released from work. Therefore, the OMCS does not believe it is likely that Van Wyk could ensure a level of safety that is equivalent to, or greater than, the level of safety provided by complying with the hours-of-service regulations.

On November 5, 1996 (61 FR 57252), the FHWA published an advance notice of proposed rulemaking (ANPRM) on all aspects of the hours-of-service regulations. The agency indicated that it was nearing the completion of several research projects and was seeking the results of other relevant research, including research, operational tests, or pilot regulatory programs conducted anywhere in the world, that could be used in developing a revised regulatory scheme for CMV drivers' hours-of-service. The OMCS has reviewed all the research reports submitted by commenters to the rulemaking docket, and scientific information obtained through other sources, and is not aware of any data that would support creating a regulatory relief program that, if abused, would enable a person to drive a CMV up to 13 hours, and perhaps even longer. Copies of all known research reports, as well as all comments submitted in response to the ANRPM, are available in FHWA Docket No. FHWA–97–2350.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the OMCS is requesting public comment from all interested persons on the exemption application from Van Wyk. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the address section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable, but the OMCS may deny the exemption at any time after the close of the comment period. In addition to late comments, the OMCS will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Authority: 49 U.S.C. 31136 and 31315; and 49 CFR 1.73.

Issued on: December 21, 1999.

Julie Anna Cirillo,

Acting Director, Office of Motor Carrier Safety.

[FR Doc. 99–33474 Filed 12–23–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 192X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Anderson and Woodford Counties, KY

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon its line of railroad between milepost 0.7–LL, at Lawrenceburg, and milepost 3.5–LL, at Tyrone, in Anderson and Woodford Counties, KY, a distance of approximately 2.8 miles (line). The line traverses United States Postal Service Zip Codes 40342 and 40383.

NSR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 26, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 6, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 18, 2000, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by January 3, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 27, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: December 16, 1999.

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[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–33183 Filed 12–23–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices; International Financial Institution Advisory Commission; Meeting

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: Under section 603 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the International Financial Institution Advisory Commission (the ''Commission'') shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (defined as the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation, the World Trade Organization, and the Bank for International Settlements.

DATES: The seventh meeting of the Advisory Commission will be held on January 3, 2000, beginning at 2:00 p.m. and ending tentatively at 6:30 p.m. in the U.S. Capitol, House of Representatives side, room HC5. The eighth meeting of the Advisory Commission will be held on January 4, 2000, beginning at 9:30 a.m. and ending tentatively at 3:00 p.m. The meeting will be held in the U.S. Capitol, House of Representatives side, room HC6.

FOR FURTHER INFORMATION CONTACT:

Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

The Commission members will focus on exchange rate policy, income inequality and debt forgiveness.

Procedural

These meetings are open to the public. Please note that the meetings may close early if all business is finished. Members of the public may submit written comments. If you wish to furnish such comments, please provide 16 copies of your written material to the Designated Federal Official. If you wish to have your comments distributed to members of the Commission in advance of the seventh and eighth meetings, 16 copies of any written material should be provided to the Designated Federal Official no later than December 28, 1999.

Dated: December 17, 1999.

William McFadden,

Designated Federal Official.

[FR Doc. 99–33425 Filed 12–23–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Departmental Offices; International Financial Institution Advisory Commission; Meeting

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: Under section 603 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the International Financial Institution Advisory Commission (the ''Commission'') shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (defined as the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation), the World Trade Organization, and the Bank for International Settlements.

DATES: The ninth meeting of the Advisory Commission will be held on January 28, 2000, beginning at 9:00 a.m. and ending tentatively at 3:00 p.m. in the U.S. Capitol, House of Representatives side, room HC6.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue N.W., Washington, D.C., 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

The Commission members will focus on discussions about Russia and on corruption in a global context.

Procedural

These meetings are open to the public. Please note that the meetings may close early if all business if finished. Members of the public may submit written comments. If you wish to furnish such comments, please provide 16 copies of your written material to the Designated Federal Official. If you wish to have your comments distributed to members of the Commission in advance of the ninth meeting, 16 copies of any written material should be provided to the Designated Federal Official no later than January 11, 2000.

Dated: December 27, 1999.

William McFadden,

Designated Federal Official.

[FR Doc. 99–33426 Filed 12–23–99 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the Wage and Investment Taxpayer Prefiling and Filing Burden Study

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Wage and Investment Taxpayer Prefiling and Filing Burden Study.

DATES: Written comments should be received on or before February 25, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Wage and Investment Taxpayer Prefiling and Filing Burden Study.

OMB Number: To be assigned later.

Abstract: This study is designed to collect the amount of time and money incurred by Wage and Investment taxpayers as a result of the Federal income tax laws and regulations. This information will be a valuable tool in the IRS's ongoing effort to improve customer service, as well as for policy makers to understand the full effect of tax law changes. In particular, it will help the IRS understand the burdens placed on its customers by the Federal tax system its laws, its administration, and changes to those factors. Also, the data collected from this study will be used as an input to the development of a micro-simulation model that measures taxpayer burden.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 8,300.

Estimated Average Time Per Respondent: 20 minutes (for completed interviews).

Estimated Total Annual Burden Hours: 2,230.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 20, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–33516 Filed 12–23–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–LTC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–LTC, Long-term Care and Accelerated Death Benefits.

DATES: Written comments should be received on or before February 25, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Long-Term Care and Accelerated Death Benefits.

OMB Number: 1545–1519.

Form Number: 1099–LTC.

Abstract: Under the terms of Internal Revenue Code sections 7702B and 101g, qualified long-term care and accelerated death benefits paid to chronically ill individuals are treated as amounts received for expenses incurred for medical care. Amounts received on a per diem basis in excess of $175 per day are taxable. Code section 6050Q requires all such amounts to be reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, individuals or households, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Responses: 71,590.

Estimated Time Per Response: 11 min.

Estimated Total Annual Burden Hours: 13,602.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Reqest for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 14, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–33517 Filed 12–23–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–74–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–74–93, (TD 8623), Substantiation Requirement for Certain Contributions (§ 1.170A–13).

DATES: Written comments should be received on or before February 25, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Substantiation Requirement for Certain Contributions.

OMB Number: 1545–1431.

Regulation Project Number: IA–74–93 (Final).

Abstract: These regulations provide that, for purposes of substantiation for certain charitable contributions, consideration does not include de minimis goods or services. It also provides guidance on how taxpayers may satisfy the substantiation requirement for contributions of $250 or more.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and non-profit institutions.

Estimated Number of Respondents: 16,000.

Estimated Time Per Respondent: 3 hours, 13 minutes.

Estimated Total Annual Burden Hours: 51,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 14, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–33518 Filed 12–23–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4029.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

DATES: Written comments should be received on or before February 25, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, Room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

OMB Number: 1545–0064.

Form Number: 4029.

Abstract: Form 4029 is used by members of recognized religious groups to apply for exemption from social security and Medicare taxes under Internal Revenue Code sections 1402(g) and 3127. The information is used to approve or deny exemption from social security and Medicare taxes.

Current Actions: There are no changes being made to Form 4029 at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,754.

Estimated Time Per Respondent: 1 hr., 4 min.

Estimated Total Annual Burden Hours: 4,017.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and

tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 14, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–33519 Filed 12–23–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–35–85]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–35–85 (TD 8219), Income Tax: Taxable Years Beginning After December 31, 1953; OMB Control Number Under The Paperwork Reduction Act; Survivor Benefits, Distribution Restriction and Various Other Issues Under the Retirement Equity Act of 1984 (§ 1.402(a)–20).

DATES: Written comments should be received on or before February 25, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Income Tax: Taxable Years Beginning After December 31, 1953; OMB Control Number Under The Paperwork Reduction Act; Survivor Benefits, Distribution Restriction and Various Other Issues Under the Retirement Equity Act of 1984.

OMB Number: 1545–0928.

Regulation Project Number: EE–35–85.

Abstract: The notices referred to in this Treasury Decision are required by statute and must be provided by employers to retirement plan participants to inform participants of their right under the plan or under the law. Failure to timely notify participants of their rights may result in loss of plan benefits.

Current Actions: There are no changes being made to the regulation at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, Federal Government, and state, local or tribal governments.

Estimated Number of Respondents: 750,000.

Estimated Time Per Respondent: 31 minutes.

Estimated Total Annual Burden Hours: 385,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 15, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–33520 Filed 12–23–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–941–86; INTL–656–87; INTL–704–87]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, INTL–941–86; INTL–656–87; and INTL–704–87, Treatment of Shareholders of Certain Passive Foreign Investment Companies (§ 1.1291–1, 1.1291–2, 1.1291–3, 1.1291–6, and 1.1291–8).

DATES: Written comments should be received on or before February 25, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Shareholders of Certain Passive Foreign Investment Companies.

OMB Number: 1545–1304.

Regulation Project Number: INTL–941–86; INTL–656–87; and INTL–704–87.

Abstract: This regulation concerns the taxation of shareholders of certain passive foreign investment companies (PFICs) upon payment of distributions by such companies or upon disposition of the stock of such companies. The reporting requirements affect U.S. persons that are direct and indirect shareholders of PFICs. The information is required by the IRS to identify PFICs and their shareholders, administer shareholder elections, verify amounts reported, and track transfers of stock of certain PFICs.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 2,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 15, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–33521 Filed 12–23–99; 8:45 am]

BILLING CODE 4830–01–U

federal register

Monday
December 27, 1999

Part II

Department of Education

Privacy Act of 1974; Systems of Records and Corrections; Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of the Chief Information Officer, Department of Education.

ACTION: Notice of new and altered systems of records and corrections.

SUMMARY: The Chief Information Officer for the Department of Education publishes this notice of new and altered systems of records and corrections.

DATES: We must receive your comments on the proposed routine uses for the systems of records included in this notice on or before January 26, 2000. The Department filed a report describing the new and altered systems of records covered by this notice with the Chair of the Committee on Governmental Affairs of the Senate, the Chair of the Committee on Government Reform and Oversight of the House, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on December 17, 1999. The changes made in this notice will become effective after the 30-day period for OMB review of the systems expires on January 16, 2000; unless OMB gives specific notice within the 30 days that the changes are not approved for implementation or requests an additional 10 days for its review. The routine uses become effective 30 days after publication unless they need to be changed as a result of public comment or OMB review. The Department will publish any changes to the routine uses.

ADDRESSES: Address all comments about the proposed routine uses to Chiquitta Thomas, Office of Chief Information Officer, Information Management Group, U.S. Department of Education, room 5624 Regional Office Building, 400 Maryland Avenue, SW., Washington, DC 20202–4580. Telephone: 202–708–9265. If you prefer to send through the Internet, use the following address: Comments@ed.gov

You must include the term ''System of Records'' in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice in room 5624, Regional Office Building, Seventh and D Streets, SW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Elizabeth Mackenzie, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW, room 6E103, Washington, DC 20202. Telephone: 202–401–6700. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Introduction

The Act (5 U.S.C. 552a)(e)(4)) requires the Department to publish in the **Federal Register** this notice of new or revised systems of records managed by the Department. The Department's regulations implementing the Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to information about individuals that contain individually identifiable information and that may be retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record'' and the system, whether manual or computer-based, is called a ''system of records.'' The Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new or ''altered'' system of records. A system is considered altered whenever certain fundamental changes are made to the system such as changing from a manual to automated system of records or whenever certain disclosures, called ''routine uses,'' are changed in the system of records.

New Systems of Records

The following systems of records have been identified as new:

18–06–04 Satellite Event Participant Registration System
18–11–10 Title IV Wide Area Network (Title IV WAN)
18–11–11 Office of the Student Loan Ombudsman Records
18–11–12 The Department of Education (ED) PIN (Personal Identification Number) Registration System
18–12–05 Graduate Assistance in Areas of National Need (GAANN) Program Assessment System
18–13–05 Education Publications Center (ED PUBS)

Altered Systems of Records

Although they do not describe new systems of records, three additional system notices are included in this **Federal Register** notice. The Department has made a significant number of revisions to these notices. Most of the revisions are technical in nature; for example, the current name and address of the office responsible for each system has been updated. Additionally, every effort has been made to update the notices to make them more ''reader friendly,'' dispensing with traditional bureaucratic language. In particular, the Department has revised the descriptions of each system's routine uses. The intent is not to substantively change any of the routine uses but to make them clearer and consistent. However, because of the risk that these revisions would be viewed as substantive changes, the Chief Information Officer decided to treat these three systems as altered systems of records.

A list of these updated system notices follows:

18–05–03 Federal Personnel Payroll System
18–06–03 Presidential Scholars Files of Selected Participants
18–11–06 National Student Loan Data System (NSLDS)

Clarifications of the June 4, 1999 Publication

In the June 4, 1999 edition of the **Federal Register**, the Department published a Notice of New, Amended, Altered and Deleted System of Records. The Department determined that the June 4, 1999 publication included two system notices containing inaccuracies: Freedom of Information Act and Privacy Act Case Files (18–04–01) and Freedom of Information Act and Privacy Act Tracking System (18–04–02). In an effort to avoid any confusion that these errors may cause, the Department is republishing these two notices in the **Federal Register**. As several routine uses have been added to these notices,

the Department is treating these system notices as ''altered'' systems of records.

Finally, the Department is also publishing in the **Federal Register** several corrections to the June 4, 1999 publication. These corrections will clarify several ambiguities in the June publication.

Electronic Access to this Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov.fedreg.htm http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Dated: December 17, 1999.

Craig B. Luigart,

Chief Information Officer.

For the reasons discussed in the preamble, the Chief Information Officer of the U.S. Department of Education publishes notice of the following systems of records managed by the Department:

18–04–01

SYSTEM NAME:

Freedom of Information Act and Privacy Act Case Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Information Management Group, Office of the Chief Information Officer, U.S. Department of Education, Seventh and D Streets, Room 5624, ROB–3, Washington, DC 20202–4651. See the Appendix at the end of this notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have submitted requests for information under the provisions of the Freedom of Information Act (FOIA) (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a), as well as individuals whose records have been the subject of a FOIA or Privacy Act request.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests made by individuals pursuant to the Freedom of Information Act and the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Freedom of Information Act, 5 U.S.C. 552, as amended; The Privacy Act of 1974, 5 U.S.C. 552a, as amended.

PURPOSE(S):

These records are maintained to process individuals' requests made under the provisions of the Freedom of Information Act and the Privacy Act. The records are also used by the Department of Education (the Department) to prepare its reports to OMB and Congress as required by the Freedom of Information Act and the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or

other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(7) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(8) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES: Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy and in word processing software.

RETRIEVABILITY:

Records are retrieved by the name of the individual.

SAFEGUARDS:

Records are stored in locked metal filing cabinets or in a secured room, with access limited to personnel whose duties require access. All physical access to the Department's sites, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for an employee or visitor badge.

RETENTION AND DISPOSAL:

Records relating to the agency's implementation of the FOIA and the Privacy Act are disposed of in accordance with the General Records Schedule (GRS) 14 issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Officer, Room 5624, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202–4651. Privacy Act Officer, Room 5624, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202–4651. See the Appendix at the end of this notice for additional system managers.

NOTIFICATION PROCEDURE:

If you wish to inquire whether a record exists regarding you in this system, you should contact the appropriate system manager at the appropriate office or region where the original FOIA or Privacy Act requests were sent, or from where the response was received. You must provide your name, date of the request, name of organization, and subject matter. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to request access to your records, you should contact the appropriate system manager at the appropriate office or region where the original FOIA or Privacy Act requests were sent, or from where the response was received. You must comply with the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to request an amendment to your records, you should contact the appropriate system manager at the appropriate office or region where the original FOIA or Privacy Act requests were sent, or from where the response was received. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual to whom the information applies, officials of the Department, and official Department documents.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Department has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a(k) (1), (2), (3), (4), (5),(6), and (7). During the course of processing a Freedom of Information Act or Privacy Act request, exempt materials from those other systems may be included in the Freedom of Information Act and Privacy Act Case Files; these materials maintain their exempt status.

Appendix to 18–04–01

Additional System Locations

Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, SW, room 7C122, Washington, DC 20202.

Office of the Deputy Secretary, U.S. Department of Education, 400 Maryland Avenue, SW, room 7W310, Washington, DC 20202.

Office of the Under Secretary, U.S. Department of Education, 400 Maryland Avenue, SW, room 6W300, Washington, DC 20202.

Office of Postsecondary Education, U.S. Department of Education, Seventh and D Streets, SW, room 4913, ROB–3, Washington, DC 20202.

Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW, room 4E223, Washington, DC 20202.

Office of Educational Research and Improvement, 555 New Jersey Avenue, NW, room 602E, Capitol Place, Washington, DC 20208.

Office of Special Education and Rehabilitative Services, U.S. Department of Education, 330 C Street, SW, Room 3613, Switzer Building, Washington, DC 20202.

Office of Vocational and Adult Education, U.S. Department of Education, 330 C Street, SW, room 4064, Switzer Building, Washington, DC 20202.

Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW, room 6C142, Washington, DC 20202.

Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW, room 2W211, Washington, DC 20202.

Office of Inspector General, U.S. Department of Education, 330 C Street, SW, room 4200, Switzer Building, Washington, DC 20202.

Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, room 3W341, Washington, DC 20202.

Office of Public Affairs, U.S. Department of Education, 400 Maryland Avenue, SW, room 7E201, Washington, DC 20202.

Office of Student Financial Assistance, U.S. Department of Education, Seventh and D Streets, SW, room 4913, ROB–3, Washington, DC 20202.

Office for Civil Rights, U.S. Department of Education, 330 C Street, SW, room 5424, Switzer Building, Washington, DC 20202.

Office of Bilingual Education and Minority Affairs, U.S. Department of Education, 330 C Street, SW, room 5616, Switzer Building, Washington, DC 20202.

Office of Educational Research and Improvement, U.S. Department of Education, 400 Maryland Avenue, SW, room 4W332, Washington, DC 20202.

Office of Legislation and Congressional Affairs, U.S. Department of Education, 400 Maryland Avenue, SW, room 7E307, Washington, DC 20202.

Region I: U.S. Department of Education, John W. McCormack P.O. and Courthouse, Room 540, Post Office Square, Boston, MA 02109–4557.

Region II: U.S. Department of Education, 75 Park Place, 12th Floor, New York, NY 10278–0043.

Region III: U.S. Department of Education, 3535 Market Street, Room 16350, Philadelphia, PA 19104–3398.

Region IV: U.S. Department of Education, 61 Forsyth Street, SW., Suite 19T40, Atlanta, GA 30303.

Region V: U.S. Department of Education, 111 N. Canal Street, Suite 1094, Chicago, IL 60606.

Region VI: U.S. Department of Education, 1200 Main Tower Building, #2260, Dallas, TX 75202–4309.

Region VII: U.S. Department of Education, 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, MO 64153–1367.

Region VIII: U.S. Department of Education, Federal Office Building, 1244 Speer Blvd., Room 300, Denver, CO 80204–3582.

Region IX: U.S. Department of Education, 50 United Nations Plaza, San Francisco, CA 94102.

Region X: U.S Department of Education, room 3362, Mail Code 10–9060, 915 2nd Avenue, Seattle, WA 98174–1099.

Metro Region: U.S. Department of Education, Office for Civil Rights, 1100 Pennsylvania Avenue, NW., Washington, DC 20044.

Additional System Managers

Region I: Deputy Regional Director, U.S. Department of Education, John W. McCormack PO and Courthouse, Room 540, Post Office Square, Boston, MA 02105–4557.

Region II: Secretary's Regional Representative, U.S. Department of Education, 75 Park Place, 12th Floor, New York, NY 10278–0043.

Region III: Assistant to the Secretary's Regional Representative, U.S. Department of Education, 3535 Market Street, Room 16350, Philadelphia, PA 19104–3398.

Region IV: Deputy Secretary's Regional Representative, U.S. Department of Education, 61 Forsyth Street, SW., Suite 19T40, Atlanta, GA 30303.

Region V: Secretary's Regional Representative , U.S. Department of Education, 111 N. Canal Street, Suite 1094, Chicago, IL 60606.

Region VI: Administrative Officer, U.S. Department of Education, 1200 Main Tower Building, #2260, Dallas, TX 75202–4309.

Region VII: Secretary's Regional Representative, U.S. Department of Education, 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, MO 64153–1367.

Region VIII: Secretary's Regional Representative, U.S. Department of Education, Federal Office Building, 1244 Speer Blvd., room 300, Denver, CO 80204–3582.

Region IX: Secretary's Regional Representative, U.S. Department of Education, 50 United Nations Plaza, San Francisco, CA 94102.

Region X: Secretary's Regional Representative, U.S. Department of Education, room 3362, Mail Code 10–9060, 915 2nd Avenue, Seattle, WA 98174–1099.

Metro Region: Program Specialist, Office for Civil Rights, U.S. Department of Education, 1100 Pennsylvania Avenue, NW., Washington, DC 20044.

18–04–02

SYSTEM NAME:

Freedom of Information Act and Privacy Act Tracking System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Chief Information Officer, Information Management Group, U.S. Department of Education, 400 Maryland Avenue, SW., ROB–3, Room 5624, Washington, DC 20202–4651. See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who have submitted requests made under the provisions of the Freedom of Information Act and under the Privacy Act of 1974.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of names, addresses, dates of request and responses, descriptions or identifications of records requested, amount of fees paid, if any; payment delinquencies, if any; final determinations of appeals or denials and summary of log. Copies of requested records are not maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Freedom of Information Act, 5 U.S.C. 552, as amended; The Privacy Act of 1974, 5 U.S.C. 552a, as amended; and 5 U.S.C. 301.

PURPOSE(S):

This system is used to document and track the status of requests made under both the Freedom of Information Act and the Privacy Act. This system is also used to generate the annual report to the Department of Justice (DOJ) as required by the Freedom of Information Act and the biennial report to the Office of Management and Budget (OMB) and Congress as required by the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(7) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not Applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on electronic media.

RETRIEVABILITY:

Records are retrieved by the name of the individual and the control tracking number.

SAFEGUARDS:

All physical access to the Department site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users'' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Files maintained for control purposes in responding to requests, including registers and similar records listing date, nature, and purpose of request and name and address of requester are destroyed by erasure 6 years after the date of the last entry. (GRS 14, Item 13)

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Officer, Room 5624, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202–4651. Privacy Act Officer, Room 5624, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202–4651. See the Appendix at the end of this notice for additional system managers.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager at the appropriate office or region where the original FOIA or Privacy Act requests were sent, or from where the response was received. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records,

contact the system manager at the appropriate office or region where the original FOIA or Privacy Act requests were sent, or from where the response was received. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager at the appropriate office or region where the original FOIA or Privacy Act requests were sent, or from where the response was received. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual who submitted the request, officials of the Department, and official Department documents.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18–04–02

Additional System Locations

Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, SW, room 7C122, Washington, DC 20202.

Office of the Deputy Secretary, U.S. Department of Education, 400 Maryland Avenue, SW, room 7W310, Washington, DC 20202.

Office of the Under Secretary, U.S. Department of Education, 400 Maryland Avenue, SW, room 6W300, Washington, DC 20202.

Office of Postsecondary Education, U.S. Department of Education, Seventh and D Streets, SW, room 4913, ROB–3, Washington, DC 20202.

Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW, room 4E223, Washington, DC 20202.

Office of Educational Research and Improvement, 555 New Jersey Avenue, NW, room 602E, Capitol Place, Washington, DC 20208.

Office of Special Education and Rehabilitative Services, U.S. Department of Education, 330 C Street, SW, Room 3613, Switzer Building, Washington, DC 20202.

Office of Vocational and Adult Education, U.S. Department of Education, 330 C Street, SW, room 4064, Switzer Building, Washington, DC 20202.

Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW, room 6C142, Washington, DC 20202.

Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW, room 2W211, Washington, DC 20202.

Office of Inspector General, U.S. Department of Education, 330 C Street, SW, room 4200, Switzer Building, Washington, DC 20202.

Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, room 3W341, Washington, DC 20202.

Office of Public Affairs, U.S. Department of Education, 400 Maryland Avenue, SW, room 7E201, Washington, DC 20202.

Office of Student Financial Assistance, U.S. Department of Education, Seventh and D Streets, SW, room 4913, ROB–3, Washington, DC 20202.

Office for Civil Rights, U.S. Department of Education, 330 C Street, SW, room 5424, Switzer Building, Washington, DC 20202.

Office of Bilingual Education and Minority Affairs, U.S. Department of Education, 330 C Street, SW, room 5616, Switzer Building, Washington, DC 20202.

Office of Educational Research and Improvement, U.S. Department of Education, 400 Maryland Avenue, SW, room 4W332, Washington, DC 20202.

Office of Legislation and Congressional Affairs, U.S. Department of Education, 400 Maryland Avenue, SW, room 7E307, Washington, DC 20202.

Region I: U.S. Department of Education, John W. McCormack P.O. and Courthouse, Room 540, Post Office Square, Boston, MA 02109–4557.

Region II: U.S. Department of Education, 75 Park Place, 12th Floor, New York, NY 10278–0043.

Region III: U.S. Department of Education, 3535 Market Street, Room 16350, Philadelphia, PA 19104–3398.

Region IV: U.S. Department of Education, 61 Forsyth Street, SW., Suite 19T40, Atlanta, GA 30303.

Region V: U.S. Department of Education, 111 N. Canal Street, Suite 1094, Chicago, IL 60606.

Region VI: U.S. Department of Education, 1200 Main Tower Building, #2260, Dallas, TX 75202–4309.

Region VII: U.S. Department of Education, 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, MO 64153–1367.

Region VIII: U.S. Department of Education, Federal Office Building, 1244 Speer Blvd., Room 300, Denver, CO 80204–3582.

Region IX: U.S. Department of Education, 50 United Nations Plaza, San Francisco, CA 94102.

Region X: U.S Department of Education, room 3362, Mail Code 10–9060, 915 2nd Avenue, Seattle, WA 98174–1099.

Metro Region: U.S. Department of Education, Office for Civil Rights, 1100 Pennsylvania Avenue, NW., Washington, DC 20044.

Additional System Managers

Region I: Deputy Regional Director, U.S. Department of Education, John W. McCormack PO and Courthouse, Room 540, Post Office Square, Boston, MA 02105–4557.

Region II: Secretary's Regional Representative, U.S. Department of Education, 75 Park Place, 12th Floor, New York, NY 10278–0043.

Region III: Assistant to the Secretary's Regional Representative, U.S. Department of Education, 3535 Market Street, Room 16350, Philadelphia, PA 19104–3398.

Region IV: Deputy Secretary's Regional Representative, U.S. Department of Education, 61 Forsyth Street, SW., Suite 19T40, Atlanta, GA 30303.

Region V: Secretary's Regional Representative , U.S. Department of Education, 111 N. Canal Street, Suite 1094, Chicago, IL 60606.

Region VI: Administrative Officer, U.S. Department of Education, 1200 Main Tower Building, #2260, Dallas, TX 75202–4309.

Region VII: Secretary's Regional Representative, U.S. Department of Education, 10220 N. Executive Hills Blvd., 8th Floor, Kansas City, MO 64153–1367.

Region VIII: Secretary's Regional Representative, U.S. Department of Education, Federal Office Building, 1244 Speer Blvd., room 300, Denver, CO 80204–3582.

Region IX: Secretary's Regional Representative, U.S. Department of Education, 50 United Nations Plaza, San Francisco, CA 94102.

Region X: Secretary's Regional Representative, U.S. Department of Education, room 3362, Mail Code 10–9060, 915 2nd Avenue, Seattle, WA 98174–1099.

Metro Region: Program Specialist, Office for Civil Rights, U.S. Department of Education, 1100 Pennsylvania Avenue, NW, Washington, DC 20044.

18–05–03

SYSTEM NAME:

Federal Personnel Payroll System

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Interior, Bureau of Reclamation, Management Operations Center, Division of Payroll Operations, 7333 West Jefferson Ave., Academy Place 1, Denver, CO 80235

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

This system contains records on all employees of U.S. Department of Education, the National Commission of Library and Learning and the National Goals Panel.

CATEGORIES OF RECORDS IN THE SYSTEMS:

This system consists of a variety of records relating to pay and leave determinations made about each employee of the Department of Education, the National Commission of Library and Learning and the National Goals Panel, including the name of the employee, the employee's date of birth, social security number, home address, grade, employing organization, timekeeper number, salary, Civil Service retirement fund contributions, pay plan, number of hours worked, annual and sick leave accrual rate and usage, annual and sick leave balance, FICA

withholdings, Federal, state, and local tax withholdings, Federal Employees Government Life Insurance withholdings, garnishment documents, savings allotments, union and management association dues withholding, savings bonds allotments, and Combined Federal Campaign allotments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEMS:

5 U.S.C. 5101, et seq; 31 U.S.C. 3512; 20 U.S.C. 3461.

PURPOSE(S):

The records in this system are maintained in order to facilitate fiscal operations for payroll, attendance, leave, insurance, tax, retirement and cost accounting programs; and to prepare related reports to other Federal agencies including the Department of the Treasury and the Office of Personnel Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, THE DEPARTMENT may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to an a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: Complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as

required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

(13) *Payroll Disclosure.* The Department may disclose records to the Department of the Treasury for preparation of payroll checks, payroll deductions, U.S. Saving bonds, and other checks to Federal, State, and local government agencies, non-governmental organizations and individuals.

(14) *Tax Disclosure.* The Department may disclose records to the Internal Revenue Service and to state and local government agencies having taxing authority in order to prepare W–2 Forms.

(15) *Personnel Management Disclosure.* The Department may disclose records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and the Federal Labor Relations Authority (including the General Counsel of the Authority and Federal Service Impasses Panel) to carry out their functions.

(16) *Workers' Compensation Disclosure.* The Department may disclose records to the Department of Labor to make a compensation determination in connection with a claim filed by an employee for compensation on account of a job-connected injury or disease.

(17) *Wage Garnishment Disclosure.* The Department may disclose records to the IRS in order to respond to orders from IRS for garnishment of an employee's pay for Federal income tax purposes.

(18) *Unemployment Compensation Disclosure.* The Department may disclose records to state offices of unemployment compensation in connection with claims filed by former Department employees for unemployment compensation.

(19) *Association Dues Disclosure.* The Department may disclose records to financial organizations designated to receive labor organization or management association dues withheld from an employee's pay, in order to account for the amounts of the withheld dues which they receive.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media and in hard copy.

RETRIEVABILITY:

Records are retrieved by the employee's name and Social Security number.

SAFEGUARDS:

Access to and use of these records are limited to personnel whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure. All physical access to the Department's sites, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for an employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with user defined password. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records submitted by the individual, such as allotment authorization forms, home address forms, and tax withholding forms are retained until superseded by new updated transactions whether electronically or paper, or until the individual leaves the Department. Some of these records must be retained for an additional period, or forwarded to the new employing agency. Records are retired to the Federal Personnel Records Center and subsequently disposed of in accordance with the General Records Schedules issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Systems, Human Resources Group, Office of Management, Department of Education, 400 Maryland Ave., SW, Room 2E108, Washington, DC 20202.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists regarding you in the system of records, contact the executive officer in your office. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the executive officer in your office. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the executive officer in your office. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORDS SOURCE CATEGORIES:

Information in this system of records is obtained from individual employees, timekeepers and supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18–06–03

SYSTEM NAME:

Presidential Scholars Program—Files of Selected Participants.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

U.S. Department of Education, Office of Intergovernmental and Interagency Affairs, Regional Services, Community Services, 400 Maryland Avenue, SW., Washington, DC 20202–3500.

American College Testing, Inc., Recognition Program Services, 2255 North Dubuque Road, Tyler Building, Iowa City, Iowa 52243–4030.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are participants in the Presidential Scholars Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained in the system includes the name, Social Security number, address, and other biographical information provided by the student, such as SAT/ACT scores, school transcripts, and essays.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order No. 11,555, 29 FR 6,909, 3 CFR 198 (1964).

PURPOSE(S):

The Presidential Scholars files are kept for purposes of the annual selection of scholars and for historical archive purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) *The Department, or any component of the Department; or*

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(7) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(8) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the

contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(9) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(10) *Media Purposes.* The Department may disclose records from this system of records in order to promote the program and recognition of local students. Partial file disclosures will be made on a case-by-case basis to state and local governments, officials, and institutions; congressional offices; and program sponsors and affiliates.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING AND RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in hard copy in paper files in metal file cabinets and in data files on computers.

RETRIEVEABILITY:

The data is retrieved by name, Social Security number, state, high school, and year of selection.

SAFEGUARDS:

All physical access to the Department site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer systems employed by the Department and contractors offer a high degree of resistance to tampering and circumvention. These security systems limit data access to Department and contract personnel on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of these systems are given a unique user ID and interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records are maintained for four years and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Presidential Scholars Program, Office of Intergovernmental and Interagency Affairs, U. S. Department of Education, 400 Maryland Avenue, SW., Room 5E223, Washington, DC 20202–3500.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, you should provide the system manager your name, Social Security number, and year of high school graduation. Your requests for notification must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you should contact the system manager and provide information described in the notification procedure. Your requests for access to a record must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records, you should contact the system manager with the information described in the notification procedure, identify the specific item(s) to be changed, and provide a written request for the change. Your request to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individuals' applications, testing records of the American College Testing, Inc., and the Educational Testing Service and questionnaires completed by school officials at the request of the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

18–06–04

SYSTEM NAME:

Satellite Event Participant Registration System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Information Resource Center, Intergovernmental and Interagency Affairs, U.S. Department of Education, Room 5E233, FOB–6, 400 Maryland Avenue, SW., Washington, DC 20202–0498.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals and contact persons from organizations that register for participation in selected events hosted by the U.S. Department of Education (such as the monthly Satellite Town Meeting) as well as individuals who have requested regular information on such events.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records including the name of the individual, his or her e-mail address, telephone number, fax number, mailing address, the name of organization with whom the individual is affiliated, name of the technical satellite contact, the name of the event, the event location and broadcast information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. § 1231a.

PURPOSE(S):

The information contained in this system is used to serve those individuals and organizations participating in Department of Education events and satellite broadcast events as well as to provide selected information to the public about such events.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be

made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Press Disclosure.* The Department may disclose information from this system to potential viewers of the event or to the press in order to provide a list of event participants. Such disclosures are made only at the request of the event participants whose information is disclosed.

(2) *Event Planning Disclosure.* The Department may disclose information from this system to government and non-government entities involved with hosting or producing the event in order to assist in the planning of the event.

(3) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(4) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(5) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(6) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(7) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(8) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(9) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(10) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(11) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in electronic form on hard drives and

when appropriate, in hard copy for a short time.

RETRIEVABILITY:

Records are retrievable by all fields in the database.

SAFEGUARDS:

All physical access to the Department site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer systems employed by the Department and contractors offer a high degree of resistance to tampering and circumvention. These security systems limit data access to Department and contract personnel on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of these systems are given a unique user ID and interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records are destroyed after the appropriate revisions are made or after three months, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

System Administrator, Information Resource Center, Intergovernmental and Interagency Affairs, U.S. Department of Education, Room 5E233, FOB–6, 400 Maryland Avenue, SW, Washington, DC 20202–0498.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, you should provide the system manager your name, Social Security number, and year of high school graduation. Your requests for notification must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you should contact the system manager and provide information described in the notification procedure. Your requests for access to a record must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records, you should contact the system manager with the information described in the notification procedure, identify the specific item(s) to be changed, and provide a written request for the change. Your request to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information contained in the system are obtained from the event participants as well as those individuals who have requested information about the events.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18–11–06

SYSTEM NAME:

National Student Loan Data System (NSLDS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Computer Sciences Corporation, 71 Deerfield Lane, Meriden, CT 06450–7151.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The NSLDS contains records on borrowers who have applied for and received loans under the William D. Ford Federal Direct Loan Program, the Federal Family Education Loan (FFEL) Program, the Federal Insured Student Loan (FISL) Program, and the Federal Perkins Loan Program (including National Defense Student Loans, National Direct Student Loans, Perkins Expanded Lending and Income Contingent Loans). The NSLDS also contains records on recipients of Federal Pell Grants and persons who owe an overpayment on a Federal Pell Grant, Federal Supplemental Educational Opportunity Grant or Federal Perkins Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

The NSLDS contains records regarding: (1) Student/borrower identifier information including Social Security number, date of birth and name; (2) the information on borrowers' loans covering the entire life cycle of a loan from origination through final payment, cancellation, discharge or other final disposition including details regarding each loan received by a student such as information on loan amounts, educational status, disbursements, balances, loan status, collections, claims, deferments, refunds and cancellations; (3) enrollment information including school(s) attended, anticipated completion date, enrollment status and effective dates; (4) student demographic information such as course of study, dependency, citizenship, gender, data on family income, expected family contribution, and address; (5) Federal Pell Grant amounts and dates; and (6) Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, and Federal Perkins Loan Program overpayments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 1092b (1993).

PURPOSE(S):

This system of records is used for the following purposes: (1) To provide pre-screening and post-screening for Title IV aid eligibility; (2) to provide default rate calculations for educational institutions, guaranty agencies, and lenders; (3) to report changes in student/borrower enrollment status via a Student Status Confirmation Report (SSCR) or other means; (4) to prepare electronic financial aid history information; (5) to assist guaranty agencies, educational institutions, financial institutions and servicers collect loans; (6) to provide audit and program review planning; (7) to support research studies and policy development; (8) to conduct budget analysis and development; (9) to track loan transfers from one entity to another; (10) to assess Title IV Program administration of guaranty agencies, educational institutions, financial institutions and servicers; (11) to track loan borrowers and overpayment debtors; (12) to provide information that supports Credit Reform Act of 1992 requirements; (13) to provide information to track refunds/cancellations; and (14) to assist in the collection of debts owed to the Department under Title IV of the Higher Education Act, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Program Purposes.* The Department may disclose records for the following program purposes:

(a) To verify the identity of the applicant involved, the accuracy of the record, or to assist with the determination of program eligibility and benefits, the Department may disclose records to the applicant, guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies;

(b) To provide default rate calculations, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to State agencies;

(c) To provide a standardized method for educational institutions to efficiently submit student enrollment status information, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers;

(d) To provide financial aid history information, the Department may disclose records to educational institutions and servicers;

(e) To assist loan holders in the collection of loans and to support pre-claims/supplemental pre-claims assistance, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State or Local agencies;

(f) To support auditors and program reviewers in planning and carrying out their assessments of Title IV Program compliance, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State and Local agencies;

(g) To support researchers and policy analysts, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State and Local agencies; using safeguards to ensure compliance with the Privacy Act, disclosures may also be made to other researchers and policy analysts not associated with guaranty agencies, educational institutions, financial institutions or servicers;

(h) To support budget analysts in the development of budget needs and forecasts, the Department may disclose records to Federal and State agencies;

(i) To assist in locating holders of loan(s), the Department may disclose records to students/borrowers, guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State or Local agencies;

(j) To assist analysts in assessing Title IV Program administration of guaranty agencies, educational institutions, financial institutions and servicers, the Department may disclose records to Federal and State agencies;

(k) To assist loan holders in locating borrowers and overpayment holders in locating debtors, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal agencies;

(l) To assist with meeting Credit Reform Act of 1992 requirements, the Department may disclose records to Federal agencies;

(m) To assist program administrators with tracking refunds and cancellations, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies;

(n) To enforce the terms of a loan, assist in the collection of a loan and assist in the collection of an aid overpayment, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State, or Local agencies.

(2) Litigation and Alternative Dispute Resolution (ADR) Disclosures.

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice has agreed to provide or arrange for representation for the employee; or

(iv) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice or attorneys engaged by the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the Department of Justice.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, individual or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to an opposing counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(4) *Contract Disclosure.* If the Department contracts with an entity for the purpose of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records as a routine use to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(5) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose individually identifiable information to OMB as necessary to fulfill CRA requirements. (These requirements currently include transfer of data on lender interest benefits and special allowance payments, defaulted loan balances, and supplemental pre-claims assistance payments information.).

(6) *Employee Grievance, Complaint or Conduct Disclosure.* If a record is relevant and necessary to an employee grievance, complaint, or disciplinary action, the Department may disclose the record in the course of investigation,

fact-finding, or adjudication to any witness, designated fact-finder, mediator, or other person designated to resolve issues or decide the matter.

(7) *Labor Organization Disclosure.* Where a contract between a component of the Department and a labor organization recognized under 5 U.S.C., Chapter 71, provides that the Department will disclose personal records relevant and necessary to the organization's mission, records in this system of records may be disclosed as a routine use to such an organization.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* In the event that the Department deems it desirable or necessary in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(9) *Disclosure to the Department of Justice.* The Department may disclose information from this system of records as a routine use to the Department of Justice to the extent necessary for obtaining its advice on any matter relevant to an audit, inspection, or other inquiry related to the Department's responsibilities under Title IV of the Higher Education Act of 1965.

(10) *Congressional Member Disclosure.* The Department may disclose information from this system of records to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual; the Member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer-reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(f). A consumer reporting agency to which these the Department may disclose records is defined at 15 U.S.C. 1681a(f), and 31 U.S.C. 3701 (a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISCLOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on magnetic tape and computer disk media.

RETRIEVABILITY:

Student/Borrower data are retrieved by matching Social Security number and, as needed to reliably identify an individual, name and date of birth.

SAFEGUARDS:

All physical access to the sites of the contractor where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention by use of software that requires user access to be defined to specific online functions. This security system limits data access to users on a ''need to know'' basis and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID with a personal identifier. Most data is loaded into NSLDS via a batch process. The security utilized ensures that only data from authorized data providers can add or update records in NSLDS.

RETENTION AND DISPOSAL:

Records of individual closed loans and aid overpayments will be transferred to tape/disk for retention and storage at the system location. All records are retained permanently due to research needs, budget projections, and legislative analysis.

SYSTEM MANAGER AND ADDRESS:

Director, Program Systems Service, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Ave., SW, ROB–3, room 4640, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, you must provide the system manager your name, date of birth, Social Security number, and the name of the school or lender from which the loan or grant was obtained. Requests for notification must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you must contact the system manager and provide information as described in the notification procedures. Such requests must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records, you must contact the system manager with the information described in the notification procedures, identify the specific item(s) to be changed, and provide a written justification for the change, including any supporting documentation. Requests to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from guaranty agencies, educational institutions, financial institutions and servicers. Information is also obtained from other Department systems such as the Direct Loan Servicing System, Debt Management Collection System, Pell Grant System, Postsecondary Education Participant System and Central Processing System.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18–11–10

SYSTEM NAME:

Title IV Wide Area Network (Title IV WAN).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Computer Systems (NCS), 2510 N. Dodge St, Iowa City, IA 52245.

General Electric Information Services (GEIS), 1001 Windward Concourse, Alpharetta, GA 30005–4154.

Virtual Data Center (VDC), c/o Computer Science Corporation 71 Deerfield Lane, Medriden, CT 06450–7151.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on those individuals who are eligible to enroll in Title IV WAN, which include financial aid administrators, authorized individuals of postsecondary institutions, authorized individuals of third-party servicers, authorized individuals of software providers, authorized individuals of lenders, authorized individuals of guaranty agencies, and authorized individuals of state scholarship programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of demographic contact information that the Title IV WAN customers provide to request electronic access to Title IV Student Aid Systems. Demographic information includes customer name, customer address, authentication information (mother's maiden name, Social Security number, and date of birth), and billing and distribution information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 1082, 1085, 1094, 1099C (1993).

PURPOSE(S):

The Title IV WAN is used for the following purposes:

(1) To providing telecommunications support for the delivery and administration of the Title IV student aid programs;

(2) For billing non-Direct Loan users for customer service calls and year-to-date ISIRs data requests;

(3) To handle the processing of the Title IV WAN Enrollment Documents and managing the assignment of Title IV WAN ID numbers;

(4) To provide Title IV WAN users with the capability to query CPS, NSLDS and Title IV WAN systems; and

(5) To coordinate and hosting various conferences and workshops to educate and promote the electronic initiatives sponsored by the Office of Student Financial Assistance (OSFA).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim, which is determined to be valid and overdue as follows: (1) The name, address, and other information necessary to establish the identity of the individual responsible for the claim; and (2) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures and the procedures contained in subsection 31 U.S.C. 3711 (f). A consumer-reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701 (a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on a computer database as well as in hard copy.

RETRIEVABILITY:

The records are retrieved by customer name and/or TIV WAN User ID.

SAFEGUARDS:

All physical access to the Department site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users'' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Title IV WAN enrollment documents will be retained for the 6 years and three

months after the final payment of the contract that expires in September 2001.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Systems Service, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW, ROB–3, room 4640, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the following entities: Financial Aid Administrators, Postsecondary Institutions, Third-Party Servicers, Software Providers, Lenders, Guaranty Agencies, and State Scholarship Programs.

SYSTEM EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

18–11–11

SYSTEM NAME:

Office of the Student Loan Ombudsman Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Student Loan Ombudsman, Student Financial Assistance, 400 Maryland Avenue, SW., ROB–3, Room 3717, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who are, were, or may be participants in any of the Title IV Student Financial Assistance Programs and who request assistance from the Ombudsman.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records that identify the individuals' complaints, requests for assistance, or other inquiries. Records include, but are not limited to: Written documentation of the individual's complaint; request for assistance or other inquiry; and information pertaining to the student's or parent's Title IV student financial assistance program account(s), such as the person's name, Social Security number, date of birth, address, telephone number(s), and personal identification number. Additionally, records will include the name, address, and phone numbers of school(s), lender(s), secondary holder(s) or lender(s), guaranty agency(ies), and servicer(s)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 1018(f) (1998).

PURPOSE(S):

The information contained in this system will be used for a number of purposes related to the duties and responsibilities of the SFA Ombudsman, including: Verifying the identities of individuals; recording complaints and problems; tracking individual cases through final resolution; reporting complaint trends; analyzing the data to recommend improvements in student financial assistance programs; and assisting in the informal resolution of disputes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Program Disclosure.* The Department may disclose records to schools, lenders, guaranty agencies, and servicers when it is necessary to obtain further information about the complaint, request for assistance, or other inquiry before it can be resolved.

(2) *Disclosure for Use by Other Law Enforcement Agencies Concerning Possible Violations of the Criminal Laws or Actions Initiated for Civil Fraud.* The Department may disclose information to any Federal, State, local or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of the criminal laws or actions initiated for civil fraud, if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(3) *Enforcement Disclosure Concerning Violations of the Criminal Laws or Actions Initiated for Civil Fraud.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of the criminal laws or actions initiated for civil fraud, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR concerning the actions of the Ombudsman's office or its employees, or has an interest in such litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs: (i) the Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative

litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(6) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(8) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records will be maintained either in hard copy or in an electronic database.

RETRIEVABILITY:

Records are indexed by Social Security number, name, date of birth and case tracking number.

SAFEGUARDS:

Access to and use of these records shall be limited to those persons whose official duties require access. This includes staff members of the Office of the Student Loan Ombudsman, other Department offices and agents of the Department. All physical access to the sites where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system offers a high degree of resistance to tampering and circumvention. This security system limits data access to staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given unique user IDs with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

The records on all student loans are retained for a period of five years after the loan has been repaid, cancelled or otherwise forgiven or the account closed. Records pertaining to grants awarded by the Department are destroyed five years after the initial disbursement. Records are maintained for the period of time needed to resolve cases, conduct analyses and prepare reports.

SYSTEM MANAGER(S) AND ADDRESS:

Ombudsman, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., ROB–3, Room 3717, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals (e.g. borrowers) schools, lenders, and guaranty agencies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

The Department of Education (ED) PIN (Personal Identification Number) Registration System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Computer Systems (NCS), 2510 North Dodge Street, Iowa City, IA 52240.

Virtual Data Center, Meriden Data Center, 71 Deerfield Lane Meriden, CT 06450 (after Spring 2000).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The ED PIN Registration System contains records about former, current and prospective students, and parents who apply for an ED PIN number. The ED PIN number is used for identification purposes when PIN holders access other Department of Education systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains identification information such as name, Social Security Number (SSN), date of birth and address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Higher Education Act of 1965, as amended, 20 U.S.C. 1092b.

PURPOSE(S):

This information contained in this system will be used to generate and confirm PIN numbers for those individuals wishing to access various student financial assistance systems (including FAFSA, Access America and the Direct Loan Program) to obtain information about their personal records. The ED PIN number that is generated and stored by this system can

be used by individuals to electronically sign various student aid applications including the FAFSA and the Renewal FAFSA, and to initiate loan deferments or forbearance. The Department has plans to expand the use of the PIN to allow access to student financial aid systems outside of the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be

required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

(13) *Identification Verification Disclosure.* In order to verify the identity of the applicant involved, the accuracy of the record, or to assist with the determination of program eligibility and benefits or potential eligibility or benefits, the Department may disclose records from this system to the applicant, guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored electronically on magnetic tape.

RETRIEVABILITY:

The file is indexed by social security number or name.

SAFEGUARDS:

All physical access to the Department site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records will be retained 3 years after payment of loan, or after audit resolution.

SYSTEM MANAGER(S) AND ADDRESS:

PIN Web Site Development Manager, Program System Services, Office of Student Financial Assistance, 400 Maryland Avenue, SW, ROB–3, room 4640, Washington, D.C. 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, date of birth, social security number. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity. You may present your request in person at any of the locations identified for this system of records or address your request to the system manager at the address above.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, you can visit the ED PIN Web site, call the FAFSA on the Web phone number listed on the Web site, or contact the system manager at the address given above. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, you can contact the Customer Service Department at the telephone number listed on the ED PIN web site. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

If your SSN does not match as a result of an incorrect SSN, you will need to contact the local office of the Social Security Administration (SSA) for a SSN correction.

RECORD SOURCE CATEGORIES:

The identifying information (SSN, DOB and name) is currently collected from the ED PIN Registration Web site, from the FAFSA, and the Direct Loan borrower database. In the future, the Department may provide alternate means for collecting the identifying information.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18–12–05

SYSTEM NAME:

Graduate Assistance in Areas of National Need (GAANN) Program Assessment System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Education, Office of Postsecondary Education, Program Monitoring and Information Technology Service, 1990 K St., NW, Washington, DC 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who apply for fellowships and receive admission to a GAANN project.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information including the individual's name, Social Security number, gender, ethnicity, field of study, source of student's GAANN Fellowship, amount of stipend per year of student's GAANN Fellowship, amount of institutional contribution to tuition per year of student's GAANN Fellowship, amount of support the student received after the GAANN Fellowship, year and term the student entered institution's graduate program, current education status, current employment status, how the fellow's financial need was determined, whether Title IV financial need analysis was used, whether amount of student's financial need is known, cost of education, and financial need.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 1135C (1993).

PURPOSE(S):

This system is used to provide performance data about the GAANN Fellowship Program for the Department's use in responding to the

requirements of the GPRA. In addition, information obtained from the system of records may also be used for the general purpose of administering the GAANN Fellowship Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552 (a)(b)(12), the Department may disclose to a consumer reporting agency information regarding any Federal claim which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) after completing the procedures contained in subsection 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained in an electronic centralized database on a computer server. Information extracted from the system will be maintained on access-controlled personal computers and in physical file folders.

RETRIEVABILITY:

Records in this system can be retrieved by name and Social Security number.

SAFEGUARDS:

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records on successful applications are destroyed five years after final payment from the Department to the institution, or after completion of audit-related activities or litigation, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Monitoring and Information Technology Service, Office of Postsecondary Education, U.S. Department of Education, 1990 K St., NW, Washington, DC 20006.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, you should provide the system manager with your name, Social Security number or nine-digit identification number. Your request must meet the requirement of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system of records, you should contact the system manager and provide information as described in the Notification Procedures. Requests for access to a record should reasonably specify the particular record content being sought. Your request must meet

the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest information contained in a record in this system of records, you should contact the system manager. Your request may be made either in writing or in person, and should specify: (1) The system of records from which the record is to be retrieved; (2) the particular record you are seeking to amend; (3) whether you are seeking a deletion, an addition, or a substitution; and (4) the reason(s) for the requested change(s). You should include any appropriate documentation supporting the requested change(s). Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the institutions the fellows attend.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

18–13–05

SYSTEM NAME:

Education Publications Center (ED PUBS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Education Publications Center, U.S. Department of Education, 8242 Sandy Court, Jessup, MD 20794.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who contact ED PUBS to request products from the U.S. Department of Education.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the name, address, and telephone number of the individuals, as well as what product those individuals request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Goals 2000: Educate America Act, Pub. L. 103–227, 951, 20 U.S.C. 6051 (Supp. I, 1995).

PURPOSE(S):

The information in this system is used to disseminate the Department's products to the public.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to

one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are retained in hard copy and in a computer database.

RETRIEVABILITY:

The records are retrieved by name and by title of requested product.

SAFEGUARDS:

Access to the ED PUBS records is limited to internal Department designees, warehouse switchboard operators, and ED PUBS management personnel. All physical access to the Department site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records are deleted upon revision or update.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director of the National Library of Education, U.S. Department of Education, 400 Maryland Ave, SW., Suite 4W317, Washington, DC 20202–5523.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to access a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the individuals who contact ED PUBS.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Correction

In the Notice of New, Amended, Altered and Deleted Systems of Records published in the **Federal Register** on June 4, 1999 (30105), make the following corrections beginning on page 30105:

1. On page 30107, in the third column, under the heading ''New Numbering System'', ''18–11–08 Student Account Management System'' should read ''18–11–08 Student Account Manager.''

2. On page 30108, in the first column, under the heading ''New Systems of Records,'' ''18–11–07 Student Account Manager'' should read ''18–11–08'' and ''18–11–08 Postsecondary Education Participants System (PEPS)'' should read ''18–11–09.''

3. On page 30109, in the second column, in the notice entitled ''Secretary's Communication Control System 18–01–01,'' under the heading ''Additional System Locations and System Mangers,'' ''Director, Correspondence and Communications Control Unit'' should read ''Director, Office of the Executive Secretariat.''

4. On page 30117, in the third column, in the notice entitled ''Receivables Management System 18–03–03,'' the information under the heading ''System Manager(s) and Address'' should read ''Director, Financial Improvements and Post-Audit Operations, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4C135, DC 20202.''

5. On page 30118, in the second column, in the notice entitled ''Files and Lists of Potential and Current Consultants, Grant Application Reviewers, Peer Reviewers and Site Visitors 18–03–04,'' under the heading ''Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses,'' the opening paragraph should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

6. On page 30125, in the third column, in the notice entitled ''Grievances Filed Formally Under the Administrative Grievance Procedures 18–05–05,'' under the heading ''System Location,'' delete ''Room 2E200.''

7. On page 30127, in the first column, in the notice entitled ''Grievances Filed Formally Under the Administrative Grievance Procedures 18–05–05,'' under the heading ''System Manager(s) and Address,'' ''Labor Relations Group'' should read, ''Human Resources Group,'' and ''Room 2W300'' should read ''Room 2E314.''

8. On page 30142, in the first column, in the notice entitled ''Congressional Members'' Biographies System 18–06–02,'' under the heading ''Routine Uses,'' insert the following at the end of the opening paragraph of this section, ''These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.''

9. On page 30142, in the third column, in the notice entitled ''Congressional Grant Notification Control System 18–07–02,'' under the heading ''Routine Uses,'' the opening paragraph of this section should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

10. On page 30149, in the second column, in the notice entitled ''Employee Conduct—Government Ethics 18–09–03,'' the citations under the heading ''Authority for Maintenance of the System'' should only read ''5 U.S.C. 301.''

11. On page 30150, in the first and second columns, in the notice entitled ''Employee Conduct—Government Ethics 18–09–03,'' under the heading ''Retrievability,'' delete the second sentence that reads, ''In some instances, these records are retrievable by cross-reference to index cards containing the name of the party involved and the subject matter.''

12. On page 30150, in the second column, in the notice entitled ''Employee Conduct—Government Ethics 18–09–03,'' under the heading ''Safeguards,'' delete the existing text and add ''These records are only accessible to staff of the Ethics Division of the Office of the General Counsel. The filing cabinets in which these records are maintained are locked after the close of the business day.''

13. On page 30150, in the second column, in the notice entitled ''Employee Conduct—Government Ethics 18–09–03,'' under the heading ''System Manager(s) and Address,'' delete ''Counsel'' from ''Ethics Counsel Division.''

14. On page 30152, in the first column, in the notice entitled ''Investigative Files of the Inspector General 18–10–01,'' under the heading ''Routine Uses,'' the opening paragraph of this section should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

15. On page 30154, in the second column, in the notice entitled ''Investigatory Material Compiled for Personnel Security and Suitability Purposes 18–10–02,'' under the heading ''Routine Uses,'' the opening paragraph of this section should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

16. On page 30155, in the last column, in the notice entitled ''Non-Federal Auditor Referral, Suspension, and Debarment File 18–10–03,'' under the heading ''Categories of Records in the System,'' the text should read:

Information relating to the audit activity which led to the referral, suspension or debarment action, including the referral, suspension or debarment documents, and records on the substance, status or outcome of each referral, suspension and debarment, including voluntary exclusion settlement agreements.

17. On page 30156, in the first column, in the notice entitled ''Non-Federal Auditor Referral, Suspension, and Debarment File 18–10–03,'' under the heading ''Routine Uses,'' the opening paragraph of this section should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

18. On page 30156, in the first column, in the notice entitled ''Non-Federal Auditor Referral, Suspension and Debarment File 18–10–03,'' under the heading ''Routine Uses,'' in subsection (1), ''Audit Oversight and Referral Disclosure,'' the text should read:

A record from this system of records may be disclosed to other Federal agencies, the General Accounting Office, State agencies responsible for audit oversight, State Boards of accountancy, the American Institute of Certified Public Accountants, and other professional accountancy associations, to make and support referrals regarding inadequate audits performed by independent auditors, to track the results of proceedings against those auditors, and to inform these entities if other referrals have been made.

19. On page 30156, in the first column, in the notice entitled ''Non-

Federal Auditor Referral, Suspension and Debarment File 18–10–03,'' under the heading ''Routine Uses,'' in subsection (2), ''Suspension and Debarment Disclosure,'' the text should read:

A record from this system of records may be disclosed to other Federal agencies, the General Accounting Office, State agencies responsible for audit oversight, State Boards of accountancy, the American Institute of Certified Public Accountants, and other professional accountancy associations, to inform these entities of the substance, status or outcome of suspension and debarment proceedings, including settlement, and as authorized under section 3 of Executive Order 12549 for purposes of suspending and debarring an auditor pursuant to 34 CFR part 85.

20. On page 30157, in the third column, in the notice entitled ''Hotline Complaint Files of the Inspector General 18–10–04,'' under the heading ''Routine Uses,'' the opening paragraph of this section should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

21. On page 30159, in the second column, in the Notice entitled ''Federal Student Aid Application File 18–11–01,'' under the heading ''Categories of Records in the System,'' the first sentence should read:

This system consists of the name, address, birth date, Social Security number, parents' and students' personal identification numbers assigned by the Department, and financial data necessary to identify applicants, verify applicant data, and calculate their expected family contributions for Federal student financial assistance.

22. On page 30161, in the first column, in the notice entitled ''Recipient Financial Management System 18–11–02,'' the paragraph under the heading ''Categories of Records in the System,'' should read, ''This system consists of the financial data, personal identification numbers assigned by the Department, and status of award for Pell Grant recipients.''

23. On page 30161, in the third column, in the notice entitled ''Recipient Financial Management System 18–11–02,'' under the heading ''Safeguards,'' add the following paragraph:

The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

24. On page 30162, in the first column, in the notice entitled ''Recipient Management System 18–11–02,'' under the heading ''Record Source Categories,'' the word after ''school'' should be ''and'' instead of ''or.''

25. On page 30162, in the second column, in the notice entitled ''Student Financial Assistance Validation File 18–11–03,'' the paragraph under the heading ''Categories of Records in the System,'' should read: ''This system consists of student financial assistance application, award and servicing forms and documentation, and parents' and students' personal identification numbers assigned by the Department.''

26. On page 30163, in the second column, in the notice entitled ''Title IV Program Files 18–11–05,'' the paragraph under the heading ''Categories of Records in the System,'' should read:

This system contains records regarding the amount of Pell Grant applicant receives; applicant's demographic background, loan, and educational status; family income; Social Security number; address and telephone number; and employment information on borrowers and co-signers; default claim number; amount of claim; information pertaining to locating a borrower; collection and repayment history; information pertaining to the amount of the loan and repayment obligation; forbearance, cancellation, disability, and deferment information; and a personal identification number assigned by the Department.

27. On page 30163, in the third column, in the notice entitled ''Title IV Program Files 18–11–05,'' under the heading ''Routine Uses,'' the opening paragraph of this section should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

28. On page 30167, in the first column, in the notice entitled ''Student Financial Assistance Collection Files 18–11–07,'' the paragraph under the heading ''Categories of Records in the System,'' should read:

This system contains records regarding an applicant's demographic background; loan, repayment history; and educational status; family income; social security number; address and telephone numbers; employment information on borrowers and co-signers; collection activity on accounts; default claim number; amount of claim; information pertaining to locating a borrower; collection and repayment obligation; forbearance; cancellation; disability; deferment; administrative wage garnishment; bankruptcy, death; close school discharge; hearings; photocopy of all promissory notes; account collection records; administrative resolutions and litigations; and parents' and students' personal identification numbers assigned by the Department.

29. On page 30169, in the second column, in the notice entitled ''Student Account Manager 18–11–08,'' under the heading ''Categories of Records in the System,'' the first sentence should read: ''The Student Account Manager system contains records relating to a student and/or borrower's originated awards and disbursements of Title IV financial assistance and a personal identification number assigned by the Department.''

30. On page 30172, in the first column, in the notice entitled ''Postsecondary Education Participants System (PEPS) 18–11–09,'' under the heading ''Routine Uses,'' the opening paragraph of this section should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

31. On page 30179, in the third column, in the notice entitled ''Postsecondary Education Participants System (PEPS) 18–11–09,'' the

paragraph under the heading ''Categories of Records in the System,'' should read:

The PEPS contains information regarding the eligibility, administrative capability, and financial responsibility of postsecondary schools that participate in the student financial aid programs, including the names, taxpayer identification numbers (Social Security numbers), business addresses, phone numbers of the individuals with substantial ownership interests in, or control over, those institutions, and personal identification numbers assigned by the Department.''

32. On page 30186, in the first column, in the notice entitled ''Outcomes of Diversity in Higher Education Surveys 18–13–04,'' under the heading ''System Name,'' ''Surveys'' should read ''Study.''

33. On page 30186, in the first column, in the notice entitled ''Outcomes of Diversity in Higher Education Surveys 18–13–04,'' under the heading ''Routine Uses,'' the opening paragraph of this section should read:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

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Part III

Department of Housing and Urban Development

24 CFR Part 290

Up-Front Grants and Loans in the Disposition of Multifamily Projects; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 290

[Docket No. FR–4310–F–02]

RIN 2502–AH12

Up-Front Grants and Loans in the Disposition of Multifamily Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to establish generally applicable requirements to govern the use of up-front grants and loans in the disposition of HUD-owned multifamily properties by defining the projects, sales, and purchasers eligible for up-front grants and loans, and setting both a maximum per-unit and overall cap for up-front grant amounts.

DATES: Effective Date: January 26, 2000.

FOR FURTHER INFORMATION CONTACT: Marc Harris, Supervisory Project Manager, Office of Portfolio Management in Multifamily Housing, Department of Housing and Urban Development, Room 6164, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–2654. Hearing or speech-impaired individuals may call 1–800–877–8339 (Federal Information Relay Service TTY). (Other than the ''800'' number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Statutory Background and Legislative Changes Since the Proposed Rule

As discussed in the preamble of the proposed rule, HUD's statutory authority to manage and dispose of HUD-held multifamily housing projects is contained in section 207(k) and (l) of the National Housing Act, in section 203 of the Housing and Community Development Amendments of 1978 (HCDA 1978) and in section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, (approved September 26, 1996, Pub. L. 104–204), (FY 1997 Appropriations Act). The Department's authority and discretion in matters relating to the disposition of multifamily housing projects was expanded by section 204 to permit HUD to manage and dispose of multifamily properties owned by the Secretary, ''on such terms and conditions as the Secretary may determine''. Section 213 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (approved October 27, 1997, Pub. L. 105–65) (FY 1998 Appropriations Act) added to the flexible authority under section 204 that the General Insurance Fund (GIF) could be used to provide grants and loans for the necessary costs of rehabilitation or demolition, but limited this use of the GIF to FYs 1997 and 1998. Section 206 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, (approved October 21, 1998, Pub. L. 105–276), (FY 1999 Appropriations Act) and section 537 of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act, 2000, (approved October 20, 1999, Pub. L. 106–74), (FY 2000 Appropriations Act) extend this authority for FY 1999 and FY 2000, respectively.

Section 537 of the FY 2000 Appropriations Act also adds ''construction on the properties (which shall be eligible whether vacant or occupied)'' as an eligible activity for a grant or loan provided from the General Insurance Fund. Before this amendment, Section 8 project-based assistance was the only permissible source of up-front grant funding for total rebuilding. As explained in the preamble of the proposed rule, the availability of up-front grants for any eligible activity is dependent upon the funding made available. If Section 8 project-based assistance is not available, or if the authorization to use the General Insurance Fund is not extended beyond FY 2000, up-front grants and loans will not be available as an option in the disposition of multifamily projects.

II. Public Comment on the Proposed Rule

On July 15, 1999 at 64 FR 38284, HUD published a proposed rule to establish generally applicable requirements to govern the use of up-front grants and loans in the disposition of HUD-owned multifamily properties. Four public comments were received on the proposed rule. The comments are summarized below, organized according to the sections of the proposed rule and, as appropriate, to subject areas within individual sections.

Section 290.27(a)

Comment: The preservation of low-income housing should be given as much consideration as cost effectiveness.

HUD response: The goals of cost-effectiveness and preservation of low-income housing are not in conflict, but are complimentary to each other. HUD has a finite amount of resources at its disposal, and the goal of providing low-income housing is best served by using those resources in the most efficient manner. Sales with project-based Section 8 and/or up-front grants are not the only way to preserve affordable housing. Even though a project may not be eligible for an up-front grant, its potential cash flow may be sufficient to allow HUD to sell it with requirements that it be repaired and maintained as affordable housing, without project-based Section 8 or an up-front grant.

Comment: It is not clear if the up-front grant is made available in lieu of project-based rental assistance. The rule should be clarified. If that is the intent of the rule, there should be an exception where the revitalization of the project is sufficiently crucial to the future of the surrounding community to warrant an investment of both up-front grants and project-based assistance.

HUD response: Up-front grants are not made in lieu of project-based rental assistance. Both an up-front grant and project-based assistance may be provided in combination. The rule is clarified to make this point explicit. Up-front grants can also be provided in sales where the project is sold with repair and affordability provisions and tenant based assistance, such as Rental Housing Vouchers, for eligible tenants. The Department prefers the latter option as it provides the residents with choice, which they do not have if project-based Section 8 assistance is used, and assures that the project is repaired and maintained as affordable housing.

Section 290.27(b)

Comment: Project eligibility criteria should allow HUD to provide up-front grants to projects HUD finds to be essential to the revitalization of its community, even where all of the criteria are not strictly met.

HUD response: HUD agrees that this would be an appropriate factor to consider in determining the eligibility of a project for an up-front grant. Section 290.27(b)(1) is revised to provide that a HUD finding that a project is essential, as affordable housing, to the revitalization of its community as an alternative to the requirement that 50% of the units in the project must be occupied by very low-income residents at the time a disposition plan is approved.

Comment: Flexibility should be provided in the manner in which the percentage of very low-income tenants is determined. For example, if information is available on only 70% of

tenants, the 50% requirement should apply only as to them.

HUD response: HUD disagrees with this comment. When HUD owns a project, HUD will have information on all of the tenants. However, this final rule provides additional flexibility by adopting the procedure, discussed immediately above, of finding a project to be essential to the revitalization of its community as an alternative to the 50% low-income tenant requirement.

Comment: The vacancy rate should be 6% rather than 4% because markets can change dramatically over just a few years. Further, the vacancy rate for ''tight housing markets'' under the Multifamily Assisted Housing Reform and Affordability Act (MAHRAA) is 6%, and the same rate should apply in this rule. In addition, the standard is too vague to permit implementation because the relevant market is undefined, and data sources permitting evaluation of ''habitable, affordable housing'' are not readily available. Overall rental vacancy rates under Census data are generally not useful since they are an inaccurate indicator of housing submarkets where properties are located. The grant is limited to situations where local governments have already determined the need, by virtue of the locality to match HUD's up-front grant.

HUD response: HUD disagrees. The vacancy rate used in this rule is taken from the definition of *sufficient habitable, affordable, rental housing* currently at 24 CFR 290.3, which deals specifically with the disposition of multifamily housing properties and which was subject to public review and comment before being adopted.

Section 290.27(c)

Comment: Up-front grants should also be available in a negotiated sale to an existing tenant group with a viable ownership plan or to tenant-endorsed, non-profit purchasers committed to long-term affordability. To avoid more complicated transactions involving more parties and greater transaction costs, HUD should retain flexibility to offer a nonprofit purchaser an up-front grant or loan in connection with a non-competitive purchase. The proposed rule erodes the preference in sec. 203(c)(2)(D) and § 290.13 for the non-competitive sale of HUD-owned properties to nonprofit organizations. Also, resident council purchasers or nonprofit corporations that have received the endorsement of more than 51% of the occupied households in the project should be eligible to receive up-front grants in negotiated sales without the requirement of a competitive selection process.

HUD response: To the extent possible, the Department seeks to obtain the best purchasers for projects which HUD decides need an up-front grant. In the past, most up-front grants were awarded on a negotiated basis; however, this did not, in all cases, result in the strongest purchasers being obtained. Based on this experience, HUD has determined that the best way to sell these projects with up-front grants is to let potential parties know of the availability of projects, and allow them to compete for their purchase. Tenant-endorsed and non-profit purchasers committed to long-term affordability should be able to prove their track history and provide management and development plans which will rank highly in such competitions.

HUD wants to find the best possible purchaser while at the same time considering the interests of tenants and non-profit parties. The issue of non-competitive sales has always been a difficult one, especially when more than one party is interested in purchasing a property. The Department seeks to establish a process under which it would be evident to everyone that a purchaser was, in fact, the best purchaser, but such a result would not be likely unless HUD seeks proposals from more than a single purchaser. If the Department does not invite competition of some sort, it will never know if a better owner could have been attracted. HUD is willing to spend the time and the effort necessary for competitions to obtain the best purchasers.

The Department is also seeking viable alternatives to shorten the selection process by considering a sales process which would pre-qualify potential non-profit purchasers. Such pre-qualified purchasers might be able to partner up with tenant groups, and limited equity partners, to take ownership of projects.

Section 290.27(d)

Comment: The rule should contain an exception to the limit on the amount of the up-front grant in cases where the property anchors a struggling neighborhood that would suffer if the project were not maintained as affordable housing.

HUD response: The Department is concerned that exceptions would soon become the rule and, therefore, intends to hold fast to the spending limits established in the rule.

III. Changes in the Final Rule

Consistent with the discussion in sections I. and II. of this preamble, above, and as discussed in this section, below, this final rule makes the following changes to the July 15, 1999 proposed rule:

To clarify the applicability of the flexible authority conferred under section 204 of the FY 1997 Appropriations Act, § 290.1 is revised to state that HUD may follow any other method of disposition, as determined by the Secretary, and the U.S. Code citation (12 U.S.C. 1715z–11a) is added to the authority line for part 290.

Section 290.27(a) is revised to clarify that both an up-front grant and project-based assistance may be provided in combination, as long as the result would be more cost-efficient than the use of the maximum permissible project-based assistance alone.

Section 290.27(b)(1) is revised to include a HUD finding that a project is essential, as affordable housing, to the revitalization of its community as an alternative to the requirement that 50% of the units in the project must be occupied by very low-income residents at the time a disposition plan is approved.

Section 290.27(c)(1) is revised to clarify that in a negotiated sale with an up-front grant or loan to a governmental entity, the governmental entity must take title to the project.

Section 290.27(d) is revised to clarify that demolition and environmental hazard remediation are included in the eligible total development costs.

IV. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements under 24 CFR part 290 for the disposition of multifamily housing projects have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0204. This rule does not contain additional information collection requirements. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

At the time of publication of the proposed rule, a finding of no significant impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The proposed rule is adopted by this final rule without significant change. Accordingly, the initial finding of no significant impact remains applicable, and is available for

public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the office of the Rules Docket Clerk at the above address.

Regulatory Planning and Review

The Office of Management and Budget has reviewed this rule under Executive Order 12866 (captioned ''Regulatory Planning and Review'') and determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m.) at the Office of the General Counsel, Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary, in accordance with provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. These requirements address only one aspect (up-front grants) of the requirements governing the management and disposition of HUD-owned multifamily housing projects, and should not affect the ability of small entities, relative to larger entities, to bid for and acquire projects that HUD determines to sell. In the proposed rule, HUD specifically solicited comment to elicit issues of importance to small entities. No comments were received on this issue.

Executive Order 13132, Federalism

This rule does not have Federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program number and title is 14.156, Lower Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 290

Low- and moderate-income housing, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, part 290 of title 24 of the Code of Federal Regulations is amended as follows:

PART 290—DISPOSITION OF MULTIFAMILY PROJECTS AND SALE OF HUD–HELD MULTIFAMILY MORTGAGES

1. The part heading for 290 is revised as set forth above.

2. The authority citation for 24 CFR part 290 is revised to read as follows:

Authority: 12 U.S.C. 1701z–11, 1701z–12, 1713, 1715b, 1715z–1b, 1715z–11a; 42 U.S.C. 3535(d) and 3535(i).

3. Section 290.1 is revised to read as follows:

§ 290.1 Applicability.

The requirements of this part supplement the requirements of 12 U.S.C. 1701z–11 for the management and disposition of multifamily housing projects and the sale of HUD-held multifamily mortgages. The goals and objectives of this part are the same as the goals and objectives of 12 U.S.C. 1701z–11, which shall be referred to in this part as ''the Statute.'' With respect to the disposition of multifamily projects under subpart A, HUD may follow any other method of disposition, as determined by the Secretary.

4. A new section 290.27 is added to subpart A to read as follows:

§ 290.27 Up-front grants and loans.

(a) *General.* HUD may provide up-front grants and loans for rehabilitation, demolition, rebuilding and other related development costs as part of the disposition of a multifamily housing project that is HUD-owned, upon making a determination that such a grant or loan, plus any additional project-based assistance made available, would be more cost-effective than the use of the maximum permissible project-based rental assistance alone.

(b) *Eligible projects.* An up-front grant or loan can be made available in the sale of a HUD-owned multifamily housing project that meets all of the following requirements:

(1) Has more than 50% of the units in the project occupied by very low-income residents at the time a disposition plan is approved by HUD, or that HUD determines is essential, as affordable housing, to the revitalization of its community;

(2) Is located in a housing market or submarket in which there is not sufficient habitable, affordable, rental housing, as defined in § 290.3;

(3) Will generate, after rehabilitation or rebuilding, sufficient rental income in a competitive market to cover all operating expenses, meet after sale debt service requirements, fund required reserves and throw off positive cash flow;

(4) Will provide affordable housing for at least 20 years or the term of the loan, whichever is shorter, after the rehabilitation and/or rebuilding is completed; and

(5) Meets such other requirements, including deed restrictions, loan provisions, and monetary penalties for non-performance, as HUD may determine are appropriate on a case-by-case basis.

(c) *Eligible sales and purchasers.* (1) *Negotiated sales to governmental entities.* A negotiated sale of a project with an up-front grant or loan can only be made to the unit of general local government, which includes public housing agencies, in the area in which the project is located; or a State agency designated by the chief executive officer of the State in which the project is located; or an agency of the Federal government. The governmental entity in such a sale must take title to the project.

(2) *Other sales and purchasers.* All sales which provide up-front grants or loans to entities other than those described in paragraph (c)(1) of this section must be conducted through a competitive selection process. All general and limited partnerships or their nominees, joint ventures or other entities assembled for purposes of purchasing the project and which have a governmental entity as a partner or other participant are considered profit motivated purchasers and not governmental entities, whether or not there is a non-profit, public, corporate or individual general partner.

(d) *Up-front grant or loan amount.* The maximum that HUD will fund per project in an up-front grant or loan is 50 percent of total development cost (TDC), or $40,000 per affordable, finished unit, whichever amount is less. TDC covers demolition, environmental hazard remediation, construction materials, artisan services, professional services, developers services, and overhead, relocation and operating losses that are incurred to plan, perform and complete repairs or rebuilding.

Dated: December 17, 1999.

William Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–33360 Filed 12–23–99; 8:45 am]

BILLING CODE 4210–29–P

federal register

Monday
December 27, 1999

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1 et al.

Civilian Agency Acquisition Council and Defense Acquisition Regulations Council: Federal Acquisition Regulations; Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 97–15; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules, and technical amendments and corrections.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules issued by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 97–15. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at http://www.arnet.gov/far.

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 97–15 and specific FAR case number(s). Interested parties may also visit our website at http://www.arnet.gov/far.

Item	Subject	FAR case	Analyst
I	Pollution Control and Clean Air and Water	97–033	Linfield
I	Foreign Acquisition (Part 25 Rewrite)	97–024	Linfield
III	Contract Bundling (Interim)	1997–306 (97–306)	De Stefano
IV	Deobligation Authority	99–015	Klein
V	Transition of the Financial Management System Software Program	99–602	Nelson
VI	Document Availability	99–018	Moss
VII	SBA's 8(a) Business Development Program	98–011	Moss
VIII	Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold.	99–304	Moss
IX	Review of Award Fee Determinations (Burnside-Ott)	98–017	De Stefano
X	Nondisplacement of Qualified Workers—Commercial Items	99–600	O'Neill
XI	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

Federal Acquisition Circular 97–15 amends the FAR as specified below:

Item I—Pollution Control and Clean Air and Water (FAR Case 97–033)

This final rule amends the FAR to remove Subpart 23.1, Pollution Control and Clear Air and Water; the provision at 52.223–1, Clean Air and Water Certification; and the clause at 52.223–2, Clean Air and Water. This amendment eliminates the burden on offerors to certify that they do not propose to use a facility for performance of the contract that is on the Environmental Protection Agency's (EPA) ''List of Violating Facilities.'' Contracting officers will use the ''GSA List of Parties Excluded from Federal Procurement and Nonprocurement Programs'' (GSA List) to ensure that they do not award contracts to ineligible offerors. Excluded parties whose ineligibility is limited by reason of a Clean Air Act (CAA) or Clean Water Act (CWA) conviction are identified by the facility and conviction listing, the Cause and Treatment Code ''H'' annotation, in the GSA List. Internet access to the GSA List is available at http://www.epls.arnet.gov. These FAR changes do not change long-standing policy that a contracting officer cannot award a contract if performance of the contract would be at a facility convicted of a CAA or CWA violation unless the EPA has certified that the facility has corrected the cause giving rise to the conviction.

Item II—Foreign Acquisition (Part 25 Rewrite) (FAR Case 97–024)

This final rule amends FAR Parts 1, 2, 5, 6, 9, 12, 13, 14, 15, 17, 25, 36, and 52 to clarify policies and procedures concerning foreign acquisition and to rewrite Part 25 in plain language.

Item III—Contract Bundling (FAR Case 1997–306) (97–306)

This interim rule amends the FAR to implement Sections 411–417 of the Small Business Reauthorization Act of 1997. Sections 411–417 amend Title 15 of the U.S.C. to define ''contract bundling,'' and to require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts.

Item IV—Deobligation Authority (FAR Case 99–015)

This final rule revises FAR 4.804–5 and 42.302 to establish deobligation of excess funds as one of the contract administration functions normally delegated to the contract administration office. In addition, the rule includes editorial revisions for plain language purposes.

Item V—Transition of the Financial Management System Software Program (FAR Case 99–602)

This final rule amends the FAR to delete Subpart 8.9, Financial Management Systems Software Mandatory Multiple Award Schedules Contracts Program.

Item VI—Document Availability (FAR Case 99–018)

This final rule amends the Federal Acquisition Regulation (FAR) at 11.201(d) and 52.211–2 to update how the public may obtain Department of Defense specifications and standards.

Item VII—SBA's 8(a) Business Development Program (FAR Case 98–011)

The interim rule published as Item III of FAC 97–12 is converted to a final rule without changes. The rule implements changes made in the Small Business Administration's 8(a) Business Development (8(a)BD) Program regulation, contained in 13 CFR Parts 121, 124, and 134, regarding the eligibility procedures for admission to

the 8(a)BD and contractual assistance programs.

VIII—Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold (FAR Case 99–304)

This final rule amends FAR Subpart 13.5 to implement Section 806 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65). Section 806 amends Section 4202(e) of the Clinger-Cohen Act of 1996 (Divisions D and E of Pub. L. 104–106; 110 Stat. 654; 10 U.S.C. 2304 note) to extend, through January 1, 2002, the expiration of the test of special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold, but not exceeding $5,000,000.

Item IX—Review of Award Fee Determinations (Burnside-Ott) (FAR Case 98–017)

This final rule amends the Federal Acquisition Regulation (FAR) to implement rulings of the United States Court of Appeals and the United States Court of Federal Claims. The rulings are that the Contract Disputes Act applies to all disputes arising under Government contracts, unless a more specific statute provides for other remedies.

Item X—Nondisplacement of Qualified Workers—Commercial Items (FAR Case 99–600)

This final rule amends FAR 52.212–5(c) to add the clause entitled 52.222–50, Nondisplacement of Qualified Workers, to the list of clauses that the contracting officer may incorporate by reference when applicable.

Item XI—Technical Amendments

Amendments are being made at sections 2.101, 5.205, 14.201–6, 15.208, 19.702, 32.503–6, 33.213, 36.104, 42.203, 52.215–1, 52.228–14, and 52.236–25 in order to update references and make editorial changes.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular (FAC) 97–15 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

All Federal Acquisition Regulation (FAR) changes and other directive material contained in FAC 97–15 are effective February 25, 2000, except for items III, VI, VIII, and XI, which are effective December 27, 1999, and Item VII which is effective December 27, 1999. Each rule is applicable to solicitations issued on or after the rule's effective date.

Dated: December 20, 1999.

R.D. Kerrins, Jr.,

COL, USA, Acting Director, Defense Procurement.

Dated: December 20, 1999.

J. Les Davison,

Acting Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: December 16, 1999.

Tom Luedtke,

Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 99–33429 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 12, 23, and 52

[FAC 97–15; FAR Case 97–033; Item I]

RIN 9000–AI19

Federal Acquisition Regulation; Pollution Control and Clean Air and Water

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule that amends the Federal Acquisition Regulation (FAR) to eliminate the burden on offerors to certify that they do not propose to use a facility for the performance of the contract that is ineligible for award because it is on the Environmental Protection Agency's (EPA) ''List of Violating Facilities.'' Contracting officers will use the GSA List of Parties Excluded from Federal Procurement and Nonprocurement Programs (GSA List) to ensure that they do not award contracts to ineligible offerors. This change represents no change to the longstanding policy that a contracting officer must not award a contract if performance of the contract would be at a facility that has not corrected the cause that gave rise to a criminal conviction under the Clean Air Act or Clean Water Act.

DATES: *Effective Date:* February 25, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after February 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Paul Linfield, Procurement Analyst, at (202) 501–1757. Please cite FAC 97–15, FAR case 97–033.

SUPPLEMENTARY INFORMATION:

A. Background

Section 306 of the Clean Air Act (CAA) (42 U.S.C. 7606) and Section 508 of the Clean Water Act (CWA) (33 U.S.C. 1368) prohibit award of a Federal contract to any person who has been convicted of various violations under the Acts if the convicted person owns, leases, or supervises the facility at which the violations(s) occurred; and any part of the contract will be performed at the violating facility. This ineligibility begins the moment a judgment of conviction is entered. The statutes provide that the ineligibility for contract award remains in effect until the Administrator of the Environmental Protection Agency (EPA) certifies that the conditions giving rise to the conviction have been corrected. Excluded parties whose ineligibility is limited by reason of a CAA or CWA conviction are identified by the facility and conviction listing, the Cause and Treatment Code ''H'' annotation, in the GSA List. Internet access to the GSA List is available at ''http://epls.arnet.gov/''.

The Councils published a proposed rule in the **Federal Register** at 64 FR 26264, May 13, 1999, that explained how the removal of FAR Subpart 23.1, FAR 52.223–1, and FAR 52.223–2 would not have a detrimental effect on the Government's environmental policy or its ability to enforce CAA and CWA requirements that apply to efforts performed under Federal contracts. Four respondents submitted comments concurring with the proposed rule. The Councils have agreed to convert the proposed rule to a final rule without change.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because generally less than 50 facilities a year are ineligible for contract award as a result of convictions for violations of the CAA or CWA.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies because these changes remove an information collection requirement approved under OMB Control Number 9000–0021. The paperwork to remove the collection from the FAR inventory will be submitted to OMB.

List of Subjects in 48 CFR Parts 1, 12, 23, and 52

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 12, 23, and 52 as set forth below:

1. The authority citation for 48 CFR parts 1, 12, 23, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

2. In section 1.106, amend the introductory text by removing the word ''ten'' and adding ''10''; and in the table following the introductory paragraph remove FAR segment ''52.223–1'' and its corresponding OMB Control Number, ''9000–0021''.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

3. In section 12.503, revise the introductory text of paragraph (b); remove paragraph (b)(1); redesignate paragraphs (b)(2) and (b)(3) as (b)(1) and (b)(2), respectively; remove paragraph (b)(4); and redesignate paragraph (b)(5) as (b)(3). The revised text reads as follows:

12.503 Applicability of certain laws to executive agency contracts for the acquisition of commercial items.

* * * * *

(b) Certain requirements of the following laws are not applicable to executive agency contracts for the acquisition of commercial items:

* * * * *

4. Revise paragraph (b) in section 12.504 to read as follows:

12.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

* * * * *

(b) The requirements for a certificate and clause under the Contract Work Hours and Safety Standards Act, 40 U.S.C. 327, *et seq.*, (see Subpart 22.3) are not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components.

* * * * *

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

23.1 [Removed and Reserved]

5. Subpart 23.1 is removed and reserved.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.223–1 and 52.223–2 [Reserved]

6. Sections 52.223–1 and 52.223–2 are removed and reserved.

[FR Doc. 99–33430 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 5, 6, 9, 12, 13, 14, 15, 17, 19, 25, 36, and 52

[FAC 97–15; FAR Case 97–024; Item II]

RIN 9000–AH30

Federal Acquisition Regulation; Foreign Acquisition (Part 25 Rewrite)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify policies and procedures concerning foreign acquisition and to rewrite Part 25 in plain language.

DATES: *Effective Date:* February 25, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after February 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Paul Linfield, Procurement Analyst, at (202) 501–1757. Please cite FAC 97–15, FAR case 97–024.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Parts 1, 2, 5, 6, 9, 12, 13, 14, 15, 17, 19, 25, 36, and 52 to clarify policies and procedures concerning foreign acquisition and to rewrite Part 25 in plain language. DoD, GSA, and NASA published a proposed rule in the **Federal Register** on September 28, 1998 (63 FR 51642). Seven respondents submitted comments. The Councils considered all comments in formulation of the final rule. This final rule differs from the proposed rule as follows:

- Deletes the definitions ''components'' and ''construction'' (25.003), defines construction in 2.101, and substitutes the definition of ''component'' (2.101) in 52.225–1 and 52.225–3.
- Deletes the definition ''end product'' (25.003), defines ''end product'' (2.101), and substitutes the definition ''end product'' in 2.101 in the clauses at 52.225–1, 52.225–3, and 52.225–5.
- Revises the definition ''U.S.-made end product'' to include unmanufactured articles mined or produced in the United States (25.003).
- Deletes the requirement in some circumstances for a written determination of domestic nonavailability (25.103).
- Clarifies the procedures for preaward determinations of inapplicability of the Buy American Act for construction contracts (25.203).
- Clarifies the application of the Trade Agreements Act in acquisitions with limitations on the use of full and open competition in accordance with Part 6 or 13 (6.303–1, 25.401, and 25.408).
- Addresses excluded services under the Trade Agreements Act as well as NAFTA (25.401).
- Clarifies that the procedures at 25.502(c) apply only if the Buy American Act or Balance of Payments Program apply.

• Revises the examples at 25.504–1 to clarify how the Buy American Act and the Balance of Payments Programs apply to small business set-asides.

• Adds an alternate to the clause at 52.212–5, Contract Terms and Conditions Required to Implement Statute or Executive Orders—Commercial Items, to provide for waiver of the examination of records (12.301(b), 25.1001, and 52.212–5).

• Adds a definition of ''United States'' to the clauses at 52.225–1, 52.225–3, 52.225–5, 52.225–9, and 52.225–11.

• Adds a definition of ''Customs territory of the United States'' to the clause at 52.225–8, Duty-Free Entry.

• Clarifies application of the Balance of Payments Program (25.504–1(b), 25.1101(b)(1)(i)(A), and 25.1101(c)(1)).

The restructuring of Part 25 in the proposed rule has been maintained in the final rule. The following list summarizes the renumbering of the clauses at 52.225, which has not changed from the proposed rule:

Current FAR Section	New FAR Section
52.225–1 and –6	52.225–2
52.225–2	52.225–7
52.225–3 and –7	52.225–1
52.225–4	52.225–17
52.225–5	52.225–9
52.225–8	52.225–6
52.225–9	52.225–5
52.225–10	52.225–8
52.225–11	52.225–13
52.225–12	52.225–10
52.225–13	52.225–12
52.225–14	52.225–14
52.225–15 and –22	52.225–11
52.225–18	52.225–15
52.225–19	52.225–16
52.225–20	52.225–4
52.225–21	52.225–3

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it primarily clarifies existing guidance pertaining to acquisition of foreign supplies, services, and construction.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the final rule contains information collection requirements. The Office of Management and Budget has approved the information collection requirements associated with Part 25 under OMB Control Numbers 9000–0022, 9000–0023, 9000–0024, 9000–0025, 9000–0130, and 9000–0141. The applicable changes to the clause numbers of the provisions and clauses that are covered by these approvals are addressed in the preamble to the proposed rule (63 FR 51642).

List of Subjects in 48 CFR Parts 1, 2, 5, 6, 9, 12, 13, 14, 15, 17, 19, 25, 36, and 52:

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 5, 6, 9, 12, 13, 14, 15, 17, 19, 25, 36, and 52 as set forth below:

1. The authority citation for 48 CFR parts 1, 2, 5, 6, 9, 12, 13, 14, 15, 17, 19, 25, 36, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Amend section 1.106 in the table following the introductory paragraph by removing the FAR Segment and OMB Control Number in the left columns and adding the FAR Segment and OMB Control Number listed in the right columns as follows:

Remove		Add	
Far segment	OMB Control No.	FAR segment	OMB Control No.
52.225–1	9000–0024	52.225–2	9000–0023 and 9000–0024
52.225–6	9000–0023	52.225–4	9000–0130
52.225–8	9000–0025	52.225–6	9000–0025
52.225–10	9000–0022	52.225–8	9000–0022
52.225–20	9000–0130	52.225–9	9000–0141
		52.225–11	9000–0141

PART 2—DEFINITIONS OF WORDS AND TERMS

3. Amend section 2.101 by revising the definitions ''Component'' and ''United States'', and by adding, in alphabetical order, the definitions ''Construction'' and ''End product'' to read as follows:

2.101 Definitions.

* * * * *

Component means any item supplied to the Government as part of an end item or of another component, except that for use in 52.225–9 and 52.225–11, see the definitions in 52.225–9(a) and 52.225–11(a).

Construction means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms ''buildings, structures, or other real property'' include, but are not limited to, improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, cemeteries, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include the manufacture, production, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property.

* * * * *

End product means supplies delivered under a line item of a Government contract.

* * * * *

United States, when used in a geographic sense, means the 50 States and the District of Columbia, except as follows:

(1) For use in Subpart 22.8, see the definition at 22.801.

(2) For use in Subpart 22.10, see the definition at 22.1001.

(3) For use in Part 25, see the definition at 25.003.

(4) For use in Subpart 47.4, see the definition at 47.401.

PART 5—PUBLICIZING CONTRACT ACTIONS

4. Amend section 5.301 by revising paragraph (a); and in paragraph (c) by removing ''shall'' and adding ''must'' in its place. The revised text reads as follows:

5.301 General.

(a) Except for contract actions described in paragraph (b) of this section, contracting officers must synopsize in the Commerce Business Daily (CBD) awards exceeding $25,000 that are—

(1) Subject to the Trade Agreements Act (see Subpart 25.4); or

(2) Likely to result in the award of any subcontracts. However, the dollar threshold is not a prohibition against publicizing an award of a smaller amount when publicizing would be advantageous to industry or to the Government.

* * * * *

PART 6—COMPETITION REQUIREMENTS

5. Revise paragraph (d) of section 6.303–1 to read as follows:

6.303–1 Requirements.

* * * * *

(d) If the authority of 6.302–3(a)(2)(i) or 6.302–7 is being cited as a basis for not providing for full and open competition in an acquisition that would otherwise be subject to the Trade Agreements Act (see Subpart 25.4), the contracting officer must forward a copy of the justification, in accordance with agency procedures, to the agencys point of contact with the Office of the United States Trade Representative.

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

6. Revise paragraph (b) of section 9.205 to read as follows:

9.205 Opportunity for qualification before award.

* * * * *

(b) The activity responsible for establishing a qualification requirement must keep any list maintained of those already qualified open for inclusion of additional products, manufacturers, or other potential sources, including eligible products from designated countries under the terms of the Trade Agreements Act (see Subpart 25.4).

PART 12—ACQUISITION OF COMMERCIAL ITEMS

7. Revise paragraph (c) of section 12.205 to read as follows:

12.205 Offers.

* * * * *

(c) Consistent with the requirements at 5.203(b), the contracting officer may allow fewer than 30 days response time for receipt of offers for commercial items, unless the acquisition is subject to NAFTA or the Trade Agreements Act (see 5.203(h)).

8. Amend section 12.301 by adding a sentence to the end of paragraph (b)(4) to read as follows:

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(b) * * *

(4) * * * Use the clause with its Alternate I when the head of the agency has waived the examination of records by the Comptroller General in accordance with 25.1001.

* * * * *

12.504 [Amended]

9. Amend section 12.504 by removing paragraphs (a)(2) through (a)(4) and redesignating (a)(5) through (a)(15) as (a)(2) through (a)(12), respectively.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.101 [Amended]

10. Amend section 13.101 at the end of paragraph (a)(2) by adding the word ''and''; by removing paragraph (a)(3); and by redesignating paragraph (a)(4) as (a)(3).

11. Revise paragraph (d) of section 13.302–5 to read as follows:

13.302–5 Clauses.

* * * * *

(d)(1) The contracting officer may use the clause at 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items), in simplified acquisitions exceeding the micro-purchase threshold that are for other than commercial items (see 12.301).

(2) The clause—

(i) Is a compilation of the most commonly used clauses that apply to simplified acquisitions; and

(ii) May be modified to fit the individual acquisition to add other needed clauses, or those clauses may be added separately. Modifications (*i.e.*, additions, deletions, or substitutions) must not create a void or internal contradiction in the clause. For example, do not add an inspection and acceptance or termination for convenience requirement unless the existing requirement is deleted. Also, do not delete a paragraph without providing for an appropriate substitute.

(3)(i) When an acquisition for supplies for use within the United States cannot be set aside for small business concerns and trade agreements apply (see Subpart 25.4), substitute the clause at FAR 52.225–3, Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program, used with Alternate I or Alternate II, if appropriate, instead of the clause at FAR 52.225–1, Buy American Act—Balance of Payments Program—Supplies.

(ii) When acquiring supplies for use outside the United States, delete clause 52.225–1 from the clause list at 52.213–4(b).

PART 14—SEALED BIDDING

12. Revise paragraphs (w) and (x) of section 14.201–6 to read as follows:

14.201–6 Solicitation provisions.

* * * * *

(w) Insert the provision at 52.214–34, Submission of Offers in the English Language, in solicitations that include any of the clauses prescribed in 25.1101 or 25.1102. It may be included in other solicitations when the contracting officer decides that it is necessary.

(x) Insert the provision at 52.214–35, Submission of Offers in U.S. Currency, in solicitations that include any of the clauses prescribed in 25.1101 or 25.1102, unless the contracting officer includes the clause at 52.225–17, Evaluation of Foreign Currency Offers, as prescribed in 25.1103(d). It may be included in other solicitations when the contracting officer decides that it is necessary.

14.409–1 [Amended]

13. Amend section 14.409–1 in the introductory text of paragraph (a)(2) by removing ''(see 25.405(e))'' and adding ''(see 25.408(a)(4))'' in its place; and by removing ''shall'' and adding ''must'' in its place.

PART 15—CONTRACTING BY NEGOTIATION

14. Revise paragraph (b)(4) of section 15.209 to read as follows:

15.209 Solicitation provisions and contract clauses.

* * * * *

(b) * * *

(4) When the head of the agency has waived the examination of records by

the Comptroller General in accordance with 25.1001, use the clause with its Alternate III.

* * * * *

PART 17—SPECIAL CONTRACTING METHODS

15. Revise paragraph (h) of section 17.203 to read as follows:

17.203 Solicitations.

* * * * *

(h) Include the value of options in determining if the acquisition will exceed the Trade Agreements Act and North American Free Trade Agreement thresholds.

PART 19—SMALL BUSINESS PROGRAMS

19.1103 [Amended]

15a. In paragraph (a)(2) of section 19.1103, remove ''25.402'' and add ''25.403'' in its place.

19.1307 [Amended]

15b. In paragraph (b)(3) of section 19.1307, remove ''25.402'' and add ''25.403'' in its place.

16. Revise Part 25 to read as follows:

PART 25—FOREIGN ACQUISITION

Sec.
25.000 Scope of part.
25.001 General.
25.002 Applicability of subparts.
25.003 Definitions.

Subpart 25.1—Buy American Act—Supplies

25.100 Scope of subpart.
25.101 General.
25.102 Policy.
25.103 Exceptions.
25.104 Nonavailable articles.
25.105 Determining reasonableness of cost.

Subpart 25.2—Buy American Act—Construction Materials

25.200 Scope of subpart.
25.201 Policy.
25.202 Exceptions.
25.203 Preaward determinations.
25.204 Evaluating offers of foreign construction material.
25.205 Postaward determinations.
25.206 Noncompliance.

Subpart 25.3—Balance of Payments Program

25.300 Scope of subpart.
25.301 General.
25.302 Policy.
25.303 Exceptions.
25.304 Procedures.

Subpart 25.4—Trade Agreements

25.400 Scope of subpart.
25.401 Exceptions.
25.402 General.
25.403 Trade Agreements Act.
25.404 Caribbean Basin Trade Initiative.
25.405 North American Free Trade Agreement (NAFTA).
25.406 Israeli Trade Act.
25.407 Agreement on Trade in Civil Aircraft.
25.408 Procedures.

Subpart 25.5—Evaluating Foreign Offers—Supply Contracts

25.501 General.
25.502 Application.
25.503 Group offers.
25.504 Evaluation examples.
25.504–1 Buy American Act/Balance of Payments Program.
25.504–2 Trade Agreements Act/Caribbean Basin Trade Initiative/NAFTA.
25.504–3 NAFTA/Israeli Trade Act.
25.504–4 Group award basis.

Subpart 25.6—Trade Sanctions

25.600 Scope of subpart.
25.601 Policy.
25.602 Exceptions.

Subpart 25.7—Prohibited Sources

25.701 Restrictions.
25.702 Source of further information.

Subpart 25.8—Other International Agreements and Coordination

25.801 General.
25.802 Procedures.

Subpart 25.9—Customs and Duties

25.900 Scope of subpart.
25.901 Policy.
25.902 Procedures.
25.903 Exempted supplies.

Subpart 25.10—Additional Foreign Acquisition Regulations.

25.1001 Waiver of right to examination of records.
25.1002 Use of foreign currency.

Subpart 25.11—Solicitation Provisions and Contract Clauses.

25.1101 Acquisition of supplies.
25.1102 Acquisition of construction.
25.1103 Other provisions and clauses.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

25.000 Scope of part.

This part provides policies and procedures for acquiring foreign supplies, services, and construction materials. It implements the Buy American Act, the Balance of Payments Program, trade agreements, and other laws and regulations.

25.001 General.

(a) The Buy American Act—

(1) Restricts the purchase of supplies, that are not domestic end products, for use within the United States. A foreign end product may be purchased if the contracting officer determines that the price of the lowest domestic offer is unreasonable or if another exception applies (see Subpart 25.1); and

(2) Requires, with some exceptions, the use of only domestic construction materials in contracts for construction in the United States (see Subpart 25.2).

(b) The Balance of Payments Program (see Subpart 25.3) is similar to the Buy American Act in its implementation, except that it applies to the purchase of supplies for use outside the United States and construction materials for construction contracts performed outside the United States.

(c) The restrictions in the Buy American Act and the Balance of Payments Program are not applicable in acquisitions subject to certain trade agreements (see Subpart 25.4). In these acquisitions, end products and construction materials from certain countries receive nondiscriminatory treatment in evaluation with domestic offers. Generally, the dollar value of the acquisition determines which of the trade agreements applies. Exceptions to the applicability of the trade agreements are described in Subpart 25.4.

(d) The test to determine the country of origin for an end product under the trade agreements is different from the test to determine the country of origin for an end product under the Buy American Act (see the various country ''end product'' definitions in 25.003). The Buy American Act uses a two-part test to define a ''domestic end product'' (manufacture in the United States and a formula based on cost of domestic components). Under the trade agreements, the test to determine country of origin is ''substantial transformation'' (*i.e.,* transforming an article into a new and different article of commerce, with a name, character, or use distinct from the original article).

(e) On April 22, 1992, the President made a determination under section 305 of the Trade Agreements Act to impose sanctions against some European Union countries for discriminating against U.S. products and services (see Subpart 25.6).

25.002 Applicability of subparts.

The following table shows the applicability of the subparts. Subpart 25.5 provides comprehensive procedures for offer evaluation and examples.

	Subpart	Supplies for use		Construction		Services performed	
		Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.
25.1	Buy American Act—Supplies	X	.....	.....	.....	.....	.....
25.2	Buy American Act—Construction Materials	.....	.....	X	.....	.....	.....
25.3	Balance of Payments Program	.....	X	.....	X	.....	.....
25.4	Trade Agreements	X	X	X	X	X	X
25.5	Evaluating Foreign Offers—Supply Contracts	X	X	.....	.....	.....	.....
25.6	Trade Sanctions	X	X	X	X	X	X
25.7	Prohibited Sources	X	X	X	X	X	X
25.8	Other International Agreements and Coordination	X	X	.....	X	.....	X
25.9	Customs and Duties	X	.....	.....	.....	.....	.....
25.10	Additional Foreign Acquisition Regulations	X	X	X	X	X	X
25.11	Solicitation Provisions and Contract Clauses	X	X	X	X	X	X

25.003 Definitions.

As used in this part—

Canadian end product means an article that—

(1) Is wholly the growth, product, or manufacture of Canada; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Caribbean Basin country means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Tobago and Trinidad.

Caribbean Basin country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself. The term excludes products that are excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b), which presently are—

(i) Textiles and apparel articles that are subject to textile agreements;

(ii) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under Title V of the Trade Act of 1974;

(iii) Tuna, prepared or preserved in any manner in airtight containers;

(iv) Petroleum, or any product derived from petroleum; and

(v) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply.

Civil aircraft and related articles means—

(1) All aircraft other than aircraft to be purchased for use by the Department of Defense or the U.S. Coast Guard;

(2) The engines (and parts and components for incorporation into the engines) of these aircraft;

(3) Any other parts, components, and subassemblies for incorporation into the aircraft; and

(4) Any ground flight simulators, and parts and components of these simulators, for use with respect to the aircraft, whether to be used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of the aircraft and without regard to whether the aircraft or articles receive duty-free treatment under section 601(a)(2) of the Trade Agreements Act.

Construction material means an article, material, or supply brought to the construction site by a contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

(1) For components purchased by the contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Customs territory of the United States means the States, the District of Columbia, and Puerto Rico.

Designated country means any of the following countries:

Aruba, Austria, Bangladesh, Belgium, Benin, Bhutan, Botswana, Burkina Faso,

Burundi, Canada, Cape Verde, Central African Republic, Chad, Comoros, Denmark, Djibouti, Equatorial Guinea, Finland, France, Gambia, Germany, Greece, Guinea, Guinea-Bissau, Haiti, Hong Kong, Ireland, Israel, Italy, Japan, Kiribati, Korea, Republic of Lesotho, Liechtenstein, Luxembourg, Malawi, Maldives, Mali, Mozambique, Nepal, Netherlands, Niger, Norway, Portugal, Rwanda, Sao Tome and Principe, Sierra Leone, Singapore, Somalia, Spain, Sweden, Switzerland, Tanzania U.R., Togo, Tuvalu, Uganda, United Kingdom, Vanuatu, Western Samoa, Yemen

Designated country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Domestic construction material means—

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

Domestic end product means—

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

Domestic offer means an offer of a domestic end product. When the solicitation specifies that award will be made on a group of line items, a domestic offer means an offer where the proposed price of the domestic end products exceeds 50 percent of the total proposed price of the group.

Eligible offer means an offer of an eligible product. When the solicitation specifies that award will be made on a group of line items, an eligible offer means a foreign offer where the combined proposed price of the eligible products and the domestic end products exceeds 50 percent of the total proposed price of the group.

Eligible product means a foreign end product that is not subject to discriminatory treatment under either the Buy American Act or the Balance of Payments Program, due to applicability of a trade agreement to a particular acquisition.

Foreign construction material means a construction material other than a domestic construction material.

Foreign contractor means a contractor or subcontractor organized or existing under the laws of a country other than the United States.

Foreign end product means an end product other than a domestic end product.

Foreign offer means any offer other than a domestic offer.

Israeli end product means an article that—

(1) Is wholly the growth, product, or manufacture of Israel; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Israel into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

Mexican end product means an article that—

(1) Is wholly the growth, product, or manufacture of Mexico; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Mexico into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Noneligible offer means an offer of a noneligible product.

Noneligible product means a foreign end product that is not an eligible product.

North American Free Trade Agreement country means Canada or Mexico.

North American Free Trade Agreement country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a North American Free Trade Agreement (NAFTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a NAFTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Sanctioned European Union country construction means construction to be performed in a sanctioned European Union member state.

Sanctioned European Union country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a sanctioned European Union (EU) member state; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a sanctioned EU member state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of these incidental services does not exceed that of the article itself.

Sanctioned European Union country services means services to be performed in a sanctioned European Union member state.

Sanctioned European Union member state means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, or the United Kingdom.

United States means the 50 States and the District of Columbia, U.S. territories

and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

U.S.-made end product means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

Subpart 25.1—Buy American Act—Supplies

25.100 Scope of subpart.

This subpart implements the Buy American Act (41 U.S.C. 10a–10d) and Executive Order 10582, December 17, 1954. It applies to supplies acquired for use in the United States,

(b) The supply portion of a contract for services that involves the furnishing of supplies (*e.g.*, lease) exceeds the micro-purchase threshold.

25.101 General.

(a) The Buy American Act restricts the purchase of supplies that are not domestic end products. For manufactured end products, the Buy American Act uses a two-part test to define a domestic end product.

(1) The article must be manufactured in the United States; and

(2) The cost of domestic components must exceed 50 percent of the cost of all the components.

(b) The Buy American Act applies to small business set-asides. A manufactured product of a small business concern is a U.S.-made end product, but is not a domestic end product unless it meets the component test in paragraph (a)(2) of this section.

(c) Exceptions that allow the purchase of a foreign end product are listed at 25.103. The unreasonable cost exception is implemented through the use of an evaluation factor applied to low foreign offers that are not eligible offers. The evaluation factor is not used to provide a preference for one foreign offer over another. Evaluation procedures and examples are provided in Subpart 25.5.

25.102 Policy.

Except as provided in 25.103, acquire only domestic end products for public use inside the United States.

25.103 Exceptions.

When one of the following exceptions applies, the contracting officer may acquire a foreign end product without regard to the restrictions of the Buy American Act:

(a) *Public interest.* The head of the agency may make a determination that domestic preference would be inconsistent with the public interest. This exception applies when an agency has an agreement with a foreign government that provides a blanket exception to the Buy American Act.

(b) *Nonavailability.* (1) A nonavailability determination has been made for the articles listed in 25.104.

(2)(i) The head of the contracting activity may make a determination that an article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(ii) If the contracting officer considers that the nonavailability of an article is likely to affect future acquisitions, the contracting officer may submit a copy of the determination and supporting documentation to the appropriate council identified in 1.201–1 in accordance with agency procedures, for possible addition to the list in 25.104.

(3) A written determination is not required if all of the following conditions are present:

(i) The acquisition was conducted through use of full and open competition.

(ii) The acquisition was synopsized in accordance with 5.201.

(iii) No offer for a domestic end product was received.

(c) *Unreasonable cost.* The contracting officer may determine that the cost of a domestic end product would be unreasonable, in accordance with 25.105 and Subpart 25.5.

(d) *Resale.* The contracting officer may purchase foreign end products specifically for commissary resale.

25.104 Nonavailable articles.

(a) The following articles have been determined to be nonavailable in accordance with 25.103(b):

Acetylene, black.
Agar, bulk.
Anise.
Antimony, as metal or oxide.
Asbestos, amosite, chrysotile, and crocidolite.
Bananas.
Bauxite.
Beef, corned, canned.
Beef extract.
Bephenium hydroxynapthoate.
Bismuth.
Books, trade, text, technical, or scientific; newspapers; pamphlets; magazines; periodicals; printed briefs and films; not printed in the United States and for which domestic editions are not available.
Brazil nuts, unroasted.
Cadmium, ores and flue dust.
Calcium cyanamide.
Capers.
Cashew nuts.
Castor beans and castor oil.
Chalk, English.
Chestnuts.
Chicle.
Chrome ore or chromite.
Cinchona bark.
Cobalt, in cathodes, rondelles, or other primary ore and metal forms.
Cocoa beans.
Coconut and coconut meat, unsweetened, in shredded, desiccated, or similarly prepared form.
Coffee, raw or green bean.
Colchicine alkaloid, raw.
Copra.
Cork, wood or bark and waste.
Cover glass, microscope slide.
Crane rail (85-pound per foot).
Cryolite, natural.
Dammar gum.
Diamonds, industrial, stones and abrasives.
Emetine, bulk.
Ergot, crude.
Erythrityl tetranitrate.
Fair linen, altar.
Fibers of the following types: abaca, abace, agave, coir, flax, jute, jute burlaps, palmyra, and sisal.
Goat and kidskins.
Graphite, natural, crystalline, crucible grade.
Hand file sets (Swiss pattern).
Handsewing needles.
Hemp yarn.
Hog bristles for brushes.
Hyoscine, bulk.
Ipecac, root.
Iodine, crude.
Kaurigum.
Lac.
Leather, sheepskin, hair type.
Lavender oil.
Manganese.
Menthol, natural bulk.
Mica.
Microprocessor chips (brought onto a Government construction site as separate units for incorporation into building systems during construction or repair and alteration of real property).
Nickel, primary, in ingots, pigs, shots, cathodes, or similar forms; nickel oxide and nickel salts.
Nitroguanidine (also known as picrite).
Nux vomica, crude.
Oiticica oil.
Olive oil.
Olives (green), pitted or unpitted, or stuffed, in bulk.
Opium, crude.
Oranges, mandarin, canned.
Petroleum, crude oil, unfinished oils, and finished products.
Pine needle oil.
Platinum and related group metals, refined, as sponge, powder, ingots, or cast bars.
Pyrethrum flowers.
Quartz crystals.
Quebracho.
Quinidine.
Quinine.
Rabbit fur felt.
Radium salts, source and special nuclear materials.
Rosettes.

Rubber, crude and latex.
Rutile.
Santonin, crude.
Secretin.
Shellac.
Silk, raw and unmanufactured.
Spare and replacement parts for equipment of foreign manufacture, and for which domestic parts are not available.
Spices and herbs, in bulk.
Sugars, raw.
Swords and scabbards.
Talc, block, steatite.
Tantalum.
Tapioca flour and cassava.
Tartar, crude; tartaric acid and cream of tartar in bulk.
Tea in bulk.
Thread, metallic (gold).
Thyme oil.
Tin in bars, blocks, and pigs.
Triprolidine hydrochloride.
Tungsten.
Vanilla beans.
Venom, cobra.
Wax, carnauba.
Wire glass.
Woods; logs, veneer, and lumber of the following species: Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum vitae, mahogany, and teak.
Yarn, 50 Denier rayon.

(b) The determination in paragraph (a) of this section does not apply if the contracting officer learns before the time designated for receipt of bids in sealed bidding or final offers in negotiation that an article on the list is available domestically in sufficient and reasonably available quantities of a satisfactory quality. The contracting officer must amend the solicitation if purchasing the article, or if purchasing an end product that could contain such an article as a component, and must specify in all new solicitations that the article is available domestically and that offerors and contractors may not treat foreign components of the same class or kind as domestic components. In addition, the contracting officer must submit a copy of supporting documentation to the appropriate council identified in 1.201–1 in accordance with agency procedures, for possible removal of the article from the list.

25.105 Determining reasonableness of cost.

(a) The contracting officer—

(1) Must use the evaluation factors in paragraph (b) of this section unless the head of the agency makes a written determination that the use of higher factors is more appropriate. If the determination applies to all agency acquisitions, the agency evaluation factors must be published in agency regulations; and

(2) Must not apply evaluation factors to offers of eligible products if the acquisition is subject to a trade agreement under Subpart 25.4.

(b) If there is a domestic offer that is not the low offer, and the restrictions of the Buy American Act apply to the low offer, the contracting officer must determine the reasonableness of the cost of the domestic offer by adding to the price of the low offer, inclusive of duty—

(1) 6 percent, if the lowest domestic offer is from a large business concern; or

(2) 12 percent, if the lowest domestic offer is from a small business concern. The contracting officer must use this factor, or another factor established in agency regulations, in small business set-asides if the low offer is from a small business concern offering the product of a small business concern that is not a domestic end product (see Subpart 19.5).

(c) The price of the domestic offer is reasonable if it does not exceed the evaluated price of the low offer after addition of the appropriate evaluation factor in accordance with paragraph (a) or (b) of this section. (See evaluation procedures at Subpart 25.5.)

Subpart 25.2—Buy American Act—Construction Materials

25.200 Scope of subpart.

This subpart implements the Buy American Act (41 U.S.C. 10a–10d) and Executive Order 10582, December 17, 1954. It applies to contracts for the construction, alteration, or repair of any public building or public work in the United States.

25.201 Policy.

Except as provided in 25.202, use only domestic construction materials in construction contracts performed in the United States.

25.202 Exceptions.

(a) When one of the following exceptions applies, the contracting officer may acquire foreign construction materials without regard to the restrictions of the Buy American Act:

(1) *Impracticable or inconsistent with public interest.* The head of the agency may determine that application of the restrictions of the Buy American Act to a particular construction material would be impracticable or would be inconsistent with the public interest. The public interest exception applies when an agency has an agreement with a foreign government that provides a blanket exception to the Buy American Act.

(2) *Nonavailability.* The head of the contracting activity may determine that a particular construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality. The determinations of nonavailability of the articles listed at 25.104(a) and the procedures at 25.104(b) also apply if any of those articles are acquired as construction materials.

(3) *Unreasonable cost.* The contracting officer concludes that the cost of domestic construction material is unreasonable in accordance with 25.204.

(b) *Determination and findings.* When a determination is made for any of the reasons stated in this section that certain foreign construction materials may be used, the contracting officer must list the excepted materials in the contract. The agency must make the findings justifying the exception available for public inspection.

(c) *Acquisitions under trade agreements.* For construction contracts with an estimated acquisition value of $6,909,500 or more, see 25.405. If the acquisition value is $7,143,000 or more, also see 25.403.

25.203 Preaward determinations.

(a) For any acquisition, an offeror may request from the contracting officer a determination concerning the inapplicability of the Buy American Act for specifically identified construction materials. The time for submitting the request is specified in the solicitation in paragraph (b) of either 52.225–10 or 52.225–12, whichever applies. The information and supporting data that must be included in the request are also specified in the solicitation in paragraphs (c) and (d) of either 52.225–9 or 52.225–11, whichever applies.

(b) Before award, the contracting officer must evaluate all requests based on the information provided and may supplement this information with other readily available information.

25.204 Evaluating offers of foreign construction material.

(a) Offerors proposing to use foreign construction material other than that listed by the Government in the applicable clause at 52.225–9, paragraph (b)(2), or 52.225–11, paragraph (b)(3), or excepted under the Trade Agreements Act or NAFTA (paragraph (b)(2) of 52.225–11), must provide the information required by paragraphs (c) and (d) of the respective clauses.

(b) Unless the head of the agency specifies a higher percentage, the contracting officer must add to the offered price 6 percent of the cost of any foreign construction material proposed for exception from the requirements of

the Buy American Act based on the unreasonable cost of domestic construction materials. In the case of a tie, the contracting officer must give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost.

(c) Offerors also may submit alternate offers based on use of equivalent domestic construction material to avoid possible rejection of the entire offer if the Government determines that an exception permitting use of a particular foreign construction material does not apply.

(d) If the contracting officer awards a contract to an offeror that proposed foreign construction material not listed in the applicable clause in the solicitation (paragraph (b)(2) of 52.225–9, or paragraph (b)(3) of 52.225–11), the contracting officer must add the excepted materials to the list in the contract clause.

25.205 Postaward determinations.

(a) If a contractor requests a determination regarding the inapplicability of the Buy American Act after contract award, the contractor must explain why it could not request the determination before contract award or why the need for such determination otherwise was not reasonably foreseeable. If the contracting officer concludes that the contractor should have made the request before contract award, the contracting officer may deny the request.

(b) The contracting officer must base evaluation of any request for a determination regarding the inapplicability of the Buy American Act made after contract award on information required by paragraphs (c) and (d) of the applicable clause at 52.225–9 or 52.225–11 and/or other readily available information.

(c) If a determination, under 25.202(a), is made after contract award that an exception to the Buy American Act applies, the contracting officer must negotiate adequate consideration and modify the contract to allow use of the foreign construction material. When the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is at least the differential established in 25.202(a) or in accordance with agency procedures.

25.206 Noncompliance.

The contracting officer must—

(a) Review allegations of Buy American Act violations;

(b) Unless fraud is suspected, notify the contractor of the apparent unauthorized use of foreign construction material and request a reply, to include proposed corrective action; and

(c) If the review reveals that a contractor or subcontractor has used foreign construction material without authorization, take appropriate action, including one or more of the following:

(1) Process a determination concerning the inapplicability of the Buy American Act in accordance with 25.205.

(2) Consider requiring the removal and replacement of the unauthorized foreign construction material.

(3) If removal and replacement of foreign construction material incorporated in a building or work would be impracticable, cause undue delay, or otherwise be detrimental to the interests of the Government, the contracting officer may determine in writing that the foreign construction material need not be removed and replaced. A determination to retain foreign construction material does not constitute a determination that an exception to the Buy American Act applies, and this should be stated in the determination. Further, a determination to retain foreign construction material does not affect the Government's right to suspend or debar a contractor, subcontractor, or supplier for violation of the Buy American Act, or to exercise other contractual rights and remedies, such as reducing the contract price or terminating the contract for default.

(4) If the noncompliance is sufficiently serious, consider exercising appropriate contractual remedies, such as terminating the contract for default. Also consider preparing and forwarding a report to the agency suspending or debarring official in accordance with Subpart 9.4. If the noncompliance appears to be fraudulent, refer the matter to other appropriate agency officials, such as the officer responsible for criminal investigation.

Subpart 25.3—Balance of Payments Program

25.300 Scope of subpart.

This subpart provides policies and procedures implementing the Balance of Payments Program. It applies to contracts for the purchase of supplies for use outside the United States, and contracts for construction, alteration, or repair of any public building or public work outside the United States.

25.301 General.

The Balance of Payments Program restricts the purchase of supplies that are not domestic end products, for use outside the United States, and restricts the use of construction materials that are not domestic, for performance of construction contracts outside the United States. Its restrictions are similar to those of the Buy American Act. It uses the same definitions and evaluation procedures, except that a 50 percent factor generally is used to determine unreasonable cost. Exceptions to the Balance of Payments Program, especially for construction materials, are generally determined prior to solicitation and assignment of contracting responsibility. The contracting officer must identify excepted supplies and construction materials in the contract.

25.302 Policy.

Except as provided in 25.303, acquire only domestic end products for use outside the United States, and use only domestic construction materials for construction, repair, or maintenance of real property outside the United States.

25.303 Exceptions.

A foreign end product may be acquired for use outside the United States, or a foreign construction material may be used in construction outside the United States, without regard to the restrictions of the Balance of Payments Program if—

(a) The estimated cost of the end product does not exceed the simplified acquisition threshold;

(b) The end product or construction material is listed at 25.104, or the head of the contracting activity determines that a requirement—

(1) Can only be filled by a foreign end product or construction material (see 25.103(b));

(2) Is for end products or construction materials that, by their nature or as a practical matter, can only be acquired in the geographic area concerned, *e.g.,* ice or books; or bulk material, such as sand, gravel, or other soil material, stone, concrete masonry units, or fired brick; or

(3) Is for perishable subsistence products and delivery from the United States would significantly impair their quality at the point of consumption;

(c) The acquisition of foreign end products is required by a treaty or executive agreement between governments;

(d) The end products are—

(1) Petroleum products; or

(2) For commissary resale;

(e) The end products are eligible products subject to the Trade Agreements Act, NAFTA, or the Israeli Trade Act, or the construction material is subject to the Trade Agreements Act or NAFTA;

(f) The cost of the domestic end product or construction material (including transportation and handling costs) exceeds the cost of the foreign end product or construction material by more than 50 percent, or a higher percentage specifically authorized by the head of the agency; or

(g) The head of the agency has determined that it is not in the public interest to apply the restrictions of the Balance of Payments Program to the end product or construction material or that it is impracticable to apply the restrictions of the Balance of Payments Program to the construction material.

25.304 Procedures.

(a) *Solicitation of offers.* The contracting officer must identify, in the solicitation, supplies and construction materials known in advance to be excepted from the procedures of this subpart.

(b) *Evaluation of offers.* The contracting officer must—

(1) Evaluate offers for supplies in accordance with Subpart 25.5; and

(2) Evaluate offers proposing foreign construction material by using the procedures at 25.204, except that a factor of 50 percent or a higher percentage (see 25.303(f)) must be applied to foreign construction material proposed for exception from the requirements of the Balance of Payments Program on the basis of unreasonable cost of domestic construction materials.

(c) *Other procedures for construction.* For construction contracts, the procedures at 25.203, 25.205, and 25.206, for determinations and noncompliance under the Buy American Act, are also applicable to determinations and noncompliance under the Balance of Payments Program.

Subpart 25.4—Trade Agreements

25.400 Scope of subpart.

(a) This subpart provides policies and procedures applicable to acquisitions that are subject to

(1) The Trade Agreements Act (the Agreement on Government Procurement, as approved by Congress in the Trade Agreements Act of 1979 (19 U.S.C. 2501, *et seq.*), and as amended by the Uruguay Round Agreements Act (Pub. L. 103-465));

(2) The Caribbean Basin Trade Initiative (the determination of the U.S. Trade Representative that end products granted duty-free entry under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, *et seq.*) must be treated as eligible products under the Trade Agreements Act);

(3) NAFTA (the North American Free Trade Agreement, as approved by Congress in the North American Free Trade Agreement Implementation Act of 1993 (19 U.S.C. 3301 note));

(4) The Israeli Trade Act (the U.S.-Israel Free Trade Area Agreement, as approved by Congress in the United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note)); or

(5) The Agreement on Trade in Civil Aircraft (U.S. Trade Representative waiver of the Buy American Act for signatories of the Agreement on Trade in Civil Aircraft, as implemented in the Trade Agreements Act of 1979 (19 U.S.C. 2513)).

(b) For application of the trade agreements that are unique to individual agencies, see agency regulations.

25.401 Exceptions.

(a) This subpart does not apply to—

(1) Acquisitions set aside for small businesses;

(2) Acquisitions of arms, ammunition, or war materials, or purchases indispensable for national security or for national defense purposes, including all services purchased in support of military forces located overseas;

(3) Acquisitions of end products for resale;

(4) Acquisitions under Subpart 8.6, Acquisition from Federal Prison Industries, Inc., and Subpart 8.7, Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled;

(5) Other acquisitions not using full and open competition, if authorized by Subpart 6.2 or 6.3, when the limitation of competition would preclude use of the procedures of this subpart (but see 6.303–1(d)); or sole source acquisitions justified in accordance with 13.501(a); and

(6) Acquisitions of the following excluded services:

(i) Automatic data processing (ADP) telecommunications and transmission services, except enhanced (*i.e.*, value-added) telecommunications services.

(ii) Research and development.

(iii) Transportation services (including launching services, but not including travel agent services).

(iv) Utility services.

(b)(1) Other services not covered by the Trade Agreements Act are—

(i) Dredging; and

(ii) Management and operation contracts to certain Government or privately owned facilities used for Government purposes, including Federally Funded Research and Development Centers (FFRDCs).

(2) Other services not covered by NAFTA are—

(i) ADP teleprocessing and timesharing services (D305), telecommunications network management services (D316), automated news services, data services or other information services (D317), and other ADP and telecommunications services (D399) (Federal Service Code from the Federal Procurement Data System Product/Service Code Manual indicated in parentheses);

(ii) Operation of all facilities by the Department of Defense, Department of Energy, or the National Aeronautics and Space Administration; and all Government-owned research and development facilities or Government-owned environmental laboratories;

(iii) Maintenance, repair, modification, rebuilding and installation of equipment related to ships; and

(iv) Nonnuclear ship repair.

25.402 General.

The trade agreements waive the applicability of the Buy American Act or the Balance of Payments Program for some foreign supplies and construction materials from certain countries. The Trade Agreements Act and NAFTA specify procurement procedures designed to ensure fairness. The value of the acquisition is a determining factor in the applicability of the trade agreements. When the restrictions of the Buy American Act or the Balance of Payments Program are waived for eligible products, offers of such products (eligible offers) receive equal consideration with domestic offers. Under the Trade Agreements Act, only U.S.-made end products or eligible products may be acquired (also see 25.403(c)). See Subpart 25.5 for evaluation procedures for supply contracts subject to trade agreements.

25.403 Trade Agreements Act.

(a) *General.* The Agreement on Government Procurement of the Trade Agreements Act—

(1) Waives application of the Buy American Act and the Balance of Payments Program to the end products and construction materials of designated countries;

(2) Prohibits discriminatory practices based on foreign ownership;

(3) Restricts purchases to end products identified in 25.403(c);

(4) Requires certain procurement procedures designed to ensure fairness (see 25.408).

(b) *Thresholds.* (1) Except as provided in 25.401, the Trade Agreements Act applies to an acquisition for supplies or services if the estimated value of the acquisition is $186,000 or more; the

Trade Agreements Act applies to an acquisition for construction if the estimated value of the acquisition is $7,143,000 or more. These dollar thresholds became effective January 1, 1998, and are subject to revision by the U.S. Trade Representative approximately every 2 years (see Executive Order 12260).

(2) To determine whether the Trade Agreements Act applies to the acquisition of products by lease, rental, or lease-purchase contract (including lease-to-ownership, or lease-with-option-to purchase), calculate the estimated acquisition value as follows:

(i) If a fixed-term contract of 12 months or less is contemplated, use the total estimated value of the acquisition.

(ii) If a fixed-term contract of more than 12 months is contemplated, use the total estimated value of the acquisition plus the estimated residual value of the leased equipment at the conclusion of the contemplated term of the contract.

(iii) If an indefinite-term contract is contemplated, use the estimated monthly payment multiplied by the total number of months that ordering would be possible under the proposed contract, *i.e.*, the initial ordering period plus any optional ordering periods.

(iv) If there is any doubt as to the contemplated term of the contract, use the estimated monthly payment multiplied by 48.

(3) The estimated value includes the value of all options.

(4) If, in any 12-month period, recurring or multiple awards for the same type of product or products are anticipated, use the total estimated value of these projected awards to determine whether the Trade Agreements Act applies. Do not divide any acquisition with the intent of reducing the estimated value of the acquisition below the dollar threshold of the Trade Agreements Act.

(c) *Purchase restriction.* (1) In acquisitions subject to the Trade Agreements Act, acquire only U.S.-made end products or eligible products (designated, Caribbean Basin, or NAFTA country end products) unless offers for such end products are either not received or are insufficient to fulfill the requirements.

(2) This restriction does not apply to purchases by the Department of Defense from a country with which it has entered into a reciprocal agreement, as provided in departmental regulations.

25.404 Caribbean Basin Trade Initiative.

Under the Caribbean Basin Trade Initiative, the United States Trade Representative has determined that, for acquisitions subject to the Trade Agreements Act, Caribbean Basin country end products must be treated as eligible products. This determination is effective until September 30, 1999, except that, for products of Panama, this determination is effective until September 30, 2000. The U.S. Trade Representative may extend these dates through a document in the **Federal Register**.

25.405 North American Free Trade Agreement (NAFTA).

(a) An acquisition of supplies is not subject to NAFTA if the estimated value of the acquisition is $25,000 or less. For acquisitions subject to NAFTA, evaluate offers of NAFTA country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program, except that for acquisitions with an estimated value of less than $53,150, only Canadian end products are eligible products. Eligible products from NAFTA countries are entitled to the nondiscriminatory treatment of the Trade Agreements Act. NAFTA does not prohibit the purchase of other foreign end products.

(b) NAFTA applies to construction materials if the estimated value of the construction contract is $6,909,500 or more.

(c) The procedures in 25.408 apply to the acquisition of NAFTA country services, other than services identified in 25.401. NAFTA country services are services provided by a firm established in a NAFTA country under service contracts with an estimated acquisition value of $53,150 or more ($6,909,500 or more for construction).

25.406 Israeli Trade Act.

Acquisitions of supplies by most agencies are subject to the Israeli Trade Act, if the estimated value of the acquisition is $50,000 or more but does not exceed the Trade Agreements Act threshold for supplies (see 25.403(b)(1)). Agencies other than the Department of Defense, the Department of Energy, the Department of Transportation, the Bureau of Reclamation of the Department of the Interior, the Federal Housing Finance Board, and the Office of Thrift Supervision must evaluate offers of Israeli end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The Israeli Trade Act does not prohibit the purchase of other foreign end products.

25.407 Agreement on Trade in Civil Aircraft.

Under the authority of Section 303 of the Trade Agreements Act, the U.S. Trade Representative has waived the Buy American Act for civil aircraft and related articles, that meet the substantial transformation test of the Trade Agreements Act, from countries that are parties to the Agreement on Trade in Civil Aircraft. Those countries are Austria, Belgium, Bulgaria, Canada, Denmark, Egypt, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Macao, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, Switzerland, and the United Kingdom.

25.408 Procedures.

(a) If the Trade Agreements Act or NAFTA applies (see 25.401), the contracting officer must—

(1) Comply with the requirements of 5.203, Publicizing and response time;

(2) Comply with the requirements of 5.207, Preparation and Transmittal of Synopses, including the appropriate ''Numbered Note'' (5.207(e)(2)) for contracts that are subject to the Trade Agreements Act;

(3) Not include technical requirements in solicitations solely to preclude the acquisition of eligible products;

(4) Specify in solicitations that offerors must submit offers in the English language and in U.S. dollars (see 52.214–34, Submission of Offers in the English Language, and 52.214–35, Submission of Offers in U.S. Currency, or paragraph (c)(5) of 52.215–1, Instruction to Offerors—Competitive Acquisitions); and

(5) Provide unsuccessful offerors from designated or NAFTA countries notice in accordance with 14.409–1 or 15.503.

(b) See Subpart 25.5 for evaluation procedures and examples.

Subpart 25.5—Evaluating Foreign Offers—Supply Contracts

25.501 General.

The contracting officer—

(a) Must apply the evaluation procedures of this subpart to each line item of an offer unless either the offer or the solicitation specifies evaluation on a group basis (see 25.503);

(b) May rely on the offeror's certification of end product origin when evaluating a foreign offer;

(c) Must identify and reject offers of end products that are prohibited or sanctioned in accordance with Subparts 25.6 and 25.7; and (d) Must not use the Buy American Act and Balance of Payments Program evaluation factors prescribed in this subpart to provide a preference for one foreign offer over another foreign offer.

25.502 Application.

(a) Unless otherwise specified in agency regulations, perform the following steps in the order presented:

(1) Eliminate all offers or offerors that are unacceptable for reasons other than price; *e.g.*, nonresponsive, debarred or suspended, sanctioned (see Subpart 25.6), or a prohibited source (see Subpart 25.7).

(2) Rank the remaining offers by price.

(3) If the solicitation specifies award on the basis of factors in addition to cost or price, apply the evaluation factors as specified in this section and use the evaluated cost or price in determining the offer that represents the best value to the Government.

(b) For acquisitions subject to the Trade Agreements Act (see 25.401 and 25.403(b))—

(1) Consider only offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products, unless no offers of such end products were received;

(2) If the agency gives the same consideration given eligible offers to offers of U.S.-made end products that are not domestic end products, award on the low offer. Otherwise, evaluate in accordance with agency procedures; and

(3) If there were no offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products, make a nonavailability determination (see 25.103(b)(2)) and award on the low offer (see 25.403(c)).

(c) For acquisitions not subject to the Trade Agreements Act, but subject to the Buy American Act or the Balance of Payments Program (NAFTA or the Israeli Trade Act also may apply), the following applies:

(1) If the low offer is a domestic offer or an eligible offer under NAFTA or the Israeli Trade Act, award on that offer.

(2) If the low offer is a noneligible offer and there were no domestic offers (see 25.103(b)(3)), award on the low offer.

(3) If the low offer is a noneligible offer and there is an eligible offer that is lower than the lowest domestic offer, award on the low offer. The Buy American Act and the Balance of Payments Program provide an evaluation preference only for domestic offers.

(4) Otherwise, apply the appropriate evaluation factor provided in 25.105 or 25.304 to the low offer.

(i) If the evaluated price of the low offer remains less than the lowest domestic offer, award on the low offer.

(ii) If the price of the lowest domestic offer is less than the evaluated price of the low offer, award on the lowest domestic offer.

(d) *Ties.* (1) If application of an evaluation factor results in a tie between a domestic offer and a foreign offer, award on the domestic offer.

(2) If no evaluation preference was applied (*i.e.*, offers afforded nondiscriminatory treatment under the Buy American Act or Balance of Payments Program), resolve ties between domestic and foreign offers by a witnessed drawing of lots by an impartial individual.

(3) Resolve ties between foreign offers from small business concerns (under the Buy American Act and Balance of Payments Program, a small business offering a manufactured article that does not meet the definition of ''domestic end product'' is a foreign offer) or foreign offers from a small business concern and a large business concern in accordance with 14.408–6(a).

25.503 Group offers.

(a) If the solicitation or an offer specifies that award can be made only on a group of line items or on all line items contained in the solicitation or offer, reject the offer—

(1) If any part of the award would consist of sanctioned or prohibited end products (see Subparts 25.6 and 25.7); or

(2) If the Trade Agreements Act applies and any part of the offer consists of items restricted in accordance with 25.403(c).

(b) If an offer restricts award to a group of line items or to all line items contained in the offer, determine for each line item whether to apply an evaluation factor (see 25.504–4, Example 1).

(1) First, evaluate offers that do not specify an award restriction on a line item basis in accordance with 25.502, determining a tentative award pattern by selecting for each line item the offer with the lowest evaluated price.

(2) Evaluate an offer that specifies an award restriction against the offered prices of the tentative award pattern, applying the appropriate evaluation factor on a line item basis.

(3) Compute the total evaluated price for the tentative award pattern and the offer that specified an award restriction.

(4) Unless the total evaluated price of the offer that specified an award restriction is less than the total evaluated price of the tentative award pattern, award based on the tentative award pattern.

(c) If the solicitation specifies that award will be made only on a group of line items or all line items contained in the solicitation, determine the category of end products on the basis of each line item, but determine whether to apply an evaluation factor on the basis of the group of items (see 25.504–4, Example 2).

(1) If the proposed price of domestic end products exceeds 50 percent of the total proposed price of the group, evaluate the entire group as a domestic offer. Evaluate all other groups as foreign offers.

(2) For foreign offers, if the proposed price of domestic end products and eligible products exceeds 50 percent of the total proposed price of the group, evaluate the entire group as an eligible offer.

(3) Apply the evaluation factor to the entire group in accordance with 25.502.

25.504 Evaluation examples.

The following examples illustrate the application of the evaluation procedures in 25.502 and 25.503. The examples assume that the contracting officer has eliminated all offers that are unacceptable for reasons other than price or a trade agreement (see 25.502(a)(1)). Although these examples are generally constructed in terms of the Buy American Act, the same evaluation procedures would apply under the Balance of Payments Program. The evaluation factor may change as provided in agency regulations.

25.504–1 Buy American Act/Balance of Payments Program.

(a)(1) *Example 1.*

Offer A ...	$12,000	Domestic end product, small business.
Offer B ...	11,700	Domestic end product, small business.
Offer C ...	10,000	U.S.-made end product (not domestic), small business.

(2) *Analysis:* This acquisition is for end products for use in the United States and is set aside for small business concerns. The Buy American Act applies. Since the acquisition value is less than $25,000 and the acquisition is set aside, none of the trade agreements apply. Perform the steps in 25.502(a). Offer C is evaluated as a foreign end product because it is the product of a small business, but is not a domestic end product (see 25.502(c)(4)). Since Offer B is a domestic offer, apply the 12 percent factor to Offer C (see 25.105(b)(2)). The resulting evaluated price of $11,200 remains lower than Offer B. The cost of Offer B is therefore unreasonable (see 25.105(c)). Award on Offer C at $10,000 (see 25.502(c)(4)(i)).

(b)(1) Example 2.

Offer A ...	$110,000	Domestic end product, small business.

Offer B ...	107,000	Domestic end product, small business.
Offer C ...	102,000	U.S.-made end product (not domestic), small business.

(2) *Analysis:* This acquisition is for end products for use outside the United States and is set aside for small business concerns. Since the value of the acquisition exceeds the simplified acquisition threshold, the Balance of Payments Program applies. While the acquisition value exceeds $25,000, none of the trade agreements apply because the acquisition is set aside. Perform the steps in 25.502(a). Offer C is evaluated as a foreign end product because it is the product of a small business, but is not a domestic end product (see 25.502(c)(4)). After applying the 50 percent factor, the evaluated price of Offer C is $153,000. Award on Offer B at $107,000 (see 25.502(c)(4)(ii)).

25.504–2 Trade Agreements Act/Caribbean Basin Trade Initiative/NAFTA.

Example 1.

Offer A ...	$204,000	U.S.-made end product (not domestic).
Offer B ...	203,000	U.S.-made end product (domestic), small business.
Offer C ...	200,000	Eligible product.
Offer D ...	195,000	Noneligible product (not U.S.-made).

Analysis: Eliminate Offer D because the Trade Agreements Act applies and there is an offer of a U.S.-made or an eligible product (see 25.502(b)(1)). If the agency gives the same consideration given eligible offers to offers of U.S.-made end products that are not domestic offers, it is unnecessary to determine if U.S.-made end products are domestic (large or small business). No further analysis is necessary. Award on the low remaining offer, Offer C (see 25.502(b)(2)).

25.504–3 NAFTA/Israeli Trade Act.

(a) Example 1.

Offer A ...	$105,000	Domestic end product, small business.
Offer B ...	100,000	Eligible product.

Analysis: Since the low offer is an eligible offer, award on the low offer (see 25.502(c)(1)).

(b) Example 2.

Offer A ...	$105,000	Eligible product.
Offer B ...	103,000	Noneligible product.

Analysis: Since the acquisition is not subject to the Trade Agreements Act, the contracting officer can consider the noneligible offer. Since no domestic offer was received, make a nonavailability determination and award on Offer B (see 25.502(c)(2)).

(c) Example 3.

Offer A ...	$105,000	Domestic end product, large business.
Offer B ...	103,000	Eligible product.
Offer C ...	100,000	Noneligible product.

Analysis: Since the acquisition is not subject to the Trade Agreements Act, the contracting officer can consider the noneligible offer. Because the eligible offer (Offer B) is lower than the domestic offer (Offer A), no evaluation factor applies to the low offer (Offer C). Award on the low offer (see 25.502(c)(3)).

25.504–4 Group award basis.

(a) Example 1.

Item	Offers		
	A	B	C
1	DO = $55,000	EL = $56,000	NEL = $50,000
2	NEL = 13,000	EL = 10,000	EL = 13,000
3	NEL = 11,500	DO = 12,000	DO = 10,000
4	NEL = 24,000	EL = 28,000	NEL = 22,000
5	DO = 18,000	NEL = 10,000	DO = 14,000
	121,500	116,000	109,000

Key: DO = Domestic end product; EL = Eligible product; NEL = Noneligible product.

Problem: Offeror C specifies all-or-none award. Assume all offerors are large businesses. The Trade Agreements Act does not apply.

Analysis: (see 25.503)

STEP 1: Evaluate Offers A & B before considering Offer C and determine which offer has the lowest evaluated cost for each line item (the tentative award pattern):

Item 1: Low offer A is domestic; select A.

Item 2: Low offer B is eligible; do not apply factor; select B.

Item 3: Low offer A is noneligible and Offer B is a domestic offer. Apply a 6 percent factor to Offer A. The evaluated price of Offer A is higher than Offer B; select B.

Item 4: Low offer A is noneligible. Since neither offer is a domestic offer, no evaluation factor applies; select A.

Item 5: Low offer B is noneligible; apply a 6 percent factor to Offer B. Offer A is still higher than Offer B; select B.

STEP 2: Evaluate Offer C against the tentative award pattern for Offers A and B:

Item	Offers		
	Low offer	Tentative award pattern from A and B	C
1	A	DO=$55,000	* NEL=$53,000
2	B	EL=10,000	EL=13,000
3	B	DO=12,000	DO=10,000
4	A	NEL=24,000	NEL=22,000
5	B	NEL=10,600	DO=14,000

Item	Offers		
	Low offer	Tentative award pattern from A and B	C
		111,600	112,000

*Offer + 6 percent.

On a line item basis, apply a factor to any noneligible offer if the other offer for that line item is domestic.

For Item 1, apply a factor to Offer C because Offer A is domestic and the acquisition was not subject to the Trade Agreements Act. The evaluated price of Offer C, Item 1, becomes $53,000 ($50,000 plus 6 percent). Apply a factor to Offer B, Item 5, because it is a noneligible product and Offer C is domestic. The evaluated price of Offer B is $10,600 ($10,000 plus 6 percent). Evaluate the remaining items without applying a factor.

STEP 3: The tentative unrestricted award pattern from Offers A and B is lower than the evaluated price of Offer C. Award the combination of Offers A and B. Note that if Offer C had not specified all-or-none award, award would be made on Offer C for line items 1, 3, and 4, totaling an award of $82,000.

(b) Example 2.

Item	Offers		
	A	B	C
1	DO=$50,000	EL=$50,500	NEL=$50,000
2	NEL=10,300	NEL=10,000	EL=10,200
3	EL=20,400	EL=21,000	NEL=20,200
4	DO=10,500	DO=10,300	DO=10,400
	91,200	91,800	90,800

Problem: The solicitation specifies award on a group basis. Assume the Buy American Act applies and the acquisition cannot be set aside for small business concerns. All offerors are large businesses.

Analysis: (see 25.503(c))

STEP 1: Determine which of the offers are domestic (see 25.503(c)(1)):

	Domestic [percent]	Determination
A	60,500/ 91,200=66.3%.	Domestic
B	10,300/ 91,800=11.2%.	Foreign
C	10,400/ 90,800=11.5%.	Foreign

STEP 2: Determine whether foreign offers are eligible or noneligible offers (see 25.503(c)(2)):

	Domestic + eligible [percent]	Determination
A	N/A	Domestic
B	81,800/ 91,800=89.1%.	Eligible
C	20,600/ 90,800=22.7%.	Noneligible

STEP 3: Determine whether to apply an evaluation factor (see 25.503(c)(3)). The low offer (Offer C) is a foreign offer. There is no eligible offer lower than the domestic offer. Therefore, apply the factor to the low offer. Addition of the 6 percent factor (use 12 percent if Offer A is a small business) to Offer C yields an evaluated price of $96,248 ($90,800 + 6 percent). Award on Offer A (see 25.502(c)(4)(ii)). Note that, if Offer A were greater than Offer B, an evaluation factor would not be applied and award would be on Offer C (see 25.502(c)(3)).

Subpart 25.6—Trade Sanctions

25.600 Scope of subpart.

This subpart implements sanctions imposed by the President pursuant to Section 305(g)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)), on European Union (EU) member states that discriminate against U.S. products or services (sanctioned EU member states). This subpart does not apply to contracts for supplies or services awarded and performed outside the United States, or to the Department of Defense. For thresholds unique to individual agencies, see agency regulations.

25.601 Policy.

(a) Except as provided in 25.602, agencies must not award contracts for—

(1) Sanctioned EU country end products with an estimated acquisition value less than $186,000;

(2) Sanctioned EU country construction with an estimated acquisition value less than $7,143,000; or

(3) Sanctioned EU country services as follows (Federal Service Code or Category from the Federal Procurement Data System Product/Service Code Manual is indicated in parentheses):

(i) Service contracts regardless of acquisition value for—

(A) All transportation services, including launching services (all V codes, J019, J998, J999, and K019);

(B) Dredging (Y216 and Z216);

(C) Management and operation of certain Government or privately owned facilities used for Government purposes, including federally funded research and development centers (all M codes);

(D) Development, production or coproduction of program material for broadcasting, such as motion pictures (T006 and T016);

(E) Research and development (all A codes);

(F) Airport concessions (S203);

(G) Legal services (R418);

(H) Hotel and restaurant services (S203);

(I) Placement and supply of personnel services (V241 and V251);

(J) Investigation and security services (S206, S211, and R423);

(K) Education and training services (all U codes and R419);

(L) Health and social services (all O and G codes);

(M) Recreational, cultural, and sporting services (G003); or

(N) Telecommunications services (encompassing only voice telephony, telex, radio telephony, paging, and satellite services) (S1, D304, D305, D316, D317, and D399).

(ii) All other service contracts with an estimated acquisition value less than $186,000.

(b) Determine the applicability of sanction thresholds in the manner provided at 25.403(b).

25.602 Exceptions.

(a) The sanctions in 25.601 do not apply to—

(1) Purchases at or below the simplified acquisition threshold awarded using simplified acquisition procedures;

(2) Total small business set-asides in accordance with 19.502–2;

(3) Contracts in support of U.S. national security interests; or

(4) Contracts for essential spare, repair, or replacement parts not otherwise available from nonsanctioned countries.

(b)(1) The head of the agency, without power of redelegation, may authorize the award of a contract or class of contracts for sanctioned EU country end products, services, and construction, the purchase of which is otherwise prohibited by 25.601(a), if the head of the agency determines that such action is necessary—

(i) In the public interest;

(ii) To avoid the restriction of competition in a manner that would limit the acquisition in question to, or would establish a preference for, the services, articles, materials, or supplies of a single manufacturer or supplier; or

(iii) Because there would be or are an insufficient number of potential or actual offerors to ensure the acquisition of services, articles, materials, or supplies of requisite quality at competitive prices.

(2) When the head of the agency makes a determination in accordance with paragraph (b)(1) of this section, the agency must notify the U.S. Trade Representative within 30 days after contract award.

Subpart 25.7—Prohibited Sources

25.701 Restrictions.

(a) The Government generally does not acquire supplies or services that cannot be imported lawfully into the United States. Therefore, even for overseas use, agencies and their contractors and subcontractors must not acquire any supplies or services originating from sources within, or that were located in or transported from or through—

(1) Cuba (31 CFR part 515);

(2) Iran (31 CFR part 560);

(3) Iraq (31 CFR part 575);

(4) Libya (31 CFR part 550);

(5) North Korea (31 CFR part 500); or

(6) Sudan (31 CFR part 538).

(b) Agencies and their contractors and subcontractors must not acquire any supplies or services from entities controlled by the Government of Iraq or other specially designated nationals (31 CFR Chapter V, Appendix A).

25.702 Source of further information.

Questions concerning the restrictions in 25.701 should be referred to the Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220 (Telephone (202) 622–2520).

Subpart 25.8—Other International Agreements and Coordination

25.801 General.

Treaties and agreements between the United States and foreign governments affect the evaluation of offers from foreign entities and the performance of contracts in foreign countries.

25.802 Procedures.

(a) When placing contracts with contractors located outside the United States, for performance outside the United States, contracting officers must—

(1) Determine the existence and applicability of any international agreements and ensure compliance with these agreements; and

(2) Conduct the necessary advance acquisition planning and coordination between the appropriate U.S. executive agencies and foreign interests as required by these agreements.

(b) The Department of State publishes many international agreements in the ''United States Treaties and Other International Agreements'' series. Copies of this publication normally are available in overseas legal offices and U.S. diplomatic missions.

(c) Contracting officers must award all contracts with Taiwanese firms or organizations through the American Institute of Taiwan (AIT). AIT is under contract to the Department of State.

Subpart 25.9—Customs and Duties

25.900 Scope of subpart.

This subpart provides policies and procedures for exempting from import duties certain supplies purchased under Government contracts.

25.901 Policy.

United States laws impose duties on foreign supplies imported into the customs territory of the United States. Certain exemptions from these duties are available to Government agencies. Agencies must use these exemptions when the anticipated savings to appropriated funds will outweigh the administrative costs associated with processing required documentation.

25.902 Procedures.

For regulations governing importations and duties, see the Customs Regulations issued by the U.S. Customs Service, Department of the Treasury (19 CFR Chapter 1). Except as provided elsewhere in the Customs Regulations (see 19 CFR 10.100), all shipments of imported supplies purchased under Government contracts are subject to the usual Customs entry and examination requirements. Unless the agency obtains an exemption (see 25.903), those shipments are also subject to duty.

25.903 Exempted supplies.

(a) Subchapters VIII and X of Chapter 98 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) list supplies for which exemptions from duty may be obtained when imported into the customs territory of the United States under a Government contract. For certain of these supplies, the contracting agency must certify to the Commissioner of Customs that they are for the purpose stated in the Harmonized Tariff Schedule (see 19 CFR 10.102–104, 10.114, and 10.121 and 15 CFR part 301 for requirements and formats).

(b) Supplies (excluding equipment) for Government-operated vessels or aircraft may be withdrawn from any customs-bonded warehouse, from continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone, free of duty and internal revenue tax as provided in 19 U.S.C. 1309 and 1317. The contracting activity must cite this authority on the appropriate customs form when making purchases (see 19 CFR 10.59—10.65).

Subpart 25.10—Additional Foreign Acquisition Regulations

25.1001 Waiver of right to examination of records.

(a) *Policy.* The clause at 52.215–2, Audit and Records—Negotiation, prescribed at 15.209(b), and paragraph (d) of the clause at 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, prescribed at 12.301(b)(4), implement 10 U.S.C. 2313 and 41 U.S.C. 254d. The basic clauses authorize examination of records by the Comptroller General.

(1) Insert the appropriate basic clause, whenever possible, in negotiated contracts with foreign contractors.

(2) The contracting officer may use 52.215–2 with its Alternate III or 52.212–5 with its Alternate I after—

(i) Exhausting all reasonable efforts to include the basic clause;

(ii) Considering factors such as alternate sources of supply, additional cost, and time of delivery; and

(iii) The head of the agency has executed a determination and findings in accordance with paragraph (b) of this section, with the concurrence of the Comptroller General. However, concurrence of the Comptroller General is not required if the contractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination.

(b) *Determination and findings.* The determination and findings must—

(1) Identify the contract and its purpose, and identify if the contract is with a foreign contractor or with a

foreign government or an agency of a foreign government;

(2) Describe the efforts to include the basic clause;

(3) State the reasons for the contractor's refusal to include the basic clause;

(4) Describe the price and availability of the supplies or services from the United States and other sources; and

(5) Determine that it will best serve the interest of the United States to use the appropriate alternate clause in paragraph (a)(2) of this section.

25.1002 Use of foreign currency.

(a) Unless an international agreement or the Trade Agreements Act (see 25.408(a)(3)) requires a specific currency, contracting officers must determine whether solicitations for contracts to be entered into and performed outside the United States will require submission of offers in U.S. currency or a specified foreign currency. In unusual circumstances, the contracting officer may permit submission of offers in other than a specified currency.

(b) To ensure a fair evaluation of offers, solicitations generally should require all offers to be priced in the same currency. However, if the solicitation permits submission of offers in other than a specified currency, the contracting officer must convert the offered prices to U.S. currency for evaluation purposes. The contracting officer must use the current market exchange rate from a commonly used source in effect as follows:

(1) For acquisitions conducted using sealed bidding procedures, on the date of bid opening.

(2) For acquisitions conducted using negotiation procedures—

(i) On the date specified for receipt of offers, if award is based on initial offers; otherwise

(ii) On the date specified for receipt of final proposal revisions.

(c) If a contract is priced in foreign currency, the agency must ensure that adequate funds are available to cover currency fluctuations to avoid a violation of the Anti-Deficiency Act (31 U.S.C. 1341, 1342, 1511–1519).

Subpart 25.11—Solicitation Provisions and Contract Clauses

25.1101 Acquisition of supplies.

The following provisions and clauses apply to the acquisition of supplies and the acquisition of services involving the furnishing of supplies.

(a)(1) Insert the clause at 52.225–1, Buy American Act—Balance of Payments Program—Supplies, in solicitations and contracts with a value exceeding $2,500 but not exceeding $25,000; and in solicitations and contracts with a value exceeding $25,000, if none of the clauses prescribed in paragraphs (b) and (c) of this section apply, except if—

(i) The solicitation is restricted to domestic end products in accordance with Subpart 6.3;

(ii) The acquisition is for supplies for use within the United States and an exception to the Buy American Act applies (*e.g.*, nonavailability or public interest); or

(iii) The acquisition is for supplies for use outside the United States and an exception to the Balance of Payments Program applies.

(2) Insert the provision at 52.225–2, Buy American Act—Balance of Payments Program Certificate, in solicitations containing the clause at 52.225–1.

(b)(1)(i) Insert the clause at 52.225–3, Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program, in solicitations and contracts with a value exceeding $25,000 but less than $186,000, unless—

(A) The acquisition is for the acquisition of supplies, or for services involving the furnishing of supplies, for use outside the United States, and the value of the acquisition is less than the simplified acquisition threshold; or

(B) The acquisition is exempt from the North American Free Trade Agreement and the Israeli Trade Act (see 25.401). For acquisitions of agencies not subject to the Israeli Trade Act (see 25.406), see agency regulations.

(ii) If the acquisition value exceeds $25,000 but is less than $50,000, use the clause with its Alternate I.

(iii) If the acquisition value is $50,000 or more but less than $53,150, use the clause with its Alternate II.

(2)(i) Insert the provision at 52.225–4, Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program Certificate, in solicitations containing the clause at 52.225–3.

(ii) If the acquisition value exceeds $25,000 but is less than $50,000, use the provision with its Alternate I.

(iii) If the acquisition value is $50,000 or more but less than $53,150, use the provision with its Alternate II.

(c)(1) Insert the clause at 52.225–5, Trade Agreements, in solicitations and contracts valued at $186,000 or more, if the Trade Agreements Act applies (see 25.401 and 25.403) and the agency has determined that the restrictions of the Buy American Act or Balance of Payments Program are not applicable to U.S.-made end products, unless the acquisition is to be awarded and performed outside the United States in support of a contingency operation or a humanitarian or peacekeeping operation and does not exceed the increased simplified acquisition threshold of $200,000. If the agency has not made such a determination, the contracting officer must follow agency procedures.

(2) Insert the provision at 52.225–6, Trade Agreements Certificate, in solicitations containing the clause at 52.225–5.

(d) Insert the provision at 52.225–7, Waiver of Buy American Act for Civil Aircraft and Related Articles, in solicitations for civil aircraft and related articles (see 25.407), if the acquisition value is less than $186,000.

(e) Insert the clause at 52.225–8, Duty-Free Entry, in solicitations and contracts for supplies that may be imported into the United States and for which duty-free entry may be obtained in accordance with 25.903(a), if the value of the acquisition—

(1) Exceeds $100,000; or

(2) Is $100,000 or less, but the savings from waiving the duty is anticipated to be more than the administrative cost of waiving the duty. When used for acquisitions valued at $100,000 or less, the contracting officer may modify paragraphs (b)(1) and (i)(2) of the clause to reduce the dollar figure.

25.1102 Acquisition of construction.

(a) Insert the clause at 52.225–9, Buy American Act—Balance of Payments Program—Construction Materials, in solicitations and contracts for construction valued at less than $6,909,500.

(1) List in paragraph (b)(2) of the clause all foreign construction material excepted from the requirements of the Buy American Act.

(2) If the head of the agency determines that a higher percentage is appropriate, substitute the higher evaluation percentage in paragraph (b)(3)(i) of the clause.

(b)(1) Insert the provision at 52.225–10, Notice of Buy American Act/Balance of Payments Program Requirement—Construction Materials, in solicitations containing the clause at 52.225–9.

(2) If insufficient time is available to process a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program prior to receipt of offers, use the provision with its Alternate I.

(c) Insert the clause at 52.225–11, Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements, in solicitations and contracts valued at $6,909,500 or more.

(1) List in paragraph (b)(3) of the clause all foreign construction material excepted from the requirements of the Buy American Act, other than designated country or NAFTA country construction material.

(2) If the head of the agency determines that a higher percentage is appropriate, substitute the higher evaluation percentage in paragraph (b)(4)(i) of the clause.

(3) For acquisitions valued at $6,909,500 or more, but less than $7,143,000, use the clause with its Alternate I.

(d)(1) Insert the provision at 52.225–12, Notice of Buy American Act/Balance of Payments Program Requirement—Construction Materials under Trade Agreements, in solicitations containing the clause at 52.225–11.

(2) If insufficient time is available to process a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program before receipt of offers, use the provision with its Alternate I.

25.1103 Other provisions and clauses.

(a) *Restrictions on certain foreign purchases.* Insert the clause at 52.225–13, Restrictions on Certain Foreign Purchases, in solicitations and contracts with a value exceeding $2,500.

(b) *Translations.* Insert the clause at 52.225–14, Inconsistency Between English Version and Translation of Contract, in solicitations and contracts if anticipating translation into another language.

(c) *Sanctions.* (1) Except as provided in paragraph (c)(2) of this section, insert the clause at—

(i) 52.225–15, Sanctioned European Union Country End Products, in solicitations and contracts for supplies valued at less than $186,000; or

(ii) 52.225–16, Sanctioned European Union Country Services, in solicitations and contracts for services—

(A) Listed in 25.601(a)(3)(i); or

(B) Valued at less than $186,000.

(2) Do not insert the clauses in paragraph (c)(1) of this section in—

(i) Solicitations issued and contracts awarded by a contracting activity located outside of the United States, provided the supplies will be used or the services will be performed outside of the United States;

(ii) Purchases at or below the simplified acquisition threshold awarded using simplified acquisition procedures;

(iii) Total small business set-asides;

(iv) Contracts in support of U.S. national security interests;

(v) Contracts for essential spare, repair, or replacement parts available only from sanctioned EU member states; or

(vi) Contracts for which the head of the agency has made a determination in accordance with 25.602(b).

(d) *Foreign currency offers.* Insert the provision at 52.225–17, Evaluation of Foreign Currency Offers, in solicitations that permit the use of other than a specified currency. Insert in the provision the source of the rate to be used in the evaluation of offers.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.102 [Amended]

17. Amend section 36.102 by removing the definition ''Construction''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

18. Amend section 52.212–3 by revising the date of the provision and paragraphs (f) and (g) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Feb 2000)

* * * * *

(f) *Buy American Act—Balance of Payments Program Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225–1, Buy American Act—Balance of Payments Program—Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product as defined in the clause of this solicitation entitled ''Buy American Act—Balance of Payments Program—Supplies'' and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(2) Foreign End Products:

Line Item No.: _____

Country of Origin: _____

(List as necessary)

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(g)(1) *Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program Certificate.* (Applies only if the clause at FAR 52.225–3, Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program'' and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States.

(ii) The offeror certifies that the following supplies are NAFTA country end products or Israeli end products as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program'':

NAFTA Country or Israeli End Products

Line Item No.: _____

Country of Origin: _____

(List as necessary)

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program.'' The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products

Line Item No.: _____

Country of Origin: _____

(List as necessary)

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) *Buy American Act—North American Free Trade Agreements—Israeli Trade Act—Balance of Payments Program Certificate, Alternate I (Feb 2000).* If Alternate I to the clause at FAR 52.225–3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program'':

Canadian End Products

Line Item No.: _____

(List as necessary)

(3) *Buy American Act—North American Free Trade Agreements—Israeli Trade Act—Balance of Payments Program Certificate, Alternate II (Feb 2000).* If Alternate II to the clause at FAR 52.225–3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program'':

Canadian or Israeli End Products

Line Item No.: _____

Country of Origin: _____

(List as necessary)

(4) *Trade Agreements Certificate.* (Applies only if the clause at FAR 52.225–5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(4)(ii) of this provision, is a U.S.-made, designated country, Caribbean Basin country, or NAFTA country end product, as defined in the clause of this solicitation entitled ''Trade Agreements.''

(ii) The offeror shall list as other end products those end products that are not U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products.

Other End Products

Line Item No.: _____

Country of Origin: _____

(List as necessary)

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items subject to the Trade Agreements Act, the Government will evaluate offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The Government will consider for award only offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

* * * * *

19. Amend section 52.212–5 by revising the date of the clause; by revising paragraph (a); by revising paragraphs (b)(16) through (b)(21); and by adding Alternate I after ''(End of clause)'' to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (Feb 2000)

(a) The Contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

(1) 52.222–3, Convict Labor (E.O. 11755).

(2) 52.225–13, Restrictions on Certain Foreign Purchases (E.O.'s 12722, 12724, 13059, and 13067).

(3) 52.233–3, Protest after Award (31 U.S.C. 3553).

(b) * * *

____(16) 52.225–1, Buy American Act—Balance of Payments Program—Supplies (41 U.S.C. 10a–10d).

____(17)(i) 52.225–3, Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program (41 U.S.C. 10a–10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note).

____(ii) Alternate I of 52.225–3.

____(iii) Alternate II of 52.225–3.

____(18) 52.225–5, Trade Agreements (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

____(19) 52.225–15, Sanctioned European Union Country End Products (E.O. 12849).

____(20) 52.225–16, Sanctioned European Union Country Services (E.O. 12849).

____(21) [Reserved]

* * * * *

Alternate I (Feb 2000). As prescribed in 12.301(b)(4), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to ''paragraphs (a), (b), (c), or (d) of this clause'' in the redesignated paragraph (d) to read ''paragraphs (a), (b), and (c) of this clause''.

20. Amend section 52.213–4 by—

a. Revising the date of the clause;

b. Redesignating paragraph (a)(1)(ii) as (a)(1)(iii) and adding a new paragraph (a)(1)(ii);

c. Removing paragraph (a)(2)(i) and redesignating paragraphs (a)(2)(ii) through (a)(2)(viii) as (a)(2)(i) through (a)(2)(vii), respectively; and

d. Revising paragraph (b)(1)(viii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Feb 2000)

(a)(1) * * *

(ii) 52.225–13, Restrictions on Certain Foreign Purchases (Feb 2000) (E.O.'s 12722, 12724, 13059, and 13067).

* * * * *

(b)(1) * * *

(viii) 52.225–1, Buy American Act—Balance of Payments Program—Supplies (Feb 2000) (41 U.S.C. 10a–10d) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use within the United States if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition—

(A) Is set aside for small business concerns; or

(B) Cannot be set aside for small business concerns (see 19.502–2), and does not exceed $25,000.)

* * * * *

52.214–34 [Amended]

21. Amend the introductory paragraph of section 52.214–34 by removing ''and 25.408(d)''.

52.214–35 [Amended]

22. Amend the introductory paragraph of section 52.214–35 by removing ''and 25.408(d)''.

23. Amend section 52.215–1 by revising the date of the provision and paragraph (c)(5) to read as follows:

52.215–1 Instructions to Offerors—Competitive Acquisition.

* * * * *

Instructions to Offerors—Competitive Acquisitions (Feb 2000)

(c) * * *

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225–17, Evaluation of Foreign Currency Offers, is included in the solicitation.

* * * * *

24. Revise sections 52.225–1 through 52.225–15; add section 52.225–16 and 52.225–17; and remove sections 52.225–18 through 52.225–22 to read as follows:

Subpart 52.2—Text of Provisions and Clauses

Sec.

* * * * *

52.225–1 Buy American Act—Balance of Payments Program—Supplies.

52.225–2 Buy American Act—Balance of Payments Program Certificate.

52.225–3 Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program.

52.225–4 Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program Certificate.

52.225–5 Trade Agreements.

52.225–6 Trade Agreements Certificate.

52.225–7 Waiver of Buy American Act for Civil Aircraft and Related Articles.

52.225–8 Duty-Free Entry.

52.225–9 Buy American Act—Balance of Payments Program—Construction Materials.

52.225–10 Notice of Buy American Act/Balance of Payments Program Requirement—Construction Materials.

52.225–11 Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements.

52.225–12 Notice of Buy American Act/Balance of Payments Program Requirement—Construction Materials under Trade Agreements.

52.225–13 Restrictions on Certain Foreign Purchases.

52.225–14 Inconsistency between English Version and Translation of Contract.

52.225–15 Sanctioned European Union Country End Products.

52.225–16 Sanctioned European Union Country Services.

52.225–17 Evaluation of Foreign Currency Offers.

* * * * *

52.225–1 Buy American Act—Balance of Payments Program—Supplies.

As prescribed in 25.1101(a)(1), insert the following clause:

Buy American Act—Balance of Payments Program—Supplies (Feb 2000)

(a) *Definitions.* As used in this clause—

Component means any item supplied to the Government as part of an end item or of another component.

Cost of components means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Domestic end product means—

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

End product means supplies delivered under a line item of a Government contract.

Foreign end product means an end product other than a domestic end product.

United States means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leases bases.

(b) The Buy American Act (41 U.S.C. 10a–10d) provides a preference for domestic end products for supplies acquired for use in the United States. The Balance of Payments Program provides a preference for domestic end products for supplies acquired for use outside the United States.

(c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled ''Buy American Act—Balance of Payments Program Certificate.''

(End of clause)

52.225–2 Buy American Act—Balance of Payments Program Certificate.

As prescribed in 25.1101(a)(2), insert the following provision:

Buy American Act—Balance of Payments Program Certificate (Feb 2000)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product as defined in the clause of this solicitation entitled ''Buy American Act—Balance of Payments Program—Supplies'' and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic and products.

(b) Foreign End Products:

Line Item No.: _____

Country of Origin: _____

(List as necessary)

(c) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

(End of provision)

52.225–3 Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program.

As prescribed in 25.1101(b)(1)(i), insert the following clause:

Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program (Feb 2000)

(a) *Definitions.* As used in this clause—

Component means any item supplied to the Government as part of an end item or of another component.

Cost of components means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Domestic end product means—

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

End product means supplies delivered under a line item of a Government contract.

Foreign end product means an end product other than a domestic end product.

Israeli end product means an article that—

(1) Is wholly the growth, product, or manufacture of Israel; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Israel into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

North American Free Trade Agreement country means Canada or Mexico.

North American Free Trade Agreement country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a North American Free Trade Agreement (NAFTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a NAFTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

United States means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

(b) *Components of foreign origin.* Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(c) *Implementation.* This clause implements the Buy American Act (41 U.S.C. 10a–10d), the North American Free Trade Agreement Implementation Act (NAFTA) (19 U.S.C. 3301 note), the Israeli Free Trade Area Implementation Act of 1985 (Israeli Trade Act) (19 U.S.C. 2112 note), and the Balance of Payments Program by providing a preference for domestic end products, except for certain foreign end products that are NAFTA country end products or Israeli end products.

(d) *Delivery of end products.* The Contracting Officer has determined that NAFTA and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program Certificate.'' If the Contractor specified in its offer that the Contractor would supply a NAFTA country end product or an Israeli end product, then the Contractor shall supply a NAFTA country end product, an Israeli end product or, at the Contractor's option, a domestic end product.

(End of clause)

Alternate I (Feb 2000). As prescribed in 25.1101(b)(1)(ii), add the following definition to paragraph (a) of the basic clause, and substitute the following paragraph (d) for paragraph (d) of the basic clause:

Canadian end product means an article that—

(1) Is wholly the growth, product, or manufacture of Canada; or

(2) In the case of an article that consists in whole or in part of materials from another

country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(d) Delivery of end products. The Contracting Officer has determined that NAFTA applies to this acquisition. Unless otherwise specified, NAFTA applies to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payment Program Certificate.'' If the Contractor specified in its offer that the Contractor would supply a Canadian end product, then the Contractor shall supply a Canadian end product or, at the Contractor's option, a domestic end product.

Alternate II (Feb 2000). As prescribed in 25.1101(b)(1)(iii), add the following definition to paragraph (a) of the basic clause, and substitute the following paragraph (d) for paragraph (d) of the basic clause:

Canadian end product means an article that—

(1) Is wholly the growth, product, or manufacture of Canada; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(d) *Delivery of end products.* The Contracting Officer has determined that NAFTA and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payment Program Certificate.'' If the Contractor specified in its offer that the Contractor would supply a Canadian end product or an Israeli end product, then the Contractor shall supply a Canadian end product, an Israeli end product or, at the Contractor's option, a domestic end product.

52.225–4 Buy American Act North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program Certificate.

As prescribed in 25.1101(b)(2)(i), insert the following provision:

Buy American Act North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program Certificate (Feb 2000)

(a) The offeror certifies that each end product, except those listed in paragraph (b) or (c) of this provision, is a domestic end product (as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program'') and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States.

(b) The offeror certifies that the following supplies are NAFTA country end products or Israeli end products as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program'':

NAFTA Country or Israeli End Products:

Line Item No. _____
Country of Origin _____
(List as necessary)

(c) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (b) of this provision) as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program.'' The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products

Line Item No.: _____
Country of Origin: _____
(List as necessary)

(d) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

(End of provision)

Alternate I (Feb 2000). As prescribed in 25.1101(b)(2)(ii), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program'':

Canadian End Products:

Line Item No. _____
(List as necessary)

Alternate II (Feb 2000). As prescribed in 25.1101(b)(2)(iii), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program'':

Canadian or Israeli End Products

Line Item No.: _____
Country of Origin: _____
List as necessary)

52.225–5 Trade Agreements.

As prescribed in 25.1101(c)(1), insert the following clause:

Trade Agreements (Feb 2000)

(a) Definitions. As used in this clause.

Caribbean Basin country means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago.

Caribbean Basin country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself. The term excludes products that are excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b), which presently are—

(i) Textiles and apparel articles that are subject to textile agreements;

(ii) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under Title V of the Trade Act of 1974;

(iii) Tuna, prepared or preserved in any manner in airtight containers;

(iv) Petroleum, or any product derived from petroleum; and

(v) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply.

Designated country means any of the following countries:

Aruba, Austria, Bangladesh Belgium, Benin, Bhutan, Botswana, Burkina Faso, Burundi, Canada, Cape Verde, Central African Republic, Chad, Comoros, Denmark, Djibouti, Equatorial Guinea.

Finland, France, Gambia, Germany, Greece, Guinea, Guinea-Bissau, Haiti, Hong Kong, Ireland, Israel, Italy, Japan.

Kiribati, Korea, Republic of Lesotho, Liechtenstein, Luxembourg, Malawi, Maldives, Mali, Mozambique, Nepal, Netherlands, Niger, Norway, Portugal, Rwanda.

Sao Tome and Principe, Sierra Leone, Singapore, Somalia, Spain, Sweden, Switzerland, Tanzania U.R., Togo, Tuvalu, Uganda, United Kingdom, Vanuatu, Western Samoa, Yemen.

Designated country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

End product means supplies delivered under a line item of a Government contract.

North American Free Trade Agreement country means Canada or Mexico.

N*orth American Free Trade Agreement country end product* means an article that—

(1) Is wholly the growth, product, or manufacture of a North American Free Trade Agreement (NAFTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a NAFTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

United States means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

U.S.-made end product means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.,

(b) *Implementation.* This clause implements the Trade, Agreements Act (19 U.S.C. 2501, *et seq.*) and the North American Free Trade Agreement Implementation Act of 1993, (NAFTA) (19 U.S.C. 3301 note), by restricting the acquisition of end products that are not U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products.,

(c) *Delivery of end products.* The Contracting Officer has determined that the Trade Agreements Act and NAFTA apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled ''Trade Agreements Certificate.''

(End of clause)

52.225–6 Trade Agreements Certificate.

As prescribed in 25.1101(c)(2), insert the following provision:

Trade Agreements Certificate (Feb 2000)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a U.S.-made, designated country, Caribbean Basin country, or NAFTA country end product, as defined in the clause of this solicitation entitled ''Trade Agreements.''

(b) The offeror shall list as other end products those supplies that are not U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products.

Other End Products

Line Item No.:

Country of Origin: _____

(List as necessary),

(c) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation. For line items subject to the Trade Agreements Act, the Government will evaluate offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The, Government will consider for award only offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of this solicitation.

(End of provision)

52.225–7 Waiver of Buy American Act for Civil Aircraft and Related Articles.

As prescribed in 25.1101(d), insert the following provision:

Waiver of Buy American Act for Civil Aircraft and Related Articles (Feb 2000)

(a) *Definition. Civil aircraft and related articles,* as used in this provision, means—

(1) All aircraft other than aircraft to be purchased for use by the Department of Defense or the U.S. Coast Guard;

(2) The engines (and parts and components for incorporation into the engines) of these aircraft;

(3) Any other parts, components, and subassemblies for incorporation into the aircraft; and

(4) Any ground flight simulators, and parts and components of these simulators, for use with respect to the aircraft, whether to be used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of the aircraft, and without regard to whether the aircraft or articles receive duty-free treatment under section 601(a)(2) of the Trade Agreements Act.

(b) The U.S. Trade Representative has waived the Buy American Act for acquisitions of civil aircraft and related articles from countries that are parties to the Agreement on Trade in Civil Aircraft. Those countries are Austria, Belgium, Bulgaria, Canada, Denmark, Egypt, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Macao, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, Switzerland, and the United Kingdom.

(c) For the purpose of this waiver, an article is a product of a country only if—

(1) It is wholly the growth, product, or manufacture of that country; or

(2) In the case of an article that consists in whole or in part of materials from another country, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

(d) The waiver is subject to modification or withdrawal by the U.S. Trade Representative.

(End of provision)

52.225–8 Duty-Free Entry.

As prescribed in 25.1101(e), insert the following clause:

Duty-Free Entry (Feb 2000)

(a) *Definition. Customs territory of the United States* means the States, the District of Columbia, and Puerto Rico.

(b) Except as otherwise approved by the Contracting Officer, the Contractor shall not include in the contract price any amount for duties on supplies specifically identified in the Schedule to be accorded duty-free entry.

(c) Except as provided in paragraph (d) of this clause or elsewhere in this contract, the following procedures apply to supplies not identified in the Schedule to be accorded duty-free entry:

(1) The Contractor shall notify the Contracting Officer in writing of any purchase of foreign supplies (including, without limitation, raw materials, components, and intermediate assemblies) in excess of $10,000 that are to be imported into the customs territory of the United States for delivery to the Government under this contract, either as end products or for incorporation into end products. The Contractor shall furnish the notice to the Contracting Officer at least 20 calendar days before the importation. The notice shall identify the—

(i) Foreign supplies;

(ii) Estimated amount of duty; and

(iii) Country of origin.

(2) The Contracting Officer will determine whether any of these supplies should be accorded duty-free entry and will notify the Contractor within 10 calendar days after receipt of the Contractor's notification.

(3) Except as otherwise approved by the Contracting Officer, the contract price shall be reduced by (or the allowable cost shall not include) the amount of duty that would be payable if the supplies were not entered duty-free.

(d) The Contractor is not required to provide the notification under paragraph (c) of this clause for purchases of foreign supplies if—

(1) The supplies are identical in nature to items purchased by the Contractor or any subcontractor in connection with its commercial business; and

(2) Segregation of these supplies to ensure use only on Government contracts containing duty-free entry provisions is not economical or feasible.

(e) The Contractor shall claim duty-free entry only for supplies to be delivered to the Government under this contract, either as end products or incorporated into end products, and shall pay duty on supplies, or any portion of them, other than scrap, salvage, or competitive sale authorized by the Contracting Officer, diverted to nongovernmental use.

(f) The Government will execute any required duty-free entry certificates for supplies to be accorded duty-free entry and will assist the Contractor in obtaining duty-free entry for these supplies.

(g) Shipping documents for supplies to be accorded duty-free entry shall consign the shipments to the contracting agency in care of the Contractor and shall include the—

(1) Delivery address of the Contractor (or contracting agency, if appropriate);

(2) Government prime contract number;

(3) Identification of carrier;

(4) Notation ''*UNITED STATES GOVERNMENT*, _____ [*agency*], _____ Duty-free entry to be claimed pursuant to Item No(s) _____ [*from Tariff Schedules*] _____, Harmonized Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, please release shipment under 19 CFR part 142 and notify [*cognizant contract administration office*] for execution of Customs Forms 7501 and 7501–A and any required duty-free entry certificates.'';

(5) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(6) Estimated value in United States dollars.

(h) The Contractor shall instruct the foreign supplier to—

(1) Consign the shipment as specified in paragraph (g) of this clause;

(2) Mark all packages with the words ''UNITED STATES GOVERNMENT'' and the title of the contracting agency; and

(3) Include with the shipment at least two copies of the bill of lading (or other shipping document) for use by the District Director of Customs at the port of entry.

(i) The Contractor shall provide written notice to the cognizant contract administration office immediately after notification by the Contracting Officer that duty-free entry will be accorded foreign supplies or, for duty-free supplies identified in the Schedule, upon award by the Contractor to the overseas supplier. The notice shall identify the—

(1) Foreign supplies;

(2) Country of origin;

(3) Contract number; and

(4) Scheduled delivery date(s).

(j) The Contractor shall include the substance of this clause in any subcontract if—

(1) Supplies identified in the Schedule to be accorded duty-free entry will be imported into the customs territory of the United States; or

(2) Other foreign supplies in excess of $10,000 may be imported into the customs territory of the United States.

(End of clause)

52.225–9 Buy American Act—Balance of Payments Program—Construction Materials.

As prescribed in 25.1102(a), insert the following clause:

Buy American Act—Balance of Payments Program—Construction Materials (Feb 2000)

(a) *Definitions.* As used in this clause—

Component means any article, material, or supply incorporated directly into construction materials.

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Domestic construction material means—

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

Foreign construction material means a construction material other than a domestic construction material.

United States means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

(b) *Domestic preference.* (1) This clause implements the Buy American Act (41 U.S.C. 10a–10d) and the Balance of Payments Program by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the construction material or components listed by the Government as follows: _____ [Contracting Officer to list applicable excepted materials or indicate ''none'']

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent. For determination of unreasonable cost under the Balance of Payments Program, the Contracting Officer will use a factor of 50 percent;

(ii) The application of the restriction of the Buy American Act or Balance of Payments Program to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) *Request for determination of inapplicability of the Buy American Act or Balance of Payments Program.* (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including—

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the

construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act or Balance of Payments Program applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act or Balance of Payments Program applies, use of foreign construction material is noncompliant with the Buy American Act or Balance of Payments Program.

(d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction material description	Unit of measure	Quantity	Price (dollars) [1]
Item 1			
Foreign construction material			
Domestic construction material			
Item 2			
Foreign construction material			
Domestic construction material			

Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).
List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.
Include other applicable supporting information.

(End of clause)

52.225–10 Notice of Buy American Act/Balance of Payments Program Requirement—Construction Materials.

As prescribed in 25.1102(b)(1), insert the following provision:

Notice of Buy American Act/Balance of Payments Program Requirement—Construction Materials (Feb 2000)

(a) *Definitions. Construction material, domestic construction material,* and *foreign construction material,* as used in this provision, are defined in the clause of this solicitation entitled ''Buy American Act—Balance of Payments Program—Construction Materials'' (Federal Acquisition Regulation (FAR) clause 52.225–9).

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225–9 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.* (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act or Balance of Payments Program, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225–9.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers.* (1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR 52.225–9 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR 52.225–9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

Alternate I (Feb 2000). As prescribed in 25.1102(b)(2), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225–9.

52.225–11 Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements.

As prescribed in 25.1102(c)(1), insert the following clause:

Buy American Act—Balance of Payments Program—Construction Materials Under Trade Agreements (Feb 2000)

(a) *Definitions.* As used in this clause—

Component means any article, material, or supply incorporated directly into construction materials.

Construction material means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an

item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Designated country means any of the following countries: Aruba, Austria, Bangladesh, Belgium, Benin, Bhutan, Botswana, Burkina Faso, Burundi, Canada, Cape Verde, Central African Republic, Chad, Comoros, Denmark.

Djibouti, Equatorial Guinea, Finland, France, Gambia, Germany, Greece, Guinea, Guinea-Bissau, Haiti, Hong Kong, Ireland, Israel, Italy, Japan.

Kiribati, Korea, Republic of, Lesotho, Liechtenstein, Luxembourg, Malawi, Maldives, Mali, Mozambique, Nepal, Netherlands, Niger, Norway, Portugal, Rwanda.

Sao Tome and Principe, Sierra Leone, Singapore, Somalia, Spain, Sweden, Switzerland, Tanzania U.R., Togo, Tuvalu, Uganda, United Kingdom, Vanuatu, Western Samoa, Yemen.

Designated country construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different construction material distinct from the materials from which it was transformed.

Domestic construction material means—

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

Foreign construction material means a construction material other than a domestic construction material.

North American Free Trade Agreement country means Canada or Mexico.

North American Free Trade Agreement country construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of a North American Free Trade Agreement (NAFTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a NAFTA country into a new and different construction material distinct from the materials from which it was transformed.

United States means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

(b) *Construction materials.* (1) This clause implements the Buy American Act (41 U.S.C. 10a–10d) and the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act and the North American Free Trade Agreement (NAFTA) apply to this acquisition. Therefore, the Buy American Act and Balance of Payments Program restrictions are waived for designated country and NAFTA country construction materials.

(2) The Contractor shall use only domestic, designated country, or NAFTA country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:_____

[Contracting Officer to list applicable excepted materials or indicate ''none'']

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that—

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent. For determination of unreasonable cost under the Balance of Payments Program, the Contracting Officer will use a factor of 50 percent;

(ii) The application of the restriction of the Buy American Act or Balance of Payments Program to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) *Request for determination of inapplicability of the Buy American Act or Balance of Payments Program.* (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act or Balance of Payments Program applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act or Balance of Payments Program applies, use of foreign construction material is noncompliant with the Buy American Act or Balance of Payments Program.

(d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction material description	Unit of measure	Quantity	Price (dollars) [1]
Item 1:			
Foreign construction material			
Domestic construction material			
Item 2:			
Foreign construction material			
Domestic construction material			

[1] Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).
List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.
Include other applicable supporting information.

(End of clause)

Alternate I (Feb 2000). As prescribed in 25.1102(c)(3), substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

(b) *Construction materials.* (1) This clause implements the Buy American Act (41 U.S.C. 10a–10d) and the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the North American Free Trade Agreement (NAFTA) applies to this acquisition. Therefore, the Buy American Act and Balance of Payments Program restrictions are waived for NAFTA country construction materials.

(2) The Contractor shall use only domestic or NAFTA country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

52.225–12 Notice of Buy American Act/Balance of Payments Program Requirement—Construction Materials Under Trade Agreements.

As prescribed in 25.1102(d)(1), insert the following provision:

Notice of Buy American Act/Balance of Payments Program Requirement—Construction Materials Under Trade Agreements (Feb 2000)

(a) *Definitions. Construction material, designated country construction material, domestic construction material, foreign construction material,* and *NAFTA country construction material,* as used in this provision, are defined in the clause of this solicitation entitled ''Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements'' (Federal Acquisition Regulation (FAR) clause 52.225–11).

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225–11 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.* (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act or Balance of Payments Program, based on claimed unreasonable cost of domestic construction materials, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(4)(i) of FAR clause 52.225–11.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers.* (1) When an offer includes foreign construction material, other than designated country or NAFTA country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225–11, the offeror also may submit an alternate offer based on use of equivalent domestic, designated country, or NAFTA country construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225–11 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225–11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic, designated country, or NAFTA country construction material, and the offeror shall be required to furnish such domestic, designated country, or NAFTA country construction material. An offer based on use of the foreign construction material for which an exception was requested—

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

Alternate I (Feb 2000). As prescribed in 25.1102(d)(2), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225–11.

52.225–13 Restrictions on Certain Foreign Purchases.

As prescribed in 25.1103(a), insert the following clause:

Restrictions on Certain Foreign Purchases (Feb 2000)

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, and Sudan.

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the government of Iraq.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of clause)

52.225–14 Inconsistency between English Version and Translation of Contract.

As prescribed in 25.1103(b), insert the following clause:

Inconsistency Between English Version and Translation of Contract (Feb 2000)

In the event of inconsistency between any terms of this contract and any translation into another language, the English language meaning shall control.

(End of clause)

52.225–15 Sanctioned European Union Country End Products.

As prescribed in 25.1103(c), insert the following clause:

Sanctioned European Union Country End Products (Feb 2000)

(a) *Definitions.* As used in this clause—

Sanctioned European Union country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a sanctioned European Union (EU) member state; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a sanctioned EU member state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Sanctioned European Union member state means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, or the United Kingdom.

(b) The Contractor shall not deliver any sanctioned European Union country end products under this contract.

(End of clause)

52.225–16 Sanctioned European Union Country Services.

As prescribed in 25.1103(c), insert the following clause:

Sanctioned European Union Country Services (Feb 2000)

(a) *Definition. Sanctioned European Union member state,* as used in this clause, means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, or the United Kingdom.

(b) The Contractor shall not perform services under this contract in a sanctioned European Union member state. This prohibition does not apply to subcontracts.

(End of clause)

52.225–17 Evaluation of Foreign Currency Offers.

As prescribed in 25.1103(d), insert the following provision:

Evaluation of Foreign Currency Offers (Feb 2000)

If the Government receives offers in more than one currency, the Government will evaluate offers by converting the foreign currency to United States currency using [*Contracting Officer to insert source of rate*] in effect as follows:

(a) For acquisitions conducted using sealed bidding procedures, on the date of bid opening.

(b) For acquisitions conducted using negotiation procedures—

(1) On the date specified for receipt of offers, if award is based on initial offers; otherwise

(2) On the date specified for receipt of proposal revisions.

(End of provision)

[FR Doc. 99–33431 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 5, 7, 10, 15, and 19

[FAC 97–15; FAR Case 1997–306 (97–306); Item III]

RIN 9000–AI55

Federal Acquisition Regulation; Contract Bundling

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement sections of the Small Business Reauthorization Act of 1997. The sections of the Act define ''contract bundling,'' and require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts.

DATES: *Effective Date:* December 27, 1999.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after December 27, 1999.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before February 25, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Address e-mail comments submitted via the Internet to: farcase.1997–306@gsa.gov.

Please submit comments only and cite FAC 97–15, FAR case 1997–306 (97–306) in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAC 97–15, FAR case 1997–306 (97–306).

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends FAR Parts 2, 4, 5, 7, 10, 15, and 19 to implement Sections 411–417 of the Small Business Reauthorization Act of 1997, Pub. L. 105–135, and the Small Business Administration (SBA) interim rule published in the **Federal Register** at 64 FR 57366, October 25, 1999. Sections 411–417 amend Title 15 of the United States Code to define ''contract bundling,'' and require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because opportunities for participation by small entities in acquisitions involving bundling may increase. An Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

The objective of the interim rule is to establish agency procedures for processing bundled requirements and to ensure maximum small business participation in bundled acquisitions. Agencies must—

- Perform market research when bundled requirements are anticipated;
- Justify bundling in acquisition strategies;
- Meet specific estimated benefit thresholds before bundling requirements;
- Assess the impact of bundling on small businesses;
- Submit solicitations containing bundled requirements to the SBA procurement center representatives for review; and
- Include, in negotiated competitions for bundled requirements, a source selection factor for the offerors' proposed use of small businesses as subcontractors and their past performance in meeting subcontracting goals.

These objectives are stated in Sections 411–417 of Pub. L. 105–135 and in SBA's implementing regulations.

The FAR Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR subparts in accordance with 5 U.S.C. 610. Interested parties

must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 97–15, FAR Case 1997–306 (97–306)), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

The Councils have made a determination under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because this interim rule implements Sections 411–417 of the Small Business Reauthorization Act of 1997, Pub. L. 105–135. Sections 411–417 amend Title 15 of the United States Code to define ''contract bundling,'' and require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts. The SBA published an interim rule in the **Federal Register** at 64 FR 57372, October 25, 1999, with an effective date of December 27, 1999, to implement Sections 411–417 of Pub. L. 105–135. It is necessary to have a December 27, 1999, effective date for this rule to provide contracting regulations that conform with SBA's regulations.

However, pursuant to Pub. L. 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 2, 4, 5, 7, 10, 15, and 19

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 4, 5, 7, 10, 15, and 19 as set forth below:

1. The authority citation for 48 CFR parts 2, 4, 5, 7, 10, 15, and 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. In section 2.101, add, in alphabetical order, the definitions ''bundled contract'' and ''bundling'' to read as follows:

2.101 Definitions.

* * * * *

Bundled contract means a contract that is entered into to meet requirements that are consolidated by bundling, excluding a contract awarded and performed entirely outside the United States.

Bundling means—

(1) Consolidating two or more requirements for supplies or services, previously provided or performed under separate smaller contracts, into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern due to—

(i) The diversity, size, or specialized nature of the elements of the performance specified;

(ii) The aggregate dollar value of the anticipated award;

(iii) The geographical dispersion of the contract performance sites; or

(iv) Any combination of the factors described in paragraphs (1)(i), (ii), and (iii) of this definition.

(2) *Separate smaller contract,* as used in this definition, means a contract that has been performed by one or more small business concerns or that was suitable for award to one or more small business concerns.

(3) This definition does not apply to a contract that will be awarded and performed entirely outside of the United States.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

3. In section 4.601, redesignate paragraph (e) as paragraph (f); add new paragraph (e); and revise the redesignated paragraph (f) to read as follows:

4.601 Record requirements.

* * * * *

(e) In addition to the information described in paragraphs (b), (c), and (d) of this section, agencies must be able to access information from the computer file to identify bundled contracts with a total contract value, including all options, exceeding $5,000,000.

(f) Agencies must transmit this information to the Federal Procurement Data System in accordance with its procedures.

PART 5—PUBLICIZING CONTRACT ACTIONS

4. Revise the section heading and text of 5.206 to read as follows:

5.206 Notices of subcontracting opportunities.

(a) The following entities may use a CBD notice to seek competition for subcontracts, to increase participation by small, small disadvantaged, and women-owned small business firms, and to meet established subcontracting plan goals:

(1) A contractor awarded a contract exceeding $100,000 that is likely to result in the award of any subcontracts.

(2) A subcontractor or supplier, at any tier, under a contract exceeding $100,000, that has a subcontracting opportunity exceeding $10,000.

(b) The notices must describe—

(1) The business opportunity, following the standard CDB format for items 7, 10, 11, and 17 in 5.207(b)(4);

(2) Any prequalification requirements; and

(3) Where to obtain technical data needed to respond to the requirement.

PART 7—ACQUISITION PLANNING

5. In section 7.103, add paragraph (r) to read as follows:

7.103 Agency-head responsibilities.

* * * * *

(r) Ensuring that acquisition planners, to the maximum extent practicable

(1) Structure contract requirements to facilitate competition by and among small business concerns; and

(2) Avoid unnecessary and unjustified bundling that precludes small business participation as contractors (see 7.107) (15 U.S.C. 631(j)).

6. Revise paragraph (b)(1) of section 7.105 to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) *Plan of action—(1) Sources.* Indicate the prospective sources of supplies or services that can meet the need. Consider required sources of supplies or services (see part 8). Include consideration of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns (see part 19), and the impact of any bundling that might affect their participation in the acquisition (see 7.107) (15 U.S.C. 644(e)). Address the extent and results of the market research and indicate their impact on the various elements of the plan (see part 10).

* * * * *

7. Add section 7.107 to read as follows:

7.107 Additional requirements for acquisitions involving bundling of contract requirements.

(a) Bundling may provide substantial benefits to the Government. However, because of the potential impact on small business participation, the head of the agency must conduct market research to determine whether bundling is necessary and justified (15 U.S.C. 644(e)(2)). Market research may indicate that bundling is necessary and justified if an agency would derive measurably substantial benefits (see 10.001(a)(2)(iv) and (a)(3)(vi)).

(b) Measurably substantial benefits may include, individually or in any combination or aggregate, cost savings or price reduction, quality improvements that will save time or improve or enhance performance or efficiency, reduction in acquisition cycle times, better terms and conditions, and any other benefits. The agency must quantify the identified benefits and explain how their impact would be measurably substantial. Except as provided in paragraph (d) of this section, the agency may determine bundling to be necessary and justified if, as compared to the benefits that it would derive from contracting to meet those requirements if not bundled, it would derive measurably substantial benefits equivalent to—

(1) Ten percent of the estimated contract value (including options) if the value is $75 million or less; or

(2) Five percent of the estimated contract value (including options) if the value exceeds $75 million.

(c) Without power of delegation, the service acquisition executive for the military departments, the Under Secretary of Defense for Acquisition, Technology and Logistics for the defense agencies, or the Deputy Secretary or equivalent for the civilian agencies may determine that bundling is necessary and justified when

(1) The expected benefits do not meet the thresholds in paragraphs (b)(1) and (b)(2) of this section but are critical to the agency's mission success; and

(2) The acquisition strategy provides for maximum practicable participation by small business concerns.

(d) Reduction of administrative or personnel costs alone is not sufficient justification for bundling unless the cost savings are expected to be at least 10 percent of the estimated contract value (including options) of the bundled requirements.

(e) Substantial bundling is any bundling that results in a contract with an average annual value of $10 million or more. When the proposed acquisition strategy involves substantial bundling, the acquisition strategy must—

(1) Identify the specific benefits anticipated to be derived from bundling;

(2) Include an assessment of the specific impediments to participation by small business concerns as contractors that result from bundling;

(3) Specify actions designed to maximize small business participation as contractors, including provisions that encourage small business teaming;

(4) Specify actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements; and

(5) Include a specific determination that the anticipated benefits of the proposed bundled contract justify its use.

(f) The contracting officer must justify bundling in acquisition strategy documentation.

(g) In assessing whether cost savings would be achieved through bundling, the contracting officer must consider the cost that has been charged or, where data is available, could be charged by small business concerns for the same or similar work.

(h) The requirements of this section do not apply to bundled contracts that are awarded in accordance with OMB Circular A–76 if a cost comparison has been performed under OMB Circular A–76 procedures. However, agencies must comply with the requirements of this section if they have not been met under A–76 procedures.

PART 10—MARKET RESEARCH

8. Amend section 10.001 as follows:

a. In paragraph (a) introductory text, remove ''shall'' and add ''must'' in its place;

b. In paragraph (a)(1) remove ''which'' and add ''that'' in its place;

c. At the end of paragraph (a)(2)(ii) remove ''and'';

d. Add paragraph (a)(2)(iv);

e. At the end of paragraph (a)(3)(iv) remove ''and'';

f. In paragraph (a)(3)(v) remove the period and add ''; and'';

g. Add paragraph (a)(3)(vi); and

h. Add paragraph (c).

The revised and added text reads as follows:

10.001 Policy.

* * * * *

(a) * * *

(2) * * *

(iv) Before soliciting offers for acquisitions that could lead to a bundled contract (15 U.S.C. 644(e)(2)(A)); and

(3) * * *

(vi) Determine whether bundling is necessary and justified (see 7.107) (15 U.S.C. 644(e)(2)(A)).

* * * * *

(c) If an agency contemplates awarding a bundled contract, the agency should—

(1) When performing market research, consult with the local Small Business Administration procurement center representative (PCR) or if a PCR is not assigned to the procuring activity, the SBA Office of Government Contracting Area Office serving the area in which the procuring activity is located; and

(2) At least 30 days before release of the solicitation, notify any affected incumbent small business concerns of—

(i) The Government's intention to bundle the requirement; and

(ii) How the concerns may contact the appropriate Small Business Administration representative.

PART 15—CONTRACTING BY NEGOTIATION

15.101–2 [Amended]

8a. In section 15.101–2, amend paragraph (b)(1) by removing ''15.304(c)(3)(iii)'' and adding ''15.304(c)(3)(iv)'' in its place.

9. In section 15.304, amend paragraphs (c)(3)(i) and (c)(3)(ii) by removing ''(iii)'' and adding ''(iv)'' in their places; redesignate paragraph (c)(3)(iii) as (c)(3)(iv); and add new paragraphs (c)(3)(iii) and (c)(3)(5) to read as follows:

15.304 Evaluation factors and significant subfactors.

* * * * *

(c) * * *

(3) * * *

(iii) For solicitations involving bundling that offer a significant opportunity for subcontracting, the contracting officer must include a factor to evaluate past performance indicating the extent to which the offeror attained applicable goals for small business participation under contracts that required subcontracting plans (15 U.S.C. 637(d)(4)(G)(ii)).

* * * * *

(5) For solicitations involving bundling that offer a significant opportunity for subcontracting, the contracting officer must include proposed small business subcontracting participation in the subcontracting plan as an evaluation factor (15 U.S.C. 637(d)(4)(G)(i)).

* * * * *

10. In section 15.305, add paragraph (a)(5) to read as follows:

15.305 Proposal evaluation.

(a) * * *

(5) *Small business subcontracting evaluation.* Structure solicitations to give offers from small business concerns the highest rating for the evaluation factors in 15.304(c)(3)(iii) and (c)(5).

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

11. In section 19.101, revise paragraph (g)(1) to read as follows:

19.101 Explanation of terms.

* * * * *

(g) *Control through contractual relationships*—(1) *Definition of a joint venture for size determination purposes.* A joint venture for size determination purposes is an association of persons or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management.

(i) For bundled requirements, apply size standards for the requirement to individual persons or concerns, not to the combined assets, of the joint venture.

(ii) For other than bundled requirements, apply size standards for the requirement to individual persons or concerns, not to the combined assets, of the joint venture, if—

(A) A revenue-based size standard applies to the requirement and the estimated contract value, including options, exceeds one-half the applicable size standard; or

(B) An employee-based size standard applies to the requirement and the estimated contract value, including options, exceeds $10 million.

* * * * *

12. In section 19.201, redesignate paragraphs (d)(5) through (d)(9) as (d)(6) through (d)(10) respectively; add a new paragraph (d)(5); and amend paragraph (e) by removing ''shall'' and adding ''must'' in its place. The added text reads as follows:

19.201 General policy.

* * * * *

(d) * * *

(5) Work with the SBA procurement center representative to—

(i) Identify proposed solicitations that involve bundling;

(ii) Facilitate small business participation as contractors including small business contract teams, where appropriate; and

(iii) Facilitate small business participation as subcontractors and suppliers where participation by small business concerns as contractors is unlikely;

* * * * *

13. Amend section 19.202–1 as follows:

a. At the end of paragraph (e)(1)(i) remove '', or'' and add ''; '' in its place;

b. In paragraph (e)(1)(ii) remove the period and add ''; or'' in its place;

c. Add paragraph (e)(1)(iii);

d. In the introductory text of paragraph (e)(2) remove ''shall also'' and add ''also must'' in its place;

e. At the end of paragraph (e)(2)(iii) remove ''or;''

f. In paragraph (e)(2)(iv) remove the period and add ''; or'' in its place; and

g. Add paragraph (e)(2)(v).

The added text reads as follows:

19.202–1 Encouraging small business participation in acquisitions.

* * * * *

(e) * * *

(1) * * *

(iii) The proposed acquisition is for a bundled requirement.

* * * * *

(2) * * *

(v) Bundling is necessary and justified.

* * * * *

[FR Doc. 99–33432 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4 and 42

[FAC 97–15; FAR Case 99–015; Item IV]

RIN 9000–AI56

Federal Acquisition Regulation; Deobligation Authority

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to establish deobligation of excess funds as one of the contract administration functions normally delegated to the contract administration office.

DATES: Effective Date: February 25, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after February 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAC 97–15, FAR case 99–015.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule implements a recommendation of the Contract Closeout Working Integrated Process Team chartered by the Deputy Secretary of Defense under the Defense Reform Initiative Directive #32.

The rule revises FAR 4.804–5 and 42.302 to establish deobligation of excess funds as one of the contract administration functions normally delegated to the contract administration office. In addition, the rule includes editorial revisions for plain language purposes.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR subparts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–15, FAR case 99–015), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 4 and 42:

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4 and 42 as set forth below:

1. The authority citation for 48 CFR parts 4 and 42 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

2. In section 4.804–5, revise the section heading, the introductory text of paragraph (a), and paragraph (a)(15); and amend the introductory text of paragraphs (b) and (c) by removing ''shall'' and inserting ''must'' in its place. The revised text reads as follows:

4.804–5 Procedures for closing out contract files.

(a) The contract administration office is responsible for initiating (automated or manual) administrative closeout of the contract after receiving evidence of its physical completion. At the outset of this process, the contract administration office must review the contract funds status and notify the contracting office of any excess funds the contract administration office might deobligate. When complete, the administrative closeout procedures must ensure that

* * * * *

(15) Contract funds review is completed and excess funds deobligated.

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

3. In section 42.302, revise the introductory text of paragraph (a); and add paragraph (a)(70) to read as follows:

42.302 Contract administration functions.

(a) The contracting officer normally delegates the following contract administration functions to a CAO. The contracting officer may retain any of these functions, except those in paragraphs (a)(5), (a)(9), and (a)(11) of this section, unless the cognizant Federal agency (see 42.001) has designated the contracting officer to perform these functions.

* * * * *

(70) Deobligate excess funds after final price determination.

* * * * *

[FR Doc. 99–33433 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8 and 39

[FAC 97–15; FAR Case 99–602; Item V]

RIN 9000–AI57

Federal Acquisition Regulation; Transition of the Financial Management System Software Program

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) agreed to amend the Federal Acquisition Regulation (FAR) to delete the language pertaining to the Financial Management Systems Software Mandatory Multiple Award Schedule Contracts Program because this schedule is no longer mandatory due to changes to OMB Circular A–127.

DATES: Effective Date: February 25, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after February 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 97–15, FAR case 99–602.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the FAR to delete Subpart 8.9, Financial Management Systems Software Mandatory Multiple Award Schedule Contracts Program and to add a reference in Part 39 to OMB Circular A–127. The Office of Management and Budget (OMB) revised OMB Circular A–127, that requires Federal agencies to use a single, integrated financial management system. Agencies now must acquire core financial management software that has been certified by the Joint Financial Management Improvement Program. The Financial Management Systems Software Mandatory Multiple Award Schedules has been eliminated. As of October 1, 1999, agencies may purchase certified financial management software through the Information Technology (FSC Group 70) Federal Supply Schedule using the procedures in FAR Subpart 8.4 or award their own contracts.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, because the rule merely deletes FAR coverage that is no longer necessary due to revisions to OMB Circular A–127, which eliminate the mandatory status of the Financial Management System Software Multiple Award Schedules Contracts Program. Accordingly, publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR subparts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–15, FAR case 99–602), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 8 and 39

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 8 and 39 as set forth below:

1. The authority citation for 48 CFR parts 8 and 39 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 8.9 [Removed and Reserved]

2. Remove and reserve Subpart 8.9.

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

3. Revise section 39.000 to read as follows:

39.000 Scope of part.

This part prescribes acquisition policies and procedures for use in acquiring information technology, including financial management systems, consistent with other parts of this regulation, OMB Circular No. A–127, Financial Management Systems and OMB Circular No. A–130, Management of Federal Information Resources.

4. Add paragraph (c) to section 39.101 to read as follows:

39.101 Policy.

* * * * *

(c) Agencies must follow OMB Circular A–127, Financial Management Systems, when acquiring financial management systems. Agencies may acquire only core financial management software certified by the Joint Financial Management Improvement Program.

[FR Doc. 99–33434 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 11 and 52

[FAC 97–15; FAR Case 99–018; Item VI]

RIN 9000–AI58

Federal Acquisition Regulation; Document Availability

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to update how the public may obtain Department of Defense specifications and standards.

DATES: *Effective Date:* December 27, 1999.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after December 27, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–15, FAR case 99–018.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 11.201(d) and the provision at 52.211–2 to update how the public may obtain Department of Defense specifications and standards via the Internet from the ASSIST database or by phone, fax, or mail from the Department of Defense Single Stock Point.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–15, FAR case 99–018), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 11 and 52

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 11 and 52 as set forth below:

1. The authority citation for 48 CFR parts 11 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 11—DESCRIBING AGENCY NEEDS

2. Amend section 11.201 by revising paragraph (d)(2) to read as follows:

11.201 Identification and availability of specifications.

* * * * *

(d)(1) * * *

(2) The DoDISS may be obtained from the-

(i) ASSIST database via the Internet at http://assist.daps.mil; or

(ii) Department of Defense Single Stock Point (DoDSSP), Building 4, Section D 700 Robbins Avenue, Philadelphia, PA 19111–5094, Telephone (215) 697–2667/2179, Facsimile (215) 697–1462.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Revise section 52.211–2 to read as follows:

52.211–2 Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and descriptions listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12–L.

As prescribed in 11.204(b), insert the following provision:

AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12–L (DEC 1999)

Copies of specifications, standards, and data item descriptions cited in this solicitation may be obtained—

(a) From the ASSIST database via the Internet at http://assist.daps.mil; or

(b) By submitting a request to the—Department of Defense Single Stock Point (DoDSSP), Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111–5094, Telephone (215) 697–2667/2179, Facsimile (215) 697–1462.

(End of provision)

[FR Doc. 99–33435 Filed 12–23–99; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 19, and 52

[FAC 97–15; FAR Case 98–011; Item VII]

RIN 9000–AI33

Federal Acquisition Regulation; SBA's 8(a) Business Development Program

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement revisions made to Small Business Administration (SBA) regulations pertaining to its 8(a) Business Development (8(a)BD) Program.

DATES: *Effective Date:* December 27, 1999.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after December 21, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–15, FAR case 98–011.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils published an interim rule in the **Federal Register** on June 17, 1999 (64 FR 32742). The rule amended FAR Parts 12, 19, and 52 to conform to recent amendments made by the Small Business Administration (SBA) to their regulations pertaining to the 8(a)BD Program. The SBA published a final rule in the **Federal Register** on June 30, 1998 (63 FR 35726). The SBA rule amended the eligibility procedures for admission to the 8(a)BD and contractual assistance programs. These changes involve administrative matters concerning requirement offerings, contract execution, contract administration, and SBA appeals.

There were no public comments submitted in response to the interim rule. Therefore, the Councils have agreed to convert the interim rule to a final rule without change.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely addresses changes made by the Small Business Administration (SBA) to 13 CFR parts 121, 124, and 134. The SBA has certified that the changes set forth in its rule will not have a significant economic impact on a substantial number of small entities because the changes do not increase the net number of current 8(a) certified small businesses or the net number of current 8(a) participants by more than 500 to 800 businesses, or less than 1 percent of the total universe of small firms seeking Government contracts.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 12, 19, and 52

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final Without Change

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR parts 12, 19, and 52, which was published in the **Federal Register** on June 17, 1999 (64 FR 32742), as a final rule without change.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

[FR Doc. 99–33436 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 13

[FAC 97–15; FAR Case 99–304; Item VIII]

RIN 9000–AI59

Federal Acquisition Regulation; Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Section 806 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65). Section 806 extends the test of the special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold, but not exceeding $5,000,000, until January 1, 2002.

DATES: *Effective Date:* December 27, 1999.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after December 27, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–15, FAR case 99–304.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Subpart 13.5 to implement Section 806 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65). Section 806 amends Section 4202(e) of the Clinger-Cohen Act of 1996 (Divisions D and E of Pub. L. 104–106; 110 Stat. 654; 10 U.S.C. 2304 note) to extend, through January 1, 2002, the expiration of the test of special simplified procedures for purchases of commercial items greater than the

simplified acquisition threshold, but not exceeding $5,000,000. This rule also makes plain language editorial revisions.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–15, FAR case 99–304), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 13

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 13 as set forth below:

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

1. The authority citation for 48 CFR part 13 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 13.500 in paragraph (b) by removing ''shall'' and adding ''must'' in its place; and by revising paragraph (d) to read as follows:

13.500 General.

* * * * *

(d) The authority to issue solicitations under this subpart expires on January 1, 2002. Contracting officers may award contracts after the expiration of this authority for solicitations issued before the expiration of the authority.

3. Amend section 13.501 in the introductory text of paragraphs (a)(1) and (b) by removing ''shall'' and adding ''must'' in their place; and by revising paragraph (a)(2)(ii) to read as follows:

13.501 Special documentation requirements.

(a) * * *

(2) * * *

(ii) For a proposed contract exceeding $500,000, the competition advocate for the procuring activity, designated pursuant to 6.501, or an official described in 6.304(a)(3) or (a)(4) must approve the justification and approval. This authority is not delegable.

* * * * *

[FR Doc. 99–33437 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 16, 48, and 52

[FAC 97–15; FAR Case 98–017; Item IX]

RIN 9000–AI35

Federal Acquisition Regulation; Review of Award Fee Determinations (Burnside-Ott)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR). The amendment implements rulings of the United States Court of Appeals and the United States Court of Federal Claims. The rulings are that the Contract Disputes Act applies to all disputes arising under Government contracts, unless a more specific statute provides for other remedies.

DATES: Effective Date: February 25, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after February 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAC 97–15, FAR case 98–017.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 64 FR 24472, May 6, 1999, and received no comments. This final rule amends the FAR to implement the rulings of the United States Court of Appeals in *Burnside-Ott Aviation Training Center* v. *Dalton, Secretary of the Navy, 107 F.3d 854 (Fed. Cir. 1997)* and of the United States Court of Federal Claims in *Rig Masters, Inc.* v. *The United States, 42 (Fed. Cl. 369 (1998)).* The rulings are that the Contract Disputes Act applies to all disputes arising under Government contracts, unless a more specific statute provides for other remedies. The rule amends FAR 16.405–2(a) by deleting the statement that award-fee determinations are not subject to the disputes clause of the contract and inserting a statement that such determinations and the methodology for determining award fee are unilateral decisions made solely at the discretion of the Government. In addition, the rule amends—

(a) FAR 16.406 to conform with the newly revised 16.405–2(a);

(b) FAR Part 48 to—

(1) Remove references to the Contract Disputes Act;

(2) State that certain unilateral decisions are made solely at the discretion of the Government; and

(3) Insert a statement that the contracting officer's determination of the duration of the sharing period and the contractor's sharing rate is one such decision;

(c) The clauses at 52.248–1 and 52.248–3 to conform with the newly revised Part 48; and

(d) The clauses at 52.219–10, 52.219–26, and 52.226–1 to remove exemptions to the Contract Disputes Act. Also, we made editorial revisions to all affected sections for plain language purposes.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule implements court rulings relating to a statute that has been in effect since 1979. This final rule retains the government's unilateral decision

authority in these matters. Therefore, we have not performed a Regulatory Flexibility Analysis. We did not receive any comments regarding this determination as a result of publication of the proposed rule in the **Federal Register** at 64 FR 24472, May 6, 1999.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 16, 48, and 52

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR Parts 16, 48, and 52 as set forth below:

1. The authority citation for 48 CFR Parts 16, 48, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 16—TYPES OF CONTRACTS

2. Amend section 16.405–2 by revising the last sentence of paragraph (a) to read as follows:

16.405–2 Cost-plus-award-fee contracts.

(a) * * * This determination and the methodology for determining the award fee are unilateral decisions made solely at the discretion of the Government.

* * * * *

3. Amend section 16.406 in paragraphs (a), (b), and the introductory text of paragraph (e) by removing ''The contracting officer shall insert'' and adding ''Insert'' in their place; and by revising paragraph (e)(3) to read as follows:

16.406 Contract clauses.

* * * * *

(e) * * *

(3) Expressly provides that the award amount and the award-fee determination methodology are unilateral decisions made solely at the discretion of the Government.

PART 48—VALUE ENGINEERING

4. Amend section 48.103 by revising the introductory text of paragraph (c); and by adding a new paragraph (c)(4) to read as follows:

48.103 Processing value engineering change proposals.

* * * * *

(c) The following Government decisions are unilateral decisions made solely at the discretion of the Government:

* * * * *

(4) The contracting officer's determination of the duration of the sharing period and the contractor's sharing rate.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 52.219–10 by revising the date of the clause; in the first sentence of paragraph (b) by adding ''*Contracting Officer to*'' following the opening bracket; and by revising the last sentence of paragraph (b) to read as follows:

52.219–10 Incentive Subcontracting Program.

* * * * *

INCENTIVE SUBCONTRACTING PROGRAM (FEB 2000)

* * * * *

(b) * * * Determinations under this paragraph are unilateral decisions made solely at the discretion of the Government.

* * * * *

6. Amend section 52.219–26 by revising the date of the clause and the last sentence of paragraph (b) to read as follows:

52.219–26 Small Disadvantaged Business Participation Program—Incentive Subcontracting.

* * * * *

SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM—INCENTIVE SUBCONTRACTING (FEB 2000)

* * * * *

(b) * * * Determinations under this paragraph are unilateral decisions made solely at the discretion of the Government.

* * * * *

7. Amend section 52.226–1 by revising the date of the clause and paragraph (d) to read as follows:

52.226–1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

* * * * *

UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (FEB 2000)

* * * * *

(d) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The Contracting Officer will seek funding in accordance with agency procedures.

(End of clause)

8. Amend section 52.248–1—

a. By revising the date of the clause;

b. In paragraphs (e)(1) and (e)(2), by removing ''shall'' each time it is used (3 times and 1 time, respectively) and adding ''will'' in its place;

c. By revising the last sentence of paragraph (e)(3);

d. By revising paragraph (j); and

e. In Alternate II, by revising the date and adding a sentence to the end of paragraph (a) to read as follows:

52.248–1 Value Engineering.

* * * * *

VALUE ENGINEERING (FEB 2000)

* * * * *

(e) * * *

(3) * * * The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

* * * * *

(j) *Collateral savings.* If a VECP is accepted, the Contracting Officer will increase the instant contract amount, as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or $100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

* * * * *

Alternate II (Feb 2000). * * *

(a) * * * The decision on which rate applies is a unilateral decision made solely at the discretion of the Government.

* * * * *

9. Amend section 52.248–3 by revising the date of the clause; in paragraphs (e)(1) and (e)(2) by removing ''shall'' each time it is used (3 times and 1 time, respectively) and adding ''will'' in its place; and by revising the last sentence of paragraph (e)(3) and paragraph (g) to read as follows:

52.248–3 Value Engineering—Construction.

* * * * *

VALUE ENGINEERING—CONSTRUCTION (FEB 2000)

* * * * *

(e) * * *

(3) * * * The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

* * * * *

(g) *Collateral savings.* If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20

percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or $100,000, whichever is greater. The Contracting Officer is the sole determiner of the amount of collateral savings.

* * * * *

[FR Doc. 99–33438 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 52

[FAC 97–15; FAR Case 99–600; Item X]

RIN 9000–AI38

Federal Acquisition Regulation; Nondisplacement of Qualified Workers—Commercial Items

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to add the clause, Nondisplacement of Qualified Workers, to the list of clauses the contracting officer may, when applicable, incorporate by reference in the clause concerning contractor terms and conditions required to implement statutes or executive orders—commercial items.

DATES: *Effective Date:* February 25, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after February 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jack O'Neill, Procurement Analyst, at (202) 501–3856. Please cite FAC 97–15, FAR case 99–600.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 12933 was signed October 20, 1994, by President Clinton and published in the **Federal Register** on October 24, 1994. To obtain public comment and assist in development of implementing regulations, the Department of Labor (DoL) invited comments through a notice of proposed rulemaking in the **Federal Register** at 60 FR 36756, July 18, 1995. The final DoL rule was published in the Federal Register at 62 FR 28175, May 22, 1997. DoD, GSA, and NASA published an interim FAR rule implementing DoL's rule under FAR case 94–610 (FAC 97–01, 62 FR 44802, August 22, 1997).

During consideration of the public comments submitted in response to the interim rule, the Councils identified this additional issue and proposed change. The Councils considered this additional change significant enough to warrant additional public comments. The Councils received no public comments in response to the proposed rule published in the **Federal Register** at 64 FR 32738, June 17, 1999. This final rule amends the FAR clause at 52.212–5(c) to add the clause 52.222–50, Nondisplacement of Qualified Workers, to the list of clauses that the contracting officer may incorporate by reference when applicable.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only identifies the FAR clause at 52.222–50, Nondisplacement of Qualified Workers, as appropriate for incorporation by reference in certain service contracts when determined so by the contracting officer.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 52.212–5 by revising the date of the clause; by removing from the parenthetical following the introductory text of paragraphs (b) and (c) the parentheses and adding brackets in their place; and by adding paragraph (c)(6) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (FEB 2000)

* * * * *

(c) * * *

____ (6) 52.222–50, Nondisplacement of Qualified Workers (Executive Order 12933).

* * * * *

[FR Doc. 99–33439 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 5, 14, 15, 19, 32, 33, 36, 42, and 52

[FAC 97–15; Item XI]

Federal Acquisition Regulation; Technical Amendments

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Technical amendments.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to update references and make editorial changes.

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS

Building, Washington, DC 20405, (202) 501–4755.

List of Subjects in 48 CFR Parts 2, 5, 14, 15, 19, 32, 33, 36, 42, and 52

Government procurement.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR Parts 2, 5, 14, 15, 19, 32, 33, 36, 42, and 52 as set forth below:

1. The authority citation for 48 CFR Parts 2, 5, 14, 15, 19, 32, 33, 36, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

2. Amend the definition ''simplified acquisition threshold'' in section 2.101 by removing ''10 U.S.C. 2302(7)'' and adding ''10 U.S.C. 2302(8)'' in its place.

PART 5—PUBLICIZING CONTRACT ACTIONS

3. Revise paragraph (f)(3) of section 5.205 to read as follows:

5.205 Special situations.

* * * * *

(f) * * *

(3) Advising that eligibility to participate may be restricted to firms in either the developmental stage or the developmental and transitional stages; and

* * * * *

PART 14—SEALED BIDDING

4. Revise paragraph (r) of section 14.201–6 to read as follows:

14.201–6 Solicitation provisions.

* * * * *

(r) Insert the provision at 52.214–23, Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding, in solicitations for technical proposals in step one of two-step sealed bidding.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

15.208 [Amended]

5. Amend the first sentence of paragraph (a) in section 15.208 by removing ''or withdrawals,''; and the first sentence of paragraph (b)(1) by removing ''revision, or withdrawal'' and inserting ''or revision,'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

6. Amend section 19.702 by revising the last sentence in paragraph (d) to read as follows:

19.702 Statutory requirements.

* * * * *

(d) * * * However, the mentor-protege agreement must have been approved by the—

Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), 1777 N. Kent Street, Suite 9100, Arlington, VA 22209

before developmental assistance costs may be credited against subcontracting goals. A list of approved agreements may be obtained at http://www.acq.osd.mil/sadbu/mentor__protege/ or by calling 1–800–553–1858.

PART 32—CONTRACT FINANCING

32.503–6 [Amended]

7. Amend paragraph (e)(3) of section 32.503–6 by removing ''52.232–6'' and adding ''52.232–16'' in its place.

PART 33—PROTESTS, DISPUTES, AND APPEALS

33.213 [Amended]

8. Amend paragraph (a) of section 33.213 by removing ''paragraph (h)'' and adding ''paragraph (i)'' in its place.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.104 [Amended]

9. Amend section 36.104 by removing ''(41 U.S.C. 541, *et seq.*)'' and adding ''(40 U.S.C. 541, *et seq.*)'' in its place.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.203 [Amended]

10. Amend section 42.203 by removing ''DCMCC–F'' and adding ''DCMC–BD'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.215–1 [Amended]

11. Amend section 52.215–1 by revising the date of the provision to read ''(DEC 1999)''; in the first sentence of paragraph (c)(3)(i) of the provision by removing '', revisions, or withdrawals,'' and adding ''or revisions,'' in its place; and in the first sentence of paragraph (c)(3)(ii)(A) of the provision by removing ''revision, or withdrawal'' and adding ''or revision,'' in its place.

52.228–14 [Amended]

12. Amend section 52.228–14 by revising the date of the clause to read ''(DEC 1999)''; and in paragraphs (f) and (g) of the clause by removing ''____, 19__'' and inserting ''(Date)____'' in their place.

[FR Doc. 99–33440 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 97–15 which amend the FAR. The rules marked with an asterisk (*) indicate that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 97–15 which precedes this document. These documents are also available via the Internet at http://www.arnet.gov/far.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 97–15

Item	Subject	FAR case	Analyst
I	Pollution Control and Clean Air and Water	97–033	Linfield
II	Foreign Acquisition (Part 25 Rewrite)	97–024	Linfield
III	* Contract Bundling (Interim)	1997–306 (97–306)	De Stefano
IV	Deobligation Authority	99–015	Klein
V	Transition of the Financial Management System Software Program	99–602	Nelson
VI	Document Availability	99–018	Moss
VII	SBA's 8(a) Business Development Program	98–011	Moss
VIII	Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold.	99–304	Moss
IX	Review of Award Fee Determinations (Burnside-Ott)	98–017	De Stefano
X	Nondisplacement of Qualified Workers—Commercial Items	99–600	O'Neill

Item I—Pollution Control and Clean Air and Water (FAR Case 97–033)

This final rule amends the FAR to remove Subpart 23.1,

Pollution Control and Clear Air and Water; the provision at 52.223–1, Clean Air and Water Certification; and the clause at 52.223–2, Clean Air and Water. This amendment eliminates the burden on offerors to certify that they do not propose to use a facility for performance of the contract that is on the Environmental Protection Agency's (EPA) ''List of Violating Facilities.'' Contracting officers will use the ''GSA List of Parties Excluded from Federal Procurement and Nonprocurement Programs'' (GSA List) to ensure that they do not award contracts to ineligible offerors. Excluded parties whose ineligibility is limited by reason of a Clean Air Act (CAA) or Clean Water Act (CWA) conviction are identified by the facility and conviction listing, the Cause and Treatment Code ''H'' annotation, in the GSA List. Internet access to the GSA List is available at http://www.epls.arnet.gov. These FAR changes do not change long-standing policy that a contracting officer cannot award a contract if performance of the contract would be at a facility convicted of a CAA or CWA violation unless the EPA has certified that the facility has corrected the cause giving rise to the conviction.

Item II—Foreign Acquisition (Part 25 Rewrite) (FAR Case 97–024)

This final rule amends FAR Parts 1, 2, 5, 6, 9, 12, 13, 14, 15, 17, 25, 36, and 52 to clarify policies and procedures concerning foreign acquisition and to rewrite Part 25 in plain language.

Item III—Contract Bundling (FAR Case 1997–306) (97–306)

This interim rule amends the FAR to implement Sections 411–417 of the Small Business Reauthorization Act of 1997. Sections 411–417 amend Title 15 of the U.S.C. to define ''contract bundling,'' and to require agencies to avoid unnecessary bundling that precludes small business participation in the performance of Federal contracts.

Item IV—Deobligation Authority (FAR Case 99–015)

This final rule revises FAR 4.804–5 and 42.302 to establish deobligation of excess funds as one of the contract administration functions normally delegated to the contract administration office. In addition, the rule includes editorial revisions for plain language purposes.

Item V—Transition of the Financial Management System Software Program (FAR Case 99–602)

This final rule amends the FAR to delete Subpart 8.9,

Financial Management Systems Software Mandatory Multiple Award Schedules Contracts Program.

Item VI—Document Availability (FAR Case 99–018)

This final rule amends the Federal Acquisition Regulation (FAR) at 11.201(d) and 52.211–2 to update how the public may obtain Department of Defense specifications and standards.

Item VII—SBA's 8(a) Business Development Program (FAR Case 98–011)

The interim rule published as Item III of FAC 97–12 is converted to a final rule without changes. The rule implements changes made in the Small Business Administration's 8(a) Business Development (8(a)BD) Program regulation, contained in 13 CFR Parts 121, 124, and 134, regarding the eligibility procedures for admission to the 8(a)BD and contractual assistance programs.

VIII—Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold (FAR Case 99–304)

This final rule amends FAR Subpart 13.5 to implement Section 806 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65). Section 806 amends Section 4202(e) of the Clinger-Cohen Act of 1996 (Divisions D and E of Pub. L. 104–106; 110 Stat. 654; 10 U.S.C. 2304 note) to extend, through January 1, 2002, the expiration of the test of special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold, but not exceeding $5,000,000.

Item IX—Review of Award Fee Determinations (Burnside-Ott) (FAR Case 98–017)

This final rule amends the Federal Acquisition Regulation (FAR) to implement rulings of the United States Court of Appeals and the United States Court of Federal Claims. The rulings are that the Contract Disputes Act applies to all disputes arising under Government contracts, unless a more specific statute provides for other remedies.

Item X—Nondisplacement of Qualified Workers—Commercial Items (FAR Case 99–600)

This final rule amends FAR 52.212–5(c) to add the clause entitled 52.222–50, Nondisplacement of Qualified Workers, to the list of clauses that the contracting officer may incorporate by reference when applicable.

Dated: December 20, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–33441 Filed 12–23–99; 8:45 am]

BILLING CODE 6820–EP–P

federal register

Monday
December 27, 1999

Part V

Department of Education

Preparing Tomorrow's Teachers To Use Technology; Notice

DEPARTMENT OF EDUCATION

Preparing Tomorrow's Teachers To Use Technology

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of technical assistance workshops.

SUMMARY: The Department of Education has tentatively scheduled eight regional technical assistance workshops between January 18, 2000 and February 8, 2000 to help prospective applicants better understand the Department's approach to implementing the competitive grant process to be held in spring 2000 under the Preparing Tomorrow's Teachers to Use Technology (PT3) Grant Program, authorized by Title III, section 3122 of the Improving America's Schools Act of 1994.

Available Guidelines: Application guidelines will be available on January 7, 2000. Guidelines may be obtained in downloadable format from the program web site http://www.ed.gov/teachtech/ or by contacting the Education Publications Center: ED Pubs, PO Box 1398, Jessup, MD 20794–1398; 1–877–4ED Pubs (1–877–433–7827); TDD: 1–877–576–7734; Fax: 301–470–1244; web site: http://www.ed.gov/pubs/edpubs.html; email: edpubs@inet.ed.gov.

DATES: Applications from consortia must be received by March 7, 2000.

SUPPLEMENTARY INFORMATION: At these workshops, the public will be able to learn more about the purposes and requirements of this program, how to apply for funds, program eligibility requirements, the application selection process, and considerations that might help them to improve the quality of their grant applications. Department of Education staff with expertise on these and other issues related to the Preparing Tomorrow's Teachers to Use Technology Program will be available to answer any questions on these topics.

Date, Time, and Location of Technical Assistance Workshops:

The workshops are tentatively scheduled to be held in:

Burlington, VT: Tuesday, January 18, 2000 from 9:00 a.m. to 1:30 p.m.

Hartford, CT: Wednesday, January 19, 2000 from 9:00 a.m. to 1:30 p.m.

Atlanta, GA: Friday, January 21, 2000 from 8:30 a.m. to 1:00 p.m.; Club Hotel by DoubleTree, Atlanta Airport North, 3400 Norman Berry Drive, Atlanta, GA 30344; Phone: 404–763–1600; Fax: 404–765–0200.

Minneapolis, MN: Wednesday, January 26, 2000 from 9:00 a.m. to 1:30 p.m.

Albuquerque, NM: Wednesday, January 26, 2000 from 9:00 a.m. to 1:30 p.m.

Little Rock, AR: Friday, January 28, 2000 from 9:00 a.m. to 1:30 p.m.

Seattle, WA: Friday, January 28, 2000 from 9:00 a.m. to 1:30 p.m.

San Diego, CA: Tuesday, February 8, 2000 from 1:30 p.m. to 4:30 p.m. San Diego Marriott Mission Valley, 8757 Rio San Diego Drive, San Diego, CA 92108; Telephone: 1–800–842–5329 or 619–692–3800; Fax: 619–692–0769.

Any interested parties are invited to attend these workshops.

The meeting sites will be accessible to individuals with disabilities. The Department will provide a sign language interpreter at each of the scheduled workshops. An individual with a disability who will need an auxiliary aid or service other than an interpreter to participate in the meeting (*e.g.,* assistive listening device, or materials in an alternative format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

For Additional Information Contact: The precise locations for all of the workshops have not yet been finalized. You may contact Erika Kirby (at the phone number listed in the ''For additional Information'' section of the notice for precise locations, or check the web site http://www.ed.gov/teachtech/.

Participants should register for these workshops online at http://www.ed.gov/teachtech, or by printing a copy of the registration form from the web site and faxing the completed form to the attention of Erika Kirby at (202) 502–7775.

FOR FURTHER INFORMATION CONTACT: Kelly E. Green, Policy, Planning and Innovation, Office of Postsecondary Education, Preparing Tomorrow's Teachers to use Technology, 1990 K Street, NW, Suite 6655, Washington, D.C. 20006–8256: Telephone: (202) 502–7788. Inquiries may be sent by e-mail to Teacher__Technology@ed.gov (please type in the subject line: PT3 APPLICATION WORKSHOP) or by fax to: (202) 502–7775.

Individuals with disabilities may obtain this document in an alternate format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Dated: December 20, 1999.

A. Lee Fritschler,

Assistant Secretary for Postsecondary Education.

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LIST OF PUBLIC LAWS

This is a completes the listing of public laws enacted during the first session of the 106th of Congress. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/

index.html. Some laws may not yet be available.

The list will resume when bills are enacted into public law during the second session of the 106th Congress, which convenes on January 24, 2000. A cumulative list of Public Laws will be published in the **Federal Register** on December 31, 1999.

H.R. 1180/P.L. 106–170

Ticket to Work and Work Incentives Improvement Act of 1999 (Dec. 17, 1999; 113 Stat. 1860)

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–038–00001–6)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–038–00002–4)	20.00	[1] Jan. 1, 1999
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Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.