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RESERVATIONS: 202–523–4538

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Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 65, No. 62
Thursday, March 30, 2000

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AA69

Fees for Official Inspection and Official Weighing Services

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) of the Grain Inspection, Packers and Stockyards Administration (GIPSA) is increasing fees by approximately 2.4 percent for all hourly rates, certain unit rates, and the administrative tonnage fee. These fees apply to official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. These increases are needed to cover increased operational costs resulting from the approximate 4.8 percent mandated January 2000 Federal pay increase.

EFFECTIVE DATE: May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Dave Orr, Director, Field Management Division, at his E-mail address: *Dorr@gipsadc.usda.gov*, or telephone him at (202) 720–0228.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Regulatory Flexibility Act, and the Paperwork Reduction Act

This rule has been determined to be nonsignificant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Also, pursuant to the requirements set forth in the Regulatory Flexibility Act, James R. Baker, Administrator, GIPSA, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

GIPSA regularly reviews its user-fee financed programs to determine if the fees are adequate. GIPSA has and will continue to seek out cost-saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases. However, even with these efforts, GIPSA's existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. In fiscal year (FY) 1998, GIPSA's operating costs were $23,021,166 with revenue of $21,776,323, resulting in a loss of $1,244,843 and a reserve balance of $55,862. In FY 1999, GIPSA's operating costs were $22,883,063 with revenue of $22,971,204 that resulted in a positive margin of $88,141. As of December 31, 1999, GIPSA's FY 2000 operating costs were $6,066,322 with revenue of $6,333,381 that resulted in a positive margin of $267,059. Even with the positive margins for FY 1999 and thus far for FY 2000, the reserve balance was $569,669, below the desired 3-month operating reserve of approximately $5.7 million.

Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. A general and locality salary increase that averages 4.8 percent for GIPSA employees, effective January 2000, will increase program costs by approximately $691,613.

We have reviewed the financial position of our inspection and weighing program based on the increased salary and benefit costs, along with the projected FY 2000 workload. Based on the review, we have concluded that nearly half of the projected $691,613 salary increase can be absorbed through existing program efficiencies. Therefore, the other half needs to be covered through an increase in fees that will collect an estimated $390,000 in additional revenues.

The fee increase primarily applies to entities engaged in the export of grain. Under the provisions of the USGSA, grain exported from the United States must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA on a fee basis at 37 export facilities. All of these facilities are owned and managed by multi-national corporations, large cooperatives, or public entities that do not meet the criteria for small entities established by the Small Business Administration.

Some entities who request nonmandatory official inspection and weighing services at other than export locations could be considered small entities. The impact on these small businesses is similar to any other business; that is, an average 2.4 percent increase in the cost of official inspection and weighing services. This nominal increase should not significantly affect any business requesting official inspection and weighing services. Furthermore, any of these businesses that wish to avoid the fee increase may elect to do so by using an alternative source for inspection and weighing services. Such a decision should not prevent the business from marketing its products.

There would be no additional reporting or record keeping requirements imposed by this action. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and record keeping requirements in Part 800 have been previously approved by the Office of Management and Budget under control number 0580–0013. GIPSA has not identified any other Federal rules which may duplicate, overlap, or conflict with this final rule.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in § 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this final rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this final rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this final rule.

Background

On January 3, 2000, GIPSA proposed in the **Federal Register** (65 FR 75) to increase fees for official inspection and

weighing services performed under the USGSA by approximately 2.4 percent.

The USGSA (7 U.S.C. 71 *et seq.*) authorizes GIPSA to provide official grain inspection and weighing services and to charge and collect reasonable fees for performing these services. The fees collected are to cover, as nearly as practicable, GIPSA's costs for performing these services, including related administrative and supervisory costs. The current USGSA fees were published in the **Federal Register** on December 23, 1998 (63 FR 70990), and became effective on February 1, 1999. A correction to the minimum fees for stowage examinations was published in the **Federal Register** and became effective on February 11, 1999 (64 FR 6783).

GIPSA regularly reviews its user-fee financed programs to determine if the fees are adequate. While GIPSA continues to explore ways to reduce its costs, the existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. In FY 1998, GIPSA's operating costs were $23,021,166 with revenue of $21,776,323, resulting in a loss of $1,244,843 and a reserve balance of $55,862. In FY 1999, GIPSA's operating costs were $22,883,063 with revenue of $22,971,204, resulting in a positive margin of $88,141. As of December 31, 1999, GIPSA's FY 2000 operating costs were $6,066,322 with revenue of $6,333,381 that resulted in a positive margin of $267,059. Even with the positive margins for FY 1999 and thus far for FY 2000, the reserve balance was $569,669, below the desired 3-month operating reserve of approximately $5.7 million.

Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. The January 2000 general and locality salary increase that averages 4.8 percent for GIPSA employees will increase program costs by an estimated $691,613. Based on a review of projected FY 2000 workload and operating costs, the Agency has determined that approximately half of the projected $691,613 salary increase can be absorbed through existing program efficiencies. The other half needs to be covered through an increase in fees that will collect an estimated $390,000 in additional revenues.

The hourly fees covered by this rule will generate revenue to cover the basic salary, benefits, and leave for those employees providing direct service delivery. Other associated costs, including nonsalary related overhead, are collected through other fees contained in the fee schedule and are at levels that would not require any change under this rule.

The current hourly fees are:

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime	Holidays
1-year contract	$25.20	$27.20	$35.40	$42.60
6-month contract	27.60	29.40	37.60	49.40
3-month contract	31.60	32.60	41.00	51.00
Noncontract	36.60	38.60	46.80	57.60

GIPSA has also identified certain unit fees, for services not performed at an applicant's facility, that contain direct labor costs and would require a fee increase. Further, GIPSA has identified those costs associated with salaries and benefits that are covered by the administrative metric tonnage fee. The 2.4 percent cost-of-living increase to salaries and benefits covered by the administrative tonnage fee results in an average overall increase of 2.4 percent to the administrative tonnage fee.

Comment Review

GIPSA received two comments during the 60-day comment period. The comments came from two grain trade associations. Both associations generally supported the proposed rule; however, each one encouraged the Agency to seek ways to streamline operations in an effort to reduce costs. One commentor suggested that GIPSA strive to reduce overall staffing, thereby reducing the impact of future cost-of-living raises. The commentor further suggested that GIPSA set a goal for administrative and supervisory costs not to exceed 20 percent of the total cost of service. Finally, one association suggested the fee increases only be applied to the hourly rates and certain unit rates and not to the administrative tonnage fee. This, in the association's view, would serve as a financial incentive to automate the inspection and weighing services at export facilities.

GIPSA has and will continue to explore ways to reduce costs. Current program improvements have enabled the Agency to avoid passing the full 4.8 percent salary increase on to its customers through increased fees. Similar efforts will continue in the future, including the introduction of new technology that improves program efficiencies and reduces staffing needs.

The Agency's efforts to reduce the number of employees providing service has been a direct result of program initiatives designed to streamline operations at export elevators. The Agency has and will continue to explore ways to streamline these operations. Over the past several years, automated material handling systems have been introduced at export locations. These systems have reduced the number of employees needed to perform service. Other efforts currently underway, including inspection automation and automation of specific administrative functions, will provide more timely and efficient service. These initiatives not only address future costs of providing service, but are designed to help improve the operational efficiencies of export facilities, thereby reducing the overall exporters' costs.

Increasing only the hourly and unit fees fails to address the increased supervision and administrative salary costs covered by the administrative tonnage fee. The recommendation to establish a 20 percent cap on supervision and administrative costs reflects a strong desire to control costs. The USGSA has had a 40 percent cap since FY 1985. Since that time, the Agency has operated well below that level and will continue to establish appropriate goals and objectives to address future supervision and administrative costs.

Efforts to contain and reduce these costs have and will continue to be taken. However, these efforts will not adequately cover the increased salary costs incurred by the pay raise. GIPSA, therefore, must increase all hourly fees, certain unit fees, and the administrative tonnage fee by 2.4 percent in order to recover the increased supervision administrative costs.

Final Action

Accordingly, GIPSA is applying an approximate 2.4 percent increase to

those hourly rates, certain unit rates, and the administrative tonnage fee, as proposed, in 7 CFR 800.71. Table 1—Fees for Official Services Performed at an Applicant's Facility in an Onsite GIPSA Laboratory; Table 2—Services Performed at Other Than an Applicant's Facility in a GIPSA Laboratory; and Table 3, Miscellaneous Services.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure; Grain.

For the reasons set out in the preamble, 7 CFR Part 800 is amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. Section 800.71 is amended by revising Schedule A in paragraph (a) to read as follows:

§ 800.71 Fees assessed by the Service.

(a) * * *

Schedule A.—Fees for Official Inspection and Weighing Services Performed in the United States.

TABLE 1.—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [1]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and Overtime [2]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative)				
1-year contract	$25.80	$28.00	$36.40	$43.60
6-month contract	28.40	30.20	38.60	50.60
3-month contract	32.40	33.40	42.00	52.20
Noncontract	37.60	39.60	48.00	59.00

(2) Additional Tests (cost per test, assessed in addition to the hourly rate) [3]	
(i) Aflatoxin (other than Thin Layer Chromatography)	$8.50
(ii) Aflatoxin (Thin Layer Chromatography method)	20.00
(iii) Corn oil, protein, and starch (one or any combination)	1.50
(iv) Soybean protein and oil (one or both)	1.50
(v) Wheat protein (per test)	1.50
(vi) Sunflower oil (per test)	1.50
(vii) Vomitoxin (qualitative)	7.50
(viii) Vomitoxin (quantitative)	12.50
(ix) Waxy corn (per test)	1.50
(x) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.	
(xi) Other services	
(a) Class Y Weighing (per carrier)	
(1) Truck/container	.30
(2) Railcar	1.25
(3) Barge	2.50
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier).	
(i) All outbound carriers (per-metric-ton) [4]	
(a) 1–1,000,000	$0.1038
(b) 1,000,001–1,500,000	0.0947
(c) 1,500,001–2,000,000	0.0512
(d) 2,000,001–5,000,000	0.0379
(e) 5,000,001–7,000,000	0.0205
(f) 7,000,001+	0.0092

[1] Fees apply to original inspection and weighing, reinspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

[2] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

[3] Appeal and reinspection services will be assessed the same fee as the original inspection service.

[4] The administrative fee is assessed on an accumulated basis beginning at the start of the Service's fiscal year (October 1 each year).

TABLE 2.—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1 2]

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading)	
(a) Truck/trailer/container (per carrier)	$18.50
(b) Railcar (per carrier)	28.30
(c) Barge (per carrier)	178.50
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.02
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	9.85
(b) Railcar (per carrier)	19.10
(c) Barge (per carrier)	108.10
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.02
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	10.90

TABLE 2.—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]—Continued

(b) Warehouseman inspection (per sample)	18.00
(c) Factor only (per factor—maximum 2 factors)	4.70
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.02
(e) Reinspection (grade and factor only. Sampling service additional, item (i) above)	11.90
(f) Class X Weighing (per hour per service representative)	49.20
(v) Additional tests (excludes sampling)	
(a) Aflatoxin (per test—other than TLC method)	26.30
(b) Aflatoxin (per test—TLC method)	104.00
(c) Corn oil, protein, and starch (one or any combination)	8.30
(d) Soybean protein and oil (one or both)	8.30
(e) Wheat protein (per test)	8.30
(f) Sunflower oil (per test)	8.30
(g) Vomitoxin (qualitative)	26.70
(h) Vomitoxin (quantitative)	31.80
(i) Waxy corn (per test)	9.60
(j) Canola (per test—00 dip test)	9.60
(k) Pesticide Residue Testing [3]	
(1) Routine Compounds (per sample)	204.80
(2) Special Compounds (per service representative)	102.40
(l) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service.[4]	
(i) Board Appeals and Appeals (grade and factor)	78.50
(a) Factor only (per factor—max 2 factors)	40.60
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable fees)	
(a) Aflatoxin (per test, other than TLC)	26.30
(b) Aflatoxin (TLC)	104.00
(c) Corn oil, protein, and starch (one or any combination)	16.20
(d) Soybean protein and oil (one or both)	16.20
(e) Wheat protein (per test)	16.20
(f) Sunflower oil (per test)	16.20
(g) Vomitoxin (per test—qualitative)	37.00
(h) Vomitoxin (per test—quantitative)	42.10
(i) Vomitoxin (per test—HPLC Board Appeal)	131.10
(j) Pesticide Residue Testing [3]	
(1) Routine Compounds (per sample)	204.80
(2) Special Compounds (per service representative)	102.40
(k) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	71.40
(3) Stowage examination (service-on-request) [3]	
(i) Ship (per stowage space) (minimum $252.50 per ship)	50.50
(ii) Subsequent ship examinations (same as original) (minimum $151.50 per ship)	
(iii) Barge (per examination)	40.50
(iv) All other carriers (per examination)	15.50

[1] Fees apply to original inspection and weighing, reinspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72 (b).

[3] If performed outside of normal business, 1½ times the applicable unit fee will be charged.

[4] If, at the request of the Service, a file sample is located and forwarded by the Agency for an official agency, the Agency may, upon request, be reimbursed at the rate of $2.50 per sample by the Service.

TABLE 3.— MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$49.20
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	49.20
(3) Special weighing services (per hour per service representative) [2]	
(i) Scale testing and certification	49.20
(ii) Evaluation of weighing and material handling systems	49.20
(iii) NTEP Prototype evaluation (other than Railroad Track Scales)	49.20
(iv) NTEP Prototype evaluation of Railroad Track Scales (plus usage fee per day for test car)	49.20
	110.00
(v) Mass standards calibration and reverification	49.20
(vi) Special projects	49.20
(4) Foreign travel (per day per service representative)	445.40
(5) Online customized data EGIS service	
(i) One data file per week for 1 year	500.00
(ii) One data file per month for 1 year	300.00
(6) Samples provided to interested parties (per sample)	2.50
(7) Divided-lot certificates (per certificate)	1.50
(8) Extra copies of certificates (per certificate)	1.50
(9) Faxing (per page)	1.50

TABLE 3.— MISCELLANEOUS SERVICES [1]—Continued

(10) Special mailing (actual cost)
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1)

[1] Any requested service that is not listed will be performed at $49.20 per hour.
[2] Regular business hours—Monday through Friday—service provided at other than regular hours charged at the applicable overtime hourly rate.

* * * * *

Date: March 21, 2000.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 00–7880 Filed 3–29–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN: 0580–AA70

Fees for Rice Inspection

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is increasing fees by approximately 4.8 percent for all hourly rates and certain unit rates. The fees apply to federal rice inspection performed under the Agricultural Marketing Act (AMA) of 1946. These increases are needed to cover increased operational costs resulting from the mandated January 2000 Federal pay increase.

EFFECTIVE DATE: May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Dave Orr, Director, Field Management Division, at his E-mail address: *Dorr@gipsadc.usda.gov,* or telephone him at (202) 720–0228.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Regulatory Flexibility Act, and the Paperwork Reduction Act

This rule has been determined to be nonsignificant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Also, pursuant to the requirements set forth in the Regulatory Flexibility Act, James R. Baker, Administrator, GIPSA, has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

GIPSA regularly reviews its user-fee-financed programs to determine if the fees are adequate. GIPSA has and will continue to seek out cost saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases. However, even with these efforts, GIPSA's existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. In fiscal year (FY) 1998, GIPSA's operating costs were $3,820,820 with revenue of $4,011,446, resulting in a positive margin of $190,626 and a negative reserve balance of $895,584. In FY 1999, GIPSA's operating costs were $4,105,564 with revenue of $4,412,131 that resulted in a positive margin of $306,567 and a negative reserve balance of $508,628. As of December 31, 1999, GIPSA's FY 2000 operating costs were $1,246,614 with revenue of $1,429,461 that resulted in a positive margin of $182,847 and a negative reserve of $168,447.

Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. A general and locality salary increase that averages 4.8 percent for GIPSA employees, effective January 2000, will increase program costs. This salary adjustment will increase GIPSA's costs by approximately $135,000, based on the projected FY 2000 work volume of 3.9 million metric tons.

We have reviewed the financial position of our rice inspection program based on the increased salary and benefit costs, along with the projected FY 2000 workload. Based on that review, we have concluded that we cannot absorb the increased costs due to the FY 2000 Federal salary increase with the current negative reserve balance. This fee increase will collect an estimated $138,000 in additional revenues.

This fee increase primarily applies to GIPSA customers that produce, process, and market rice for the domestic and international markets. There are approximately 550 such customers located primarily in the States of Arkansas, Louisiana, and Texas. Many of these customers meet the criteria for small entities established by the Small Business Administration criteria for small businesses. Even though the fees are being increased, the increase will not be excessive (4.8 percent) and should not significantly affect those entities. Those entities are under no obligation to use our service and, therefore, any decision on their part to discontinue the use of our service should not prevent them from marketing their products.

There will be no additional reporting or record keeping requirements imposed by this action. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and record keeping requirements in Part 868 have been previously approved by the Office of Management and Budget under control number 0580–0013. GIPSA has not identified any other Federal rules which may duplicate, overlap, or conflict with this rule.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. This action will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

On January 3, 2000, GIPSA proposed in the **Federal Register** (65 FR 78) to increase fees for official rice inspection services performed under the AMA by approximately 4.8 percent. Under the provisions of the AMA of 1946 (7 U.S.C. 1621, *et seq.*), rice inspection services are provided upon request and GIPSA must collect a fee from the customer to cover the cost of providing such services. Section 203 (h) of the AMA (7 U.S.C. 1622(h)) provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered. These fees cover the GIPSA administrative and supervisory costs for the performance of official services, including personnel compensation, personnel benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

The rice inspection fees were last amended on February 12, 1999, and became effective March 1, 1999 (64 FR 7057). These fees were to cover, as nearly as practicable, the level of operating costs as projected for FY 1999. They presently appear at 7 CFR 868.91 in Tables 1 and 2.

GIPSA continually monitors its cost, revenue, and operating reserve levels to ensure that there are sufficient resources for operations. During FY 1998, GIPSA implemented cost-saving measures in an effort to provide more cost effective services. The purpose of these measures was to reduce operating costs in order to reduce the negative retained earnings in this program. The cost containment measures included employee buyouts and better cross utilization of personnel between programs.

In FY 1998, the program generated revenue of $4,011,446 with operating costs of $3,820,820, resulting in a positive margin of $190,626. Even though we generated a positive margin for the year, we continued to operate with a negative reserve balance of $895,584. The rice program's FY 1999 revenue was $4,412,131 with operating costs of $4,105,564, that resulted in a positive margin of $306,567 and a negative reserve balance of $508,628. The rice inspection program has been slowly recovering from a long-standing deficit. Through a series of small fee increases and cost-cutting measures, GIPSA has reduced the level of the negative reserve balance from $939,147 in FY 1994 through FY 1999 to a negative level of $508,628. As of December 31, 1999, GIPSA's FY 2000 operating costs were $1,246,614 with revenue of $1,429,461 that resulted in a positive margin of $182,847 and a negative reserve of $168,447.

However, employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. A general and locality salary increase that averages 4.8 percent for GIPSA employees, effective January 2000, will increase program costs. This salary adjustment will increase GIPSA's costs by approximately $135,000. GIPSA cannot absorb this increase in salary costs with a deficit in the reserve balance and, at the same time, continue our efforts to reduce costs to eliminate the existing deficit. In FY's 1998 and 1999, GIPSA inspected 3.9 million metric tons of rice, and projections indicate that similar amounts will be inspected for FY 2000. The Agency will continue its efforts to streamline costs associated with providing service to further reduce the negative reserve balance. However, we must recover the projected $135,000 increase in salaries and benefits in order to accomplish this goal. GIPSA estimates that the fee increase will generate an additional $138,000 in revenue, based on the projected FY 2000 work volume of 3.9 million metric tons.

The costs associated with salaries and benefits are recovered by the hourly rates for personnel performing direct service. Other associated costs, including non-salary related overhead, are collected through other fees contained in the fee schedule and are at levels that do not require any change. GIPSA is implementing a 4.8 percent increase to the hourly rates and certain unit rates in 7 CFR Part 868.91, Table 1—Hourly Rates/Unit Rate Per CWT and Table 2—Unit Rates. Currently, the regular workday contract and noncontract fees are $40.80 and $50.00, respectively, while the nonregular workday contract and noncontract fees are $56.80 and $69.00, respectively. The unit rate per hundredweight for export port services is currently $.05 per hundredweight. The other current unit rates are:

Service	Rough rice	Brown Rice for Processing	Milled rice
Inspection for quality (per lot, sublot, or sample inspection)	$32.90	$28.40	$20.20
Factor analysis for any single factor (per factor):			
(a) Milling yield (per sample)	25.50	25.50	—
(b) All other factors (per factor)	12.10	12.10	12.10
Total oil and free fatty acid	—	40.00	40.00
Interpretive line samples:			
(a) Milling degree (per set)	—	—	85.10
(b) Parboiled light (per sample)	—	—	21.30
Extra copies of certificates (per copy)	3.00	3.00	3.00

Comment Review

GIPSA received no comments in response to the proposed rulemaking published January 3, 2000, at 65 FR 78.

Final Action

Section 203 of the AMA (7 U.S.C. 1622) provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered. These fees cover the GIPSA costs, including administrative and supervisory costs, for the performance of official services, including personnel compensation, personnel benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities.

For reasons set out in the preamble, 7 CFR Part 868 is amended as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*)

2. Section 868.91 is revised to read as follows:

§ 868.91 Fees for certain Federal rice inspection services.

The fees shown in Tables 1 and 2 apply to Federal rice inspection services.

TABLE 1.—HOURLY RATES/UNIT RATE PER CWT

[Fees for Federal Rice Inspection Services]

Service[1]	Regular workday (Monday-Saturday)	Nonregular workday (Sunday-Holiday)
Contract (per hour per Service representative)	$42.80	$59.60
Noncontract (per hour per Service representative)	52.40	72.40
Export Port Services (per hundredweight) [2]	.052	.052

[1] Original and appeal inspection services include: Sampling, grading, weighing, and other services requested by the applicant when performed at the applicant's facility.

[2] Services performed at export port locations on lots at rest.

TABLE 2.—UNIT RATES

Service [1 3]	Rough rice	Brown rice for processing	Milled rice
Inspection for quality (per lot, sublot, or sample inspection)	$34.50	$29.80	$21.20
Factor analysis for any single factor (per factor):			
(a) Milling yield (per sample)	26.75	26.75	—
(b) All other factors (per factor)	12.70	12.70	12.70
Total oil and free fatty acid	—	42.00	42.00
Interpretive line samples: [2]			
(a) Milling degree (per set)	—	—	89.20
(b) Parboiled light (per sample)	—	—	22.35
Extra copies of certificates (per copy)	3.00	3.00	3.00

[1] Fees apply to determinations (original or appeals) for kind, class, grade, factor analysis, equal to type, milling yield, or any other quality designation as defined in the U.S. Standards for Rice or applicable instructions, whether performed singly or in combination at other than at the applicant's facility.

[2] Interpretive line samples may be purchased from the U.S. Department of Agriculture, GIPSA, FGIS, Technical Services Division, 10383 North Executive Hills Boulevard, Kansas City, Missouri 64153–1394. Interpretive line samples also are available for examination at selected FGIS field offices. A list of field offices may be obtained from the Director, Field Management Division, USDA, GIPSA, FGIS, 1400 Independence Avenue, SW, STOP 3630, Washington, DC 20250–3630. The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor ''Parboiled Light'' rice.

[3] Fees for other services not referenced in table 2 will be based on the noncontract hourly rate listed in § 868.90, table 1.

Dated: March 21, 2000.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 00–7879 Filed 3–29–00; 8:45 am]

BILLING CODE 3410–EN–U

DEPARTMENT OF ENERGY

Western Area Power Administration

10 CFR Part 905

RIN 1901–AA84

Energy Planning and Management Program; Integrated Resource Planning Approval Criteria

AGENCY: Western Area Power Administration, DOE.

ACTION: Final rule.

SUMMARY: The Western Area Power Administration (Western) is publishing this final rule to adopt revisions to current regulations that require customers to prepare integrated resource plans. These amendments allow customers more alternatives in meeting the integrated resource planning requirements, thereby enhancing customer competitiveness through increased flexibility and reduced burdens in complying with this rule.

EFFECTIVE DATE: These regulations will become effective May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Simmons Buntin, Western Area Power Administration, P.O. Box 281213, Lakewood, CO 80228–8213. Mr. Buntin can also be reached by phone at (720) 962–7419, fax at (720) 962–7427, and electronic mail to buntin@wapa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Section 114 of the Energy Policy Act of 1992 (EPAct), Public Law 102–486, requires integrated resource planning (IRP) by Western's customers. Western implemented EPAct through the Energy Planning and Management Program (EPAMP) in October 1995. EPAMP was published in the Code of Federal Regulations at 10 CFR part 905.

Western's Administrator is required by EPAct to initiate a public process to review Western's IRP regulations within 1 year after January 1, 1999. The Administrator is authorized at that time to revise Western's criteria for approving integrated resource plans ''to reflect changes, if any, in technology, needs, or other developments.''

Both the wholesale and retail aspects of the electric utility industry are changing, and change is expected to continue. The 15 States within which Western markets power have taken very different approaches to deregulation with diverse schedules for implementing any changes to the status

quo. Additionally, the timing and scope of any Federal restructuring legislation is uncertain. Given the increasingly competitive and deregulated electricity marketplace, Western's IRP regulations, which were adopted under the traditional utility planning framework, have been reviewed through a formal public process and consequently revised.

Western is adopting an approach that features customer choice and flexibility, and reflects the transition of the electric utility industry. Customers can choose to continue preparing IRPs, or can adopt approaches that are emerging in lieu of IRP requirements. These new approaches are (1) complying with a defined level of investment in demand-side management (DSM) and/or renewable energy, including a public benefits program, or (2) complying with mandated energy efficiency and/or renewable energy activities and related reporting requirements.

Only subparts A and B of the existing regulations are being revised.

Western published the notice of proposed rulemaking and public forum in the **Federal Register** at 64 FR 62604 on November 17, 1999. A formal public information and comment forum was held in Denver, Colorado, on November 30, 1999. Nine customer representatives attended, and formal transcripts were made available through Western's Corporate Services and Regional offices. The formal public comment period closed on December 30, 1999. Western received comments from 29 customers and other stakeholders. All comments were extensively reviewed and, where appropriate, incorporated into the Final Rule. The Discussion of Comments provides Western's response to all comments. Comments and related responses were consolidated where possible.

II. Discussion of Comments

General comments and discussion precede the comments relating to specific sections. Specific comments are grouped under the appropriate section heading and followed by Western's responses.

1. General

A. Comments

One commenter suggested that Western should continue to update the IRP process as the industry continues to restructure. Two commenters said that the proposed changes to the IRP rule seem to minimize requirements for small utilities while maintaining inflexible requirements for larger utilities. One commenter noted that Western should capitalize words such as ''Customer'' and ''Integrated Resource Planning'' to match contractual language.

B. Response

Western will continue to evaluate the changing utility industry and the impacts of the changes on IRP regulations, and initiate a public process to review the regulations at appropriate intervals. As Section 114 EPAct and § 905.24 of the final rule state, the regulations may be changed to reflect changes in technology, needs, or other developments.

It is not Western's intent to change the rule solely to benefit small customers. The rule has been revised to further accommodate multi-state entities, especially in the minimum investment report alternative (§ 905.16), and member-based associations (MBA) and IRP cooperatives. Western believes that large customers have considerable opportunities to perform streamlined IRP and alternative reporting based on the revised rule, especially in light of changes in the utility industry that impact large customers.

Western agrees that there is a strong relationship between contractual language and language incorporated into the IRP rule. However, the rule has been revised to comply with the President's initiative to use plain language in government writing. Capital letters for contractual terms are not used in this rule because their use does not meet plain language guidelines.

2. § 905.1 What Are the Purposes of the Energy Planning and Management Program?

A. Comments

One commenter suggested that the phrase ''and to extend the long-term firm power resource commitments'' be deleted from the first sentence. Another commenter said that Western should refer specifically to part 905 in the first paragraph.

B. Response

Section 905.1 describes the purposes of EPAMP, which includes both the IRP regulations in subpart B of part 905 (which is revised in this final rule) and the Power Marketing Initiative in subpart C of part 905 (which is not revised). It is inappropriate, therefore, to remove the phrase ''and to extend the long-term firm power resource commitments'' because the phrase describes the purpose of the Power Marketing Initiative.

The title of part 905, ''Energy Planning and Management Program,'' is now included in both the title of § 905.1 and in the text. This change more clearly identifies the content of the paragraph while meeting plain language guidelines. Western believes it is unnecessary to otherwise refer specifically to part 905 within the subpart.

3. § 905.2 What Are the Key Definitions of This Part?

A. Comment

One commenter suggested that the phrase ''at the lowest system cost'' should still be included in the definition of ''integrated resource planning.''

B. Response

The definition of ''integrated resource planning'' in § 905.2 was shortened to ensure a more concise and easily understood definition, while having the same intended meaning as before. Western removed ''at the lowest system cost'' because its meaning was interpreted as a mandate to select the energy resources that had the lowest dollar price. As a result, it actually became a barrier to pursuing DSM and renewable energy activities, which are usually more expensive than purchasing non-renewable resources. Although this was not the intent of EPAct, Western has removed this and other similar language for clarity because Western is interested in fostering DSM and renewable energy. This change in no way invalidates an IRP that selects resources based on least cost; Western is simply not mandating this approach.

The sentence following the original definition, which was not part of the definition but an explanation of the process of preparing and IRP, was moved to § 905.11, where the process of preparing an IRP is more appropriately discussed.

4. § 905.11 What Must an IRP Include?

A. Comments

Some commenters said that the statutory criteria set forth in EPAct should be adhered to without modification, while many commenters applauded Western's willingness to consider changes to the criteria that accommodate changes in the electric utility industry. Some commenters noted that, despite streamlining, the IRP criteria are still too comprehensive and too restrictive given changes in the utility industry. Two commenters suggested Western accept more summary descriptions, decreasing its reliance on strict numerical data.

One comment suggested the phrase ''for new energy resources'' be added to

the end of the first sentence in § 905.11(a). One commenter noted that, in § 905.11(a), ''must'' should be replaced with ''should.'' One comment suggested Western should not drop the ''least cost'' criteria. One comment suggested that Western's proposal to allow customers to determine their own action planning horizons is inconsistent with EPAct.

Many comments requested Western add the modifier ''to the extent practicable'' to the first sentence of § 905.11(b)(3), as it is in the existing regulations. One comment requested Western add the modifier ''ample opportunity'' to the first sentence of § 905.11(b)(4), as it is in the existing regulations. Many commenters said that if additional load forecasting information is requested in the IRP review process, Western should accept any other required report containing this type of information that is submitted to the Department of Energy (DOE) or the Federal Energy Regulatory Commission (FERC). One commenter noted Western should require only the information necessary to define load characteristics, and not the specific nature of the use of that power, relating to the load forecasting criteria (§ 905.11(b)(5)).

B. Response

Section 114 of EPAct gives Western the authority to review its IRP program and to revise the IRP compliance criteria set forth in EPAct (42 U.S.C. 7276b(b)), which have been implemented through EPAMP at 10 CFR part 905, to reflect changes in technology, needs, or other development. Because Western's IRP regulations were developed under the traditional utility planning framework, which no longer applies to many customers due to wholesale and retail electric competition, Western believes it is essential to review and subsequently revise the criteria.

Additionally, Western's criteria revisions reduce reporting and paperwork burdens for customers and Western. Western streamlined the IRP criteria in § 905.11(b) to make them less comprehensive and restrictive, especially by changing the regulations to state that Western will accept summary information from customers rather than full data. While customers must include the criteria detailed in § 905.11(b), many of the items within in these criteria—for example, the list of what the options evaluated should relate to in § 905.11(b)(1)—are general guidelines and not strict requirements. Western's intent is not to dictate resource choices or specific mechanisms for resource planning, but rather to provide a general outline for IRP that meets the spirit and intent of EPAct. Reducing the criteria further would not meet the spirit or intent of EPAct even in light of the changing nature of the electric utility industry. Accepting even more summary information would not allow Western to adequately evaluate IRPs and annual reports and amendments.

It is not appropriate to add the phrase ''for new energy resources'' to the end of the first sentence in § 905.11(a) because EPAct makes no such limitation. IRPs may, at the customer's discretion, incorporate all energy resources. Limiting an IRP to only new energy resources may be contrary to sound resource planning.

''Must'' has replaced ''shall'' in § 905.11(a) to meet plain language guidelines. The comment that ''should'' was used in the original language in § 905.11(a) is incorrect. The original language, which was taken from the sentence following the definition of ''integrated resource planning'' in EPAct and § 905.2, used the verb ''shall.'' Because EPAct Section 201(2) mandates these components of IRP, Western will continue to use ''must'' rather than ''should.''

Western has dropped the ''designation of least-cost options'' criteria, previously located at § 905.11(b)(3), deleting some language that is no longer relevant and moving the remaining relevant language to the ''identification of resource options'' criteria (§ 905.11(b)(1)). Because least cost is no longer a deciding factor for many customers— and is often perceived as a barrier for some customers in further pursuit of DSM and renewable energy— Western believes it may impede effectively implementing IRP.

Because Section 114 of EPAct gives Western authority to revise its IRP criteria, allowing customers to determine their own action planning horizons in § 905.11(b)(2) is not inconsistent with EPAct. Moreover, determining action planning horizons is essential for customers facing wholesale competition. Many customers must make resource decisions on real-time bases that simply could not be planned for in advance and therefore included in either short-term or long-term action plans. Action planning flexibility is essential in the changing electric utility industry.

Western has returned the modifier ''to the extent practicable'' to § 905.11(b)(3), environmental effects, to reflect the language in EPAct. Western has returned the modifier ''ample opportunity'' to § 905.11(b)(4), public participation. It was removed to accommodate plain language, but keeping it in the rule allows customers to continue to meet the public involvement criteria in a manner consistent with the language of EPAct.

Western will accept information required by DOE, FERC, or another entity so long as it contains adequate load forecasting information. Western's intent is not to require duplicative efforts, but to ensure Western receives the specific customer information needed to fully evaluate the IRP. Western only requires the information necessary to define load characteristics, and will request information about the specific nature of the use of that power only in those rare cases where it is necessary to adequately evaluate the IRP.

5. § 905.12 How Must IRPs Be Submitted?

A. Comment

One commenter requested that the phrase ''Such IRP or IRPs shall constitute the MBA's IRP where the MBA subcontracts or acts as an agent but does not assume power supply responsibility'' be returned to § 905.12(b)(2), as it is in the existing regulations.

B. Response

Western agrees that under § 905.12(b)(2), the IRP may constitute the MBA's IRP where the MBA subcontracts or acts as an agent but does not assume power supply responsibility. The definition of MBA in § 905.2 meets the intent of the phrase, so in light of plain language guidelines and the need for clarity in the regulations, Western does not feel it is necessary to adopt this comment.

6. § 905.13 When Must IRPs Be Submitted?

A. Comment

One comment suggested that an existing IRP cooperative should be able to file the new report alternatives on behalf of its participants.

B. Response

Western agrees that an IRP cooperative should be able to file a minimum investment report on behalf of its participants, just as a consultant can now prepare and submit an IRP or small customer plan on behalf of a utility or end-use customer. Language has been added to § 905.12(b)(3) to this effect.

7. § 905.15 What Are the Requirements for the Small Customer Plan Alternative?

A. Comments

One commenter said that Western cannot extend the definition of small customer to include members of joint-action agencies (JAA) and generation and transmission (G&T) cooperatives with power supply responsibility because EPAct specifically excludes these entities, while some commenters noted that the ability of individual members of JAAs and G&T cooperatives to prepare small customer plans would greatly simplify the task of meeting Western's IRP requirements for a substantial number of customers.

One commenter suggested that ''customer'' should be added after ''utility'' in § 905.15(e)(1)(i) to mirror the language used in the definition of small customer (§ 905.2).

B. Response

After further review, Western determined that the best approach is not to include members of JAAs and G&T cooperatives with power supply responsibility within the small customer provision. However, Western does have the ability to change the criteria for determining IRP compliance, as set forth in Section 114 of EPAct. Western also noted that JAA and G&T cooperative members with less than 25 gigawatthours (GWh) use and sales may have limited managerial, economic, and resource capability, similar to other small customers. Their resource scenarios are often similar, and their ability to conduct IRP just as limited. Accordingly, Western has created new, reduced IRP compliance criteria for JAA and G&T cooperative customers not qualifying for ''small customer'' status and yet have less than 25 GWh use and sales and have limited managerial, economic, and resource capability, at § 905.11(c). These criteria mirror the criteria set forth in the small customer provision at § 905.15, and are consistent with the flexibilities provided to Western under EPAct. These certain customers must conduct IRP, but under less stringent criteria to reflect their limited capabilities. Unlike the small customer provision, qualifying customers do not need to notify Western in advance if complying through the use of these reduced IRP compliance criteria. Western will use qualifying customers' annual IRP progress reports to verify ongoing eligibility.

''Customer'' has been added after ''utility'' in § 905.15(e)(1)(i) as suggested, to match the definition in § 905.2.

8. § 905.16 and § 905.17 General Comments on Minimum Investment Report, Public Benefits Report, and Energy Efficiency/Renewable Energy (EE/RE) Report Alternatives

A. Comments

Western received a number of general comments about the proposed new alternatives—minimum investment report, public benefits report, and EE/RE report. One commenter noted that the alternatives appear to be essentially the same, so they should be combined.

A number of comments suggested that eligibility for State, Tribal, and Federal Government mandates on these alternatives is too narrow, and that the alternatives should also be open to standard-setting by local governing boards such as city councils and utility boards. Another commenter said alternatives should include mandates set by either State law or State policy. One comment suggested Western should establish some of its own mandates for minimum investments and EE/RE reports. One commenter noted the proposed alternatives should only be applicable in States in which retail competition exists.

One commenter requested that in instances where the State, Tribal, or Federal Government has implemented a program that meets Western's alternatives, Western defer its review authority and accept every report on or stemming from these programs.

Some comments called for additional clarification as to how State, Tribal, or Federal mandates are to be applied for multi-state entities, such as MBAs and IRP cooperatives.

Some commenters noted that Western should add provisions to the alternatives to allow for joint reporting by a group of customers.

One commenter noted that Western was not requiring customers to submit revisions to approved alternative reports every 5 years, as provided for IRPs and small customer plans.

Several municipalities and rural electric cooperatives asked if preparing energy efficiency plans as required by their State's public utility commission could satisfy any of Western's alternative reporting requirements.

B. Response

Western believes that the EE/RE report alternative is clearly different from the minimum investment and public benefits report alternatives, in large part because it applies only to end-use customers. Western agrees that the minimum investment report and public benefits report are essentially the same. Western eliminated the separate public benefits report alternative and combined the relevant public benefits language with the minimum investment report alternative. Language noting that public benefits charges are included within the definition of minimum investment report has been added in § 905.2, as well.

Western does not agree that limiting the alternatives to mandates set only by State, Tribal, and Federal Governments is too narrow. Likewise Western believes it is inappropriate for it to set such mandates. Because of the broad and open nature of lawmaking and regulatory processes at the State and Federal levels in comparison to the processes of Western's customers, Western is reluctant to accept any lesser mandates. Additionally, as a Federal agency, Western defers to Tribes' sovereign authority to set their own minimum investment or EE/RE reporting requirements.

While Western always reviews submissions—whether IRP or alternatives—for reasonableness, Western is more comfortable with broad decision making (State or Federal) that customers must follow by law, and prefers to rest on the minimum investment and EE/RE requirements set at higher levels of government. Customers not under the jurisdiction of State, Tribal, or Federal Governments with minimum investment or EE/RE reporting requirements must meet the IRP or small customer provision, as applicable.

Similarly, Western does not agree that the energy efficiency and renewable energy mandates for all alternatives should be allowed by State policy. State law or State regulations developed by the public utilities commission or its equivalent must be the standard. Policy adopted by State end-use customers does not meet the intent of the alternative reporting requirements. Otherwise, State end-use customers are setting their own minimum investment or EE/RE requirements, which is contradictory to the intent of these regulations.

Western does not agree that the proposed alternatives should only be applicable in States where retail competition exists. The passage of EPAct created wholesale competition, followed by FERC's mandate for open access to transmission systems. These events have had a far larger impact on utility resource planning and use than retail competition. Wholesale competition drives resource decisions, especially real-time and short-term resource acquisition.

Western will not defer its authority in instances where the State, Tribal, or

Federal Government has implemented a program that meets the alternatives, because this approach would not satisfy our obligations. EPAct mandates that Western collect, evaluate, and report on data to meet EPAct's IRP requirements. Western must report on the data annually to Congress, and, to meet this requirement, must receive adequate data from all customers. While Western will accept reports that fully meet the criteria contained in the alternative provisions (§ 905.16 and § 905.17, respectively), a request to submit the reports must be submitted and approved prior to submitting the report.

Western agrees that additional clarification is needed regarding application of the new alternatives to multi-state entities. Accordingly, Western has developed a new paragraph (c) in the minimum investment report alternative at § 905.16. A multi-state customer choosing to comply with the minimum investment alternative must apply the highest minimum investment level mandated by any State or Tribal jurisdiction within its service territory to all customers in States or Tribal jurisdictions without mandated minimum investments. In instances where more than one State or Tribal jurisdiction has a minimum investment requirement, those should be applied to customers within that State or Tribal jurisdiction. To qualify for the minimum investment alternative, however, the highest investment level must still be applied to customers in States or Tribal jurisdictions without requirements. Alternatively, multi-state entities can complete the streamlined IRP outlined in § 905.11. Western is willing to work with multi-state entities to ensure the most effective, and least burdensome, compliance mechanism.

Western will allow minimum investment reports to be submitted by MBAs on behalf of the MBA or one or more of its members, and by IRP cooperatives on behalf of its participants, as detailed in § 905.16(a). This is also demonstrated by applying the definitions of customers and MBAs in § 905.2, to statements in § 905.12(b) and (c).

Western agrees it should require customers to submit revisions to their approved alternative reports every 5 years, as provided for IRPs and small customer plans, and has revised the regulations accordingly.

Municipalities and rural electric cooperatives subject to State regulatory jurisdiction can potentially satisfy the requirements of the minimum investment report alternative based on energy efficiency plans prepared to comply with requirements established by their State's public utility commission. They must submit requests to prepare the minimum investment reports and, if Western approves the requests, must submit reports, meeting the requirements of these regulations, particularly § 905.16.

9. § 905.16 What Are the Requirements for the Minimum Investment Report?

A. Comment

One commenter requested that customers be allowed to continue meeting the levels of minimum investment established by State, Tribal, or Federal mandate once the mandate has expired or is otherwise no longer in effect. One comment suggested the minimum investment requirement should include the full array of DSM, including both energy efficiency and load management, instead of just energy efficiency.

B. Response

Because Western is allowing the State, Tribal, or Federal mandate to set the minimum level of investment and related parameters, subject to Western's review for reasonableness, Western cannot allow customers to continue applying the minimum investment once the mandate no longer exists. If the State, Tribal, or Federal Government chooses to terminate the mandate, Western sees no compelling reason to continue to recognize an expired standard.

Western agrees that it should not restrict the permissible demand-side minimum investment activities to just those that can be categorized as energy efficiency, so it has expanded the list of acceptable categories in § 905.16(b)(1) and elsewhere by changing the term ''energy efficiency'' to ''DSM,'' which includes energy efficiency, load management, and other demand-side measures.

10. § 905.17 What Are the Requirements for the Energy Efficiency and/or Renewable Energy (EE/RE) Report Alternative?

A. Comments

Many comments suggested that Schedule 5 of Energy Information Administration (EIA) Report No. 861, EIA Report No. 412, and Federal Energy Regulatory Commission (FERC) Form No. 1, be acceptable as approved reports under the EE/RE report alternative. One commenter said that the EE/RE report is not a substitute for IRP, and should be withdrawn. One commenter noted that reports submitted by Federal agencies in accordance with Section 303 of Executive Order (EO) 13123 should be considered as meeting the EE/RE reporting requirement, while another comment suggested any reporting requirement should be waived for Federal customers under the mandate of EO 13123 because compliance with EO 13123 sufficiently satisfies the intended goals of EPAct.

B. Response

The intent underlying the EE/RE report was not clearly understood by customers and stakeholders, so additional clarifying language has been added to § 905.17. The language emphasizes that the EE/RE report applies only to end-use customers, and that it is based on a mandate by a State, Tribal, or Federal Government to implement energy efficiency and/or renewable energy activities within a specified timeframe, for which there is also an associated reporting requirement. Therefore, EIA Reports No. 861 and 412, and FERC Form No. 1 cannot be accepted because they have no mandated energy efficiency or renewable energy requirements. Western will, however, accept any of these reports as all or part of an annual IRP progress report so long as it meets by itself, or meets when supported by additional information, the IRP annual reporting criteria set forth in § 905.14, IRP annual reporting.

Western believes the EE/RE report is an acceptable alternative to the IRP because of the associated energy efficiency and/or renewable energy mandate.

In general, it is Western's belief that the reports for specific Federal end-use customers under EO 13123 will be acceptable as EE/RE reports. However, a requirement to comply with EO 13123 does not excuse a Federal end-use customer from complying with this rule. Western does not agree that a report submitted by a Federal agency in accordance with EO 13123 should automatically be considered as meeting the EE/RE reporting requirements. Any Federal end-use customer must first request EE/RE report status and then submit reports that provide data specific to that Federal end-use customer. Western must report to Congress annually about the activities undertaken by its customers, so the agency must receive adequate information, as specified in § 905.17, about the activities of the Federal end-use customer. Aggregate reports of the agency where the end-use customer is only a part are not acceptable. The EE/RE report must contain customer-specific data.

11. § 905.18 What Are the Criteria for Western's Approval of Submittals?

A. Comments

Some commenters noted that Western needs to clarify whether this section applies to the small customer plan and new alternatives as well as the IRP. A number of commenters said that there should be no IRP reporting obligation in those States that have adopted retail restructuring. Some commenters requested that water conservation measures be allowed in addition to energy efficiency and renewable energy in Western's alternatives. One commenter noted that ''shall'' was changed to ''will,'' and that there should be a clarifying statement that this language change was editorial in nature.

B. Response

This section applies to small customer plans and new alternatives as well as IRP. To make this clearer, Western changed the word ''IRP'' in the title of the section to ''plans and reports'' and moved this section so that it follows the IRP, small customer provision, minimum investment report, and EE/RE report sections.

Western does not agree that there should be no IRP reporting obligation in those states that have adopted retail restructuring. Neither wholesale nor retail competition negate Section 114 of EPAct. Even though our customers may be subject to retail competition, Western will continue to require each of its customers to comply with the IRP or an applicable alternative under this rule.

Western has considered water planning, efficiency improvements, and conservation in the same manner it considers energy planning and efficiencies for IRP and small customer planning, as detailed in § 905.18(d). Accordingly, Western will consider water conservation measures for the new alternatives, so long as the mandates for the new alternatives extend to water conservation measures. Western will not allow measures other than those identified by alternative-related State, Tribal, or Federal mandates, and will additionally use the reasonableness criteria as detailed in Section 114 of EPAct and § 905.18(a) in reviewing all plans and reports.

Western changed ''shall'' to ''will'' to comply with the requirements for plain language. The change is editorial and does not suggest any substantive change.

12. § 905.19 How Are Plans and Reports Reviewed and Approved?

A. Comment

One comment suggested a time period for resubmittal of reports that is similar to language in ''Western's review of IRPs'' paragraph be included in § 905.19, as well.

B. Response

Western agrees that time periods for resubmitting plans and reports should be consistent. We have moved the ''Western's review of IRPs'' paragraph from § 905.13 to § 905.19, and added additional language to clearly indicate the resubmittal timing pertains to IRPs, small customer plans, minimum investment reports, and EE/RE reports.

13. § 905.20 When Are Customers in Noncompliance With This Rule, and How Does Western Ensure Compliance?

A. Comments

One comment suggested that instead of imposing the existing penalty scheme for non-compliant customers, Western should penalize customers up to the amount they ''under-spent'' on a given public benefits program. A commenter also suggested that, for penalties, Western should limit the liability to 10 percent of power charges and earmark the penalty funds to a public benefits fund for investment in energy efficiency and renewable energy in the non-complying customer's service territory. One commenter noted that Western should clarify that the 30-day good faith period for compliance applies to all plans and reports.

B. Response

Other than plain language revisions, and clarifications to ensure that the penalties and 30-day good faith period are applicable to all plans and reports, Western will not implement any changes to the penalty provisions. The penalty scheme is mandated in Section 114 of EPAct, and Western believes these standards are adequate to ensure compliance with the rule.

14. § 905.23 What Are the Opportunities for Using the Freedom of Information Act (FOIA) To Request Plan and Report Data?

A. Comment

One commenter said that a reference to the exemptions under FOIA should be added, and broadened to include 10 CFR part 1004.10. The intent should be further clarified by designating as proprietary any information that relates to State retail competition which state law and/or regulation has classified as proprietary. One commenter said that, if Western requests additional information to support Western's review of IRP submittals, Western should agree to use due diligence in protecting the information. The commenter also suggested Western ensure customers have flexibility in determining a reasonable level of data collection and reporting given individual situations.

B. Response

Western has removed the specific reference to 10 CFR part 1004.11, and will not include a specific reference to 10 CFR part 1004.10, recognizing that these references are too narrow, may change, and therefore may not remain accurate. Instead, Western has added the term ''applicable'' in front of FOIA, to make it clear that any FOIA exemptions may be requested and, if appropriate, granted. Western has also added the phrase, ''recognizing that certain competition-related customer information may be proprietary,'' to the end of the last sentence.

Given customer concerns over proprietary and potentially proprietary information, Western will accept summary information in the IRP rather than full data. However, customers should not have unlimited discretion in determining the amount of data required by Western. Western is always willing to work with customers to ensure we receive adequate, but not unnecessary, data. However, Western must have access to sufficient data to verify that customers are meeting the intent of EPAct and the IRP regulations. Western understands customers' concerns over proprietary information, and will ensure that it applies FOIA protections to customer information.

III. Procedural Requirements

A. Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this rulemaking by the Office of Management and Budget (OMB) is required.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, requires Federal agencies to perform a regulatory flexibility analysis if a proposed regulation is likely to have a significant economic impact on a substantial number of small entities. Western's Administrator certified that the proposed rule would have no significant adverse impact on a substantial number of small entities because the proposed

revisions to these regulations reduce paperwork and financial and other burdens, as well as reporting redundancies for small entities. Western did not receive any comments on this certification.

C. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, Western has received approval from OMB to collect customer information in this rule, under control number 1910–1200.

D. Review Under the National Environmental Policy Act

Western prepared an environmental impact statement (EIS) and record of decision (ROD) pursuant to NEPA for EPAMP, which established the existing IRP requirements for Western power customers. The EIS met the requirements of NEPA, 42 U.S.C. 4321, *et seq.*, the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508), and the DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021). Since the proposed revisions would modify the IRP requirements addressed in the EPAMP EIS, Western completed a review and determined a supplemental EIS is not required. A revised EPAMP ROD has been issued.

E. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the need for such actions. Western has examined this rule and determined that it does not preempt State law and does not have a substantial 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. No further action is required by Executive Order 13132.

F. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 requires each agency to assess the effects of Federal regulatory action on State, local, and Tribal governments and the private sector. Western has determined that this regulatory action does not impose an additional Federal mandate on State, local, or Tribal governments or on the private sector.

G. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996), imposed on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and 3(b) to determine whether they are met or if it is unreasonable to meet one or more of them. Western has completed the required review and determined that, to the extent permitted by law, the regulations meet the relevant standards of Executive Order 12988.

H. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. The final rule has no impact on the autonomy or integrity of the family as an institution. Accordingly, Western has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 13084

Under Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments), Western may not issue a discretionary rule that significantly or uniquely affects Indian tribal governments and imposes substantial direct compliance costs. The incremental amendments involved in this rulemaking would not have such effects. Accordingly, Executive Order 13084 does not apply to this rulemaking.

J. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(3).

List of Subjects in 10 CFR Part 905

Electric power, Electric utilities, Energy, Energy conservation, Hydroelectric power and utilities.

Issued in Lakewood, CO on March 13, 2000.

Michael S. Hacskaylo,

Administrator.

For the reasons set forth in the preamble, 10 CFR part 905 is amended as set forth below:

PART 905—ENERGY PLANNING AND MANAGEMENT PROGRAM

1. The authority citation continues to read as follows:

Authority: 42 U.S.C. 7152 and 7191; 32 Stat. 388, as amended; and 42 U.S.C. 7275–7276c.

2. Subparts A and B are revised to read as follows:

Subpart A—General Provisions

Sec.

Subpart B—Integrated Resource Planning

Subpart A—General Provisions

§ 905.1 What are the purposes of the Energy Planning and Management Program?

The purposes of the Energy Planning and Management Program (EPAMP) are to meet the objectives of Section 114 of the Energy Policy Act of 1992 (EPAct) and to extend long-term firm power resource commitments while supporting customer integrated resource planning (IRP); demand-side management (DSM), including energy efficiency, conservation, and load management; and the use of renewable energy. Subpart B, Integrated Resource Planning, allows customers of the Western Area Power Administration (Western) to meet the objectives of section 114 of EPAct through integrated resource planning or by other means, such as attaining a minimum level of investment in energy efficiency and/or renewable energy, collecting a charge to support defined public benefits, or complying with a mandated energy efficiency and/or renewable energy reporting requirement.

§ 905.2 What are the key definitions of this part?

Administrator means Western's Administrator.

Customer means any entity that purchases firm capacity, with or without energy, from Western under a long-term firm power contract. The term also includes a member-based association (MBA) and its distribution or user members that receive direct benefit from Western's power, regardless of which holds the contract with Western.

Energy efficiency and/or renewable energy (EE/RE) report means the report documenting energy efficiency and/or renewable energy activities imposed by a State, Tribal, or the Federal Government upon a State, Tribal, or Federal end-use customer within its jurisdiction.

Integrated resource planning means a planning process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, to provide adequate and reliable service to a customer's electric consumers.

Integrated resource planning cooperative (IRP cooperative) means a group of Western's customers and/or their distribution or user members with geographic, resource supply, or other similarities that have joined together, with Western's approval, to complete an IRP.

Member-based association (MBA) means:

(1) An entity composed of member utilities or user members, or

(2) An entity that acts as an agent for, or subcontracts with, but does not assume power supply responsibility for its principals or subcontractors, who are its members.

Minimum investment report means the report documenting a mandatory minimum level of financial or resource investment in demand-side management (DSM) initiatives, including energy efficiency and load management, and/or renewable energy activities, such as investment of a set minimum percentage of the utility's gross revenues in renewable energy, which is imposed by State, Tribal, or Federal law upon a customer under its jurisdiction. For the purposes of this part, the minimum investment report includes reports about public benefits charges, as well.

Public benefits charge means a mandatory financial charge imposed by State, Tribal, or Federal law upon a customer under its jurisdiction to support one or more of the following: energy efficiency, conservation, or demand-side management; renewable energy; efficiency or alternative energy-related research and development; low-income energy assistance; and/or other similar programs defined by applicable State, Tribal, or Federal law. This term is also known as a public goods or system benefit charge in the utility industry.

Region means a Western regional office or management center, and the geographic territory served by that regional office or management center: the Desert Southwest Customer Service Region, the Rocky Mountain Customer Service Region, the Sierra Nevada Customer Service Region, the Upper Great Plains Customer Service Region, or the Colorado River Storage Project Management Center.

Renewable energy means any source of electricity that is self-renewing, including plant-based biomass, waste-based biomass, geothermal, hydropower, ocean thermal, solar (active and passive), and wind.

Small customer means a utility customer with total annual sales and usage of 25 gigawatthours (GWh) or less, as averaged over the previous 5 years, which is not a member of a joint-action agency or generation and transmission cooperative with power supply responsibility; or any end-use customer.

Western means the Western Area Power Administration.

Subpart B—Integrated Resource Planning

§ 905.10 Who must comply with the integrated resource planning and reporting regulations in this subpart?

(a) Integrated resource plans (IRP) and alternatives. Each Western customer must address its power resource needs in an IRP prepared and submitted to Western as described in this subpart. Alternatively, Western customers may submit a small customer plan, minimum investment report or EE/RE report as provided in this subpart.

(b) Rural Utility Service and state utility commission reports. For customers subject to IRP filings or other electrical resource use reports from the Rural Utilities Service or a state utility commission, nothing in this part requires a customer to take any action inconsistent with those requirements.

§ 905.11 What must an IRP include?

(a) General. Integrated resource planning is a planning process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, to provide adequate and reliable service to a customer's electric consumers. An IRP supports customer-developed goals and schedules. The plan must take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other risk factors; must take into account the ability to verify energy savings achieved through energy efficiency and the projected durability of such savings measured over time; and must treat demand and supply resources on a consistent and integrated basis.

(b) IRP criteria. IRPs must consider electrical energy resource needs and may consider, at the customer's option, water, natural gas, and other energy resources. Each IRP submitted to Western must include:

(1) Identification of resource options. Identification and comparison of resource options is an assessment and comparison of existing and future supply-and demand-side resource options available to a customer based

upon its size, type, resource needs, geographic area, and competitive situation. Resource options evaluated by the specific customer must be identified. The options evaluated should relate to the resource situation unique to each Western customer as determined by profile data (such as service area, geographical characteristics, customer mix, historical loads, projected growth, existing system data, rates, and financial information) and load forecasts. Specific details of the customer's resource comparison need not be provided in the IRP itself. They must, however, be made available to Western upon request.

(i) Supply-side options include, but are not limited to, purchased power contracts and conventional and renewable generation options.

(ii) Demand-side options alter the customer's use pattern to provide for an improved combination of energy services to the customer and the ultimate consumer.

(iii) Considerations that may be used to develop potential options include cost, market potential, consumer preferences, environmental impacts, demand or energy impacts, implementation issues, revenue impacts, and commercial availability.

(iv) The IRP discussion of resource options must describe the options chosen by the customer, clearly demonstrating that decisions were based on a reasonable analysis of the options. The IRP may strike a balance among the applicable resource evaluation factors.

(2) Action plan. IRPs must include an action plan describing specific actions the customer will take to implement its IRP.

(i) The IRP must state the time period that the action plan covers, and the action plan must be updated and resubmitted to Western when this time period expires. The customer may submit a revised action plan with the annual IRP progress report discussed in § 905.14.

(ii) For those customers not experiencing or anticipating load growth, the action plan requirement for the IRP may be satisfied by a discussion of current actions and procedures in place to periodically reevaluate the possible future need for new resources. The action plan must include a summary of:

(A) Actions the customer expects to take in accomplishing the goals identified in the IRP;

(B) Milestones to evaluate accomplishment of those actions during implementation; and

(C) Estimated energy and capacity benefits for each action planned.

(3) Environmental effects. To the extent practical, the customer must minimize adverse environmental effects of new resource acquisitions and document these efforts in the IRP. Customers are neither precluded from nor required to include a quantitative analysis of environmental externalities as part of the IRP process. IRPs must include a qualitative analysis of environmental effects in summary format.

(4) Public participation. The customer must provide ample opportunity for full public participation in preparing and developing an IRP (or any IRP revision or amendment). The IRP must include a brief description of public involvement activities, including how the customer gathered information from the public, identified public concerns, shared information with the public, and responded to public comments. Customers must make additional documentation identifying or supporting the full public process available to Western upon request.

(i) As part of the public participation process, the governing body of an MBA and each MBA member (such as a board of directors or city council) must approve the IRP, confirming that all requirements have been met. To indicate approval, a responsible official must sign the IRP submitted to Western or the customer must document passage of an approval resolution by the appropriate governing body included or referred to in the IRP.

(ii) For Western customers that do not purchase electricity for resale, such as some State, Tribal, and Federal agencies, the customer can satisfy the public participation requirement by having a top management official with resource acquisition responsibility review and concur on the IRP. The customer must note this concurrence in the IRP.

(5) Load forecasting. An IRP must include a statement that the customer conducted load forecasting. Load forecasting should include data that reflects the size, type, resource conditions, and demographic nature of the customer using an accepted load forecasting method, including but not limited to the time series, end-use, and econometric methods. The customer must make the load forecasting data available to Western upon request.

(6) Measurement strategies. The IRP must include a brief description of measurement strategies for options identified in the IRP to determine whether the IRP's objectives are being met. These validation methods must include identification of the baseline from which a customer will measure the benefits of its IRP implementation. A reasonable balance may be struck between the cost of data collection and the benefits resulting from obtaining exact information. Customers must make performance validation and evaluation data available to Western upon request.

(c) IRP criteria for certain customers not qualifying for ''small customer'' status. Customers with limited economic, managerial, and resource capability and total annual sales and usage of 25 gigawatthours (GWh) or less who are members of joint-action agencies and generation and transmission cooperatives with power supply responsibility are eligible for the criteria specified in paragraphs (c)(1) and (c)(2) of this section.

(1) Each IRP submitted by a customer under paragraph (c) of this section must:

(i) Consider all reasonable opportunities to meet future energy service requirements using DSM techniques, renewable energy resources, and other programs; and

(ii) Minimize, to the extent practical, adverse environmental effects.

(2) Each IRP submitted by a customer under paragraph (c) of this section must include, in summary form:

(i) Customer name, address, phone number, email and Website if applicable, and contact person;

(ii) Customer type;

(iii) Current energy and demand profiles, and data on total annual energy sales and usage for the past 5 years, which Western will use to verify that customers qualify for these criteria;

(iv) Future energy services projections;

(v) How items in paragraphs (c)(1)(i) and (c)(1)(ii) of this section were considered; and

(vi) Actions to be implemented over the customer's planning timeframe.

§ 905.12 How must IRPs be submitted?

(a) Number of IRPs submitted. Except as provided in paragraph (c) of this section, one IRP is required per customer, regardless of the number of long-term firm power contracts between the customer and Western.

(b) Method of submitting IRPs. Customers must submit IRPs to Western under one of the following options:

(1) Customers may submit IRPs individually.

(2) MBAs may submit IRPs for each of their members or submit one IRP on behalf of all or some of their members. An IRP submitted by an MBA must specify the responsibilities and participation levels of individual members and the MBA. Any member of an MBA may submit an individual IRP

to Western instead of being included in an MBA IRP.

(3) Customers may submit IRPs as IRP cooperatives when previously approved by Western. IRP cooperatives may also submit small customer plans, minimum investment reports and EE/RE reports on behalf of eligible IRP cooperative members.

(c) Alternatives to submitting individual IRPs. Customers with Western approval to submit small customer plans, minimum investment or EE/RE reports may substitute the applicable plan or report instead of an IRP. Each customer that intends to seek approval for IRP cooperative, small customer, minimum investment report or EE/RE report status must provide advance written notification to Western. A new customer must provide this notification to the Western Regional Manager of the Region in which the customer is located within 30 days from the time it becomes a customer. Any customer may resubmit an IRP or notify Western of its plan to change its compliance method at any time so long as there is no period of noncompliance.

§ 905.13 When must IRPs be submitted?

(a) Submitting the initial IRP. Except as provided in paragraph (c) of this section, customers that have not previously had an IRP approved by Western must submit the initial IRP to the appropriate Regional Manager no later than 1 year after May 1, 2000, or after becoming a customer, whichever is later.

(b) Updates and amendments to IRPs. Customers must submit updated IRPs to the appropriate Regional Manager every 5 years after Western's approval of the initial IRP. Customers that complied with Western's IRP regulations in effect before May 1, 2000 must maintain their submission and resubmission schedules previously in effect. Customers may submit amendments and revisions to IRPs at any time.

(c) IRP cooperatives. Customers with geographic, resource supply, and other similarities may join together and request, in writing, Western's approval to become an IRP cooperative. Western will respond to IRP cooperative status requests within 30 days of receiving a request. If Western disapproves a request for IRP cooperative status, the requesting participants must maintain their currently applicable integrated resource or small customer plans, or submit the initial IRPs no later than 1 year after the date of the disapproval letter. Western's approval of IRP cooperative status will not be based on any potential participant's contractual status with Western. Each IRP cooperative must submit an IRP for its participants within 18 months after Western approves IRP cooperative status.

§ 905.14 Does Western require annual IRP progress reports?

Yes, customers must submit IRP progress reports each year within 30 days of the anniversary date of the approval of the currently applicable IRP. The reports must describe the customer's accomplishments achieved under the action plan, including projected goals and implementation schedules, and energy and capacity benefits and renewable energy developments achieved as compared to those anticipated. Western prefers measured values, but will accept reasonable estimates if measurement is infeasible or not cost-effective. Instead of a separate progress report, the customer may use any other annual report that the customer submits to Western or another entity, at the customer's discretion, if that report contains all required data for the previous full year and is submitted within 30 days of the approval anniversary date of the currently applicable IRP. With Western's approval, customers may submit reports outside of the 30-day anniversary date window.

§ 905.15 What are the requirements for the small customer plan alternative?

(a) Requesting small customer status. Small customers may submit a request to prepare a small customer plan instead of an IRP. Requests for small customer status from electric utilities must include data on total annual energy sales and usage for the 5 years prior to the request. Western will average this data to determine overall annual energy sales and usage so that uncontrollable events, such as extreme weather, do not distort levelized energy sales and usage. Requests from end-use customers must only document that the customer does not purchase electricity for resale. Western will respond to small customer status requests within 30 days of receiving the request. If Western disapproves a request, the customer must maintain its currently applicable IRP, or submit the initial IRP no later than 1 year after the date of the disapproval letter. Alternatively, the customer may submit a request for minimum investment report or EE/RE report status, as appropriate.

(b) Small customer plan contents. Small customer plans must:

(1) Consider all reasonable opportunities to meet future energy service requirements using demand-side management techniques, renewable energy resources, and other programs that provide retail consumers with electricity at reasonable cost;

(2) Minimize, to the extent practical, adverse environmental effects; and

(3) Present in summary form the following information:

(i) Customer name, address, phone number, email and Website if applicable, and contact person;

(ii) Type of customer;

(iii) Current energy and demand profiles and data on total annual energy sales and usage for the previous 5 years for utility customers, or current energy and demand use for end-use customers;

(iv) Future energy services projections;

(v) How items in paragraphs (b)(1) and (b)(2) of this section were considered; and

(vi) Actions to be implemented over the customer's planning timeframe.

(c) When to submit small customer plans. Small customers must submit the first small customer plan to the appropriate Western Regional Manager within 1 year after Western approves the request for small customer status. Small customers must submit, in writing, a small customer plan every 5 years.

(d) Maintaining small customer status. (1) Every year on the anniversary of Western's approval of the plan, small customers must submit a letter to Western verifying that either their annual energy sales and usage is 25 GWh or less averaged over the previous 5 years, or they continue to be end-use customers. The letter must also identify their achievements against targeted action plans, as well as the revised summary of actions if the previous summary of actions has expired.

(2) Western will use the letter for overall program evaluation and comparison with the customer's plan, and for verification of continued small customer status. Customers may submit annual update letters outside of the anniversary date if previously agreed to by Western so long as the letter contains all required data for the previous full year.

(e) Losing eligibility for small customer status. (1) A customer ceases to be a small customer if it:

(i) Is a utility customer and exceeds total annual energy sales and usage of 25 GWh, as averaged over the previous 5 years; or

(ii) Is no longer an end-use customer.

(2) Western will work with a customer that loses small customer status to develop an appropriate schedule for submitting an IRP or other report required under this subpart.

§ 905.16 What are the requirements for the minimum investment report alternative?

(a) Request to submit the minimum investment report. Customers may submit a request to prepare a minimum investment report instead of an IRP. Minimum investment reports may be submitted by MBAs on behalf of the MBA or its members, and by IRP cooperatives on behalf of its participants. Requests to submit minimum investment reports must include data on:

(1) The source of the minimum investment requirement (number, title, date, and jurisdiction of law);

(2) The initial, annual, and other reporting requirement(s) of the mandate, if any; and

(3) The mandated minimum level of investment or public benefits charge for DSM and/or renewable energy.

(b) Minimum investment requirement. The minimum investment must be either:

(1) A mandatory set percentage of customer gross revenues or other specific minimum investment in DSM and/or renewable energy mandated by a State, Tribal, or Federal Government with jurisdictional authority; or

(2) A required public benefits charge, including charges to be collected for and spent on DSM; renewable energy; efficiency and alternative energy-related research and development; low-income energy assistance; and any other applicable public benefits category, mandated by a State, Tribal, or Federal Government with jurisdictional authority. Participation in a public benefits program requires either a mandatory set percentage of customer gross revenues or other specific charges to be applied toward the programs as determined by the applicable State, Tribal, or Federal authority. The revenues from the public benefits charge may be expended directly by the customer, or by another entity on behalf of the customer as determined by the applicable State, Tribal, or Federal authority.

(c) Multi-state entities. For those customers with service territories lying in more than one State or Tribal jurisdiction, and where at least one of the States or Tribal jurisdictions has a mandated minimum investment requirement, to meet this alternative customers must use the highest requirement from the State or Tribe within the customer's service territory and additionally apply it to all members in those States or Tribal jurisdictions in which there is no requirement. Alternatively, if each State or Tribe has a requirement, customers may satisfy Western's requirement by reporting on compliance with each applicable minimum investment requirement. Western will work with multi-state entities to ensure the most effective, and least burdensome, compliance mechanism.

(d) Western's response to minimum investment report requests. Western will respond to requests to accept minimum investment reports within 30 days of receiving the request. If Western disapproves a request to allow use of the minimum investment report, the customer must maintain its currently applicable IRP or small customer plan, or submit its initial IRP no later than 1 year after the date of the disapproval letter. Alternatively, the customer may submit a request for small customer plan or EE/RE report status, as appropriate.

(e) Minimum investment report contents. Reports documenting compliance with a minimum level of investment in DSM and/or renewable energy must include:

(1) Customer name, address, phone number, email and Website if applicable, and contact person;

(2) Authority or requirement to undertake a minimum investment, including the source of the minimum investment requirement (number, title, date, and jurisdiction of law or regulation); and

(3) A description of the minimum investment, including:

(i) Minimum percentage or other minimum requirement for DSM and/or renewable energy, including any charges to be collected for and spent on DSM, renewable energy, efficiency or alternative energy-related research and development, low-income energy assistance, and any other applicable public benefits categories;

(ii) Actual or estimated energy and/or capacity savings resulting from minimum investments in DSM, if known;

(iii) Actual or estimated energy and/or capacity resulting from minimum investments in renewable energy, if known; and

(iv) A description of the DSM and/or renewable energy activities to be undertaken over the next 2 years as a result of the requirement for minimum investment, if known.

(f) Minimum investment report approval. Western will approve the minimum investment report when it meets the requirements in paragraph (e) of this section.

(g) When to submit the minimum investment report. The customer must submit the first minimum investment report to the appropriate Western Regional Manager within 1 year after Western approves the request to accept the minimum investment report. Customers choosing this option must maintain IRP or small customer plan compliance with Western's IRP regulations in effect before May 1, 2000, including submitting annual progress reports or update letters, until submitting the first minimum investment report, to ensure there is no gap in complying with section 114 of EPAct. Customers must submit, in writing, a minimum investment report every 5 years.

(h) Maintaining minimum investment reports. (1) Every year on the anniversary of Western's approval of the first minimum investment report, customers choosing this option must submit a letter to Western verifying that they remain in compliance with the minimum investment requirement. The letter must also contain summary information identifying annual energy and capacity savings associated with minimum investments in DSM, if known, and energy and capacity associated with minimum investments in renewable energy, if known. The letter must also include a revised description of customer DSM and/or renewable energy activities if the description from the minimum investment report has changed or expired.

(2) Western will use the letter for overall program evaluation and to ensure customers remain in compliance. Customers may submit letters outside of the anniversary date if previously agreed to by Western, and if the letter contains all required data for the previous full year. Instead of a separate letter, a customer choosing this option may submit the State, Tribal, or Federal required annual report documenting the minimum investment and associated DSM and/or renewable energy savings and/or use, if known.

(i) Loss of eligibility to submit the minimum investment report. (1) A customer ceases to be eligible to submit a minimum investment report if:

(i) A State, Tribal, or Federal mandate no longer applies to the customer, or

(ii) The customer does not comply with the minimum level of investment in applicable State, Tribal, or Federal law.

(2) Western will work with a customer no longer eligible to submit a minimum investment report to develop an appropriate schedule to submit an IRP or other plan or report required under this subpart.

§ 905.17 What are the requirements for the energy efficiency and/or renewable energy report (EE/RE report) alternative?

(a) Requests to submit an EE/RE report. End-use customers may submit a request to prepare an EE/RE report instead of an IRP. Requests to submit EE/RE reports must include data on:

(1) The source of the EE/RE reporting requirement (number, title, date, and jurisdiction of law or regulation);

(2) The initial, annual, and other reporting requirement(s) of the report; and

(3) A summary outline of the EE/RE report's required data or components, including any requirements for documenting customer energy efficiency and renewable energy activities.

(b) EE/RE report requirement. The EE/RE report is based on a mandate by a State, Tribal, or Federal Government to implement energy efficiency and/or renewable energy activities within a specified timeframe, for which there is also an associated reporting requirement. The EE/RE report may include only electrical resource use and energy efficiency and/or renewable energy activities, or may additionally include other resource information, such as water and natural gas data. At a minimum, the EE/RE report must annually document energy efficiency and/or renewable energy activities undertaken by the end-use customer.

(c) Western's response to EE/RE report requests. Western will respond to requests to accept EE/RE reports within 30 days of receiving the request. If Western disapproves a request to allow use of the EE/RE report, the customer must maintain its currently applicable IRP or small customer plan, or submit its initial IRP no later than 1 year after the date of the disapproval letter. Alternatively, the customer may submit a request for small customer plan or minimum investment report, as appropriate, within 30 days after the date of the disapproval letter.

(d) EE/RE report contents. EE/RE reports must include:

(1) Customer name, address, phone number, email and Website if applicable, and contact person;

(2) Authority or requirement to complete the EE/RE report, including the source of the requirement (number, title, date, and jurisdiction of law); and

(3) A description of the customer's required energy efficiency and/or renewable energy activities, including:

(i) Level of investment or expenditure in energy efficiency and/or renewable energy, and quantifiable energy savings or use goals, if defined by the EE/RE reporting requirement;

(ii) Annual actual or estimated energy and/or capacity savings, if any, associated with energy efficiency and resulting from the EE/RE reporting requirement;

(iii) Actual or estimated energy and/or capacity, if any, associated with renewable energy and resulting from the EE/RE reporting requirement;

(iv) A description of the energy efficiency and/or renewable energy activities to be undertaken over the next 2 years as a result of the EE/RE reporting requirement.

(e) EE/RE report approval. Western will approve the EE/RE report when the report meets the requirements in paragraph (d) of this section.

(f) When to submit the EE/RE report. The customer must submit the first EE/RE report to the appropriate Western Regional Manager within 1 year after Western approves the request to accept the EE/RE report. Customers choosing this option must maintain IRP or small customer plan compliance with Western's IRP regulations in effect before May 1, 2000, including submitting annual progress reports or update letters, until submitting the first EE/RE report to ensure there is no gap in complying with section 114 of EPAct. Customers must submit, in writing, an EE/RE report every 5 years.

(g) Maintaining EE/RE reports. (1) Every year on the anniversary of Western's approval of the first EE/RE report, customers choosing this option must submit an annual EE/RE letter to Western. The letter must contain summary information identifying customer annual energy and capacity savings associated with energy efficiency, if any, and annual customer energy and capacity associated with renewable energy, if any. The letter must also verify that the customer remains in compliance with the EE/RE reporting requirement. Additionally, the letter must include a revised description of customer DSM and/or renewable energy activities if the description from the EE/RE report has changed or expired. If this information is contained in an EE/RE report sent to another authority, the customer may submit that report instead of a separate letter.

(2) Customers may submit annual EE/RE letters outside of the anniversary date if previously agreed to by Western if the letter contains all required data for the previous full year.

(h) Loss of eligibility to submit the EE/RE report. (1) A customer ceases to be eligible to submit a EE/RE report if:

(i) The EE/RE reporting requirement no longer applies to the customer, or

(ii) The customer does not comply with the EE/RE reporting requirements in applicable State, Tribal, or Federal law.

(2) Western will work with a customer no longer eligible to submit an EE/RE report to develop an appropriate schedule to submit a small customer plan or other plan or report required under this subpart.

§ 905.18 What are the criteria for Western's approval of submittals?

(a) Approval criteria. Western will approve all plans and reports based upon:

(1) Whether the plan or report satisfactorily addresses the criteria in the regulations in this subpart; and

(2) The reasonableness of the plan or report given the size, type, resource needs, geographic area, and competitive situation of the customer.

(b) Review of resource choices. Western will review resource choices using section 114 of EPAct and this subpart. Western will disapprove plans and reports if Western deems that they do not meet the reasonableness criteria in paragraph (a)(2) of this section or the provisions of section 114 of EPAct.

(c) Accepting plans and reports under other initiatives. If a customer or group of customers implements integrated resource planning under a program responding to other Federal, Tribal, or State initiatives, Western will accept and approve the plan or report as long as it substantially complies with the requirements of this subpart.

(d) Water-based plans and reports. In evaluating a plan or report, Western will consider water planning, efficiency improvements, and conservation in the same manner it considers energy planning and efficiencies. Customers that provide water utility services and customers that service irrigation load as part of their overall load may include water conservation activities in their plans or reports. To the extent practical, customers should convert reported water savings to energy values.

§ 905.19 How are plans and reports reviewed and approved?

Western will review all plans and reports submitted under this subpart and notify the submitting entity of the plan's or report's acceptability within 120 days after receiving it. If a plan or report submittal is insufficient, Western will provide a notice of deficiencies to the entity that submitted the plan or report. Western, working together with the entity, will determine the time allowable for resubmitting the plan or report. However, the time allowed for resubmittal will not be greater than 9 months after the disapproval date, unless otherwise provided by applicable contract language.

§ 905.20 When are customers in noncompliance with the regulations in this subpart, and how does Western ensure compliance?

(a) Good faith effort to comply. If it appears that a customer's activities may be inconsistent with the applicable IRP, small customer plan, minimum investment report or EE/RE report, Western will notify the customer and offer the customer 30 days to provide evidence of its good faith effort to comply. If the customer does not correct the specified deficiency or submit such evidence, or if Western finds, after receiving information from the customer, that a good faith effort has not been made, Western will impose a penalty.

(b) Penalties for noncompliance. Western will impose a penalty on long-term firm power customers for failing to submit or resubmit an acceptable IRP and action plan, small customer plan, minimum investment report or EE/RE report as required by this subpart. Western will also impose a penalty when the customer's activities are not consistent with the applicable plan or report unless Western finds that a good faith effort has been made to comply with the approved plan or report.

(c) Written notification of penalty. Western will provide written notice of a penalty to the customer, and to the MBA or IRP cooperative when applicable. The notice will specify the reasons for the penalty.

(d) Penalty options. (1) Beginning with the first full billing period following the notice specified in paragraph (c) of this section, Western will impose a surcharge of 10 percent of the monthly power charges until the deficiency specified in the notice is cured, or until 12 months pass. However, Western will not immediately impose a penalty if the customer or its MBA or IRP cooperative requests reconsideration by filing a written appeal under § 905.21.

(2) The surcharge increases to 20 percent for the second 12 months and to 30 percent per year thereafter until the deficiency is cured.

(3) After the first 12 months of the surcharge and instead of imposing any further surcharge, Western may impose a penalty that would reduce the resource delivered under a customer's long-term firm power contract(s) by 10 percent. Western may impose this resource reduction either:

(i) When it appears to be more effective to ensure customer compliance, or

(ii) When such reduction may be more cost-effective for Western.

(4) The penalty provisions in existing contracts will continue to be in effect and administered and enforced according to applicable contract provisions.

(e) Assessing and ceasing penalties. Western will assess the surcharge on the total charges for all power obtained by a customer from Western and will not be limited to surcharges on only firm power sales. When a customer resolves the deficiencies, Western will cease imposing the penalty, beginning with the first full billing period after compliance is achieved.

(f) Penalties on MBAs and IRP cooperatives. In situations involving a plan or report submitted by an MBA on behalf of its members where a single member does not comply, Western will impose a penalty upon the MBA on a pro rata basis in proportion to that member's share of the total MBA's power received from Western. In situations involving noncompliance by a participant of an IRP cooperative, Western will impose any applicable penalty directly upon that participant if it has a firm power contract with Western. If the IRP cooperative participant does not have a firm power contract with Western, then Western will impose a penalty upon the participant's MBA on a pro rata basis in proportion to that participant's share of the total MBA's power received from Western.

§ 905.21 What is the administrative appeal process?

(a) Filing written appeals with Western. If a customer disagrees with Western's decision on the acceptability of its IRP, small customer plan, minimum investment report or EE/RE report submittal, its compliance with an approved plan or report, or any other compliance issue, the customer may request reconsideration by filing a written appeal with the appropriate Regional Manager. Customers may submit appeals any time such disagreements occur and should be specific as to the nature of the issue, the reasons for the disagreement, and any other pertinent facts the customer believes should be brought to Western's attention. The Regional Manager will respond within 45 days of receiving the appeal. If resolution is not achieved at the Regional Office level, the customer may appeal to the Administrator, who will respond within 30 days of receiving the appeal.

(b) Alternative dispute resolution. Upon request, Western will agree to use mutually agreeable alternative dispute resolution procedures, to the extent allowed by law, to resolve issues or disputes relating to compliance with the regulations in this subpart.

(c) Penalties during appeal. Western will not impose a penalty while an appeal process is pending. However, if the appeal is unsuccessful for the customer, Western will impose the penalty retroactively from the date the penalty would have been assessed if an appeal had not been filed.

(d) Meeting other requirements during appeal process. A written appeal or use of alternative dispute resolution procedures does not suspend other reporting and compliance requirements.

§ 905.22 How does Western periodically evaluate customer actions?

(a) Periodic review of customer actions. Western will periodically evaluate customer actions to determine whether they are consistent with the approved IRP or minimum investment report. Small customer plans and EE/RE reports are not subject to this periodic review.

(b) Reviewing representative samples of plans and reports. Western will periodically review a representative sample of IRPs and minimum investment reports, and the customer's implementation of the applicable plan or report from each of Western's Regions. The samples will reflect the diverse characteristics and circumstances of the customers that purchase power from Western. These reviews will be in addition to, and separate and apart from, the review of initial and updated IRPs and minimum investment reports to ensure compliance with this subpart.

(c) Scope of periodic reviews. Periodic reviews may consist of any combination of review of the customer's annual IRP progress reports, minimum investment letters, telephone interviews, or on-site visits. Western will document these periodic reviews and may report on the results of the reviews in Western's annual report.

§ 905.23 What are the opportunities for using the Freedom of Information Act to request plan and report data?

IRPs, small customer plans, minimum investment reports and EE/RE reports and associated data submitted to Western are subject to the Freedom of Information Act (FOIA) and may be made available to the public upon request. Customers may request confidential treatment of all or part of a submitted document under applicable FOIA exemptions. Western will make its own determination whether particular information is exempt from public access. Western will not disclose to the public information it has determined to

be exempt, recognizing that certain competition-related customer information may be proprietary.

§ 905.24 Will Western conduct reviews of this program?

Yes, Western may periodically initiate a public process to review the regulations in this subpart to determine whether they should be revised to reflect changes in technology, needs, or other developments.

[FR Doc. 00–7745 Filed 3–29–00; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of an increase in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective March 21, 2000. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202) 452–3259; for users of Telecommunications Device for the Deaf (TDD), contact Janice Simms, at (202) 872–4984, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The ''basic discount rate'' is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit. In increasing the basic discount rate from 5.25 percent to 5.5 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 25-basis-point increase in the discount rate was associated with a similar increase in the federal funds rate approved by the Federal Open Market Committee and announced at the same time.

The Board and the Reserve Banks remain concerned that increases in demand will continue to exceed the growth in potential supply, which could foster inflationary imbalances that would undermine the economy's record economic expansion. Against the background of their long-run goals of price stability and sustainable economic growth and of the information currently available, the Board and the Reserve Banks believe the risks are weighted mainly toward conditions that may generate heightened inflation pressures in the foreseeable future.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	5.5	March 21, 2000.
New York	5.5	March 21, 2000.
Philadelphia	5.5	March 21, 2000.
Cleveland	5.5	March 21, 2000.
Richmond	5.5	March 21, 2000.
Atlanta	5.5	March 21, 2000.
Chicago	5.5	March 21, 2000.
St. Louis	5.5	March 22, 2000.
Minneapolis	5.5	March 21, 2000.
Kansas City	5.5	March 21, 2000.
Dallas	5.5	March 23, 2000.
San Francisco	5.5	March 21, 2000.

By order of the Board of Governors of the Federal Reserve System, March 27, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–7893 Filed 3–29–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–185–AD; Amendment 39–11648; AD 2000–06–08]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes, that currently requires repetitive operational tests of the override mechanism of the trimmable horizontal stabilizer (THS) to determine if the system functions correctly; and corrective action, if necessary. This amendment requires replacement of existing flight control primary computers (FCPC) with

improved FCPC's, which would terminate the repetitive operational tests. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent uncommanded movement of the THS, which could result in reduced controllability of the airplane.

DATES: Effective May 4, 2000.

The incorporation by reference of Airbus Service Bulletin A330–27–3056, Revision 01, dated May 5, 1998; and Airbus Service Bulletin A340–27–4061, Revision 02, dated May 5, 1998; as listed in the regulations, is approved by the Director of the Federal Register as of May 4, 2000.

The incorporation by reference of Airbus Service Bulletin A330–27–3051, dated February 13, 1997; and Airbus Service Bulletin A340–27–4058, dated February 13, 1997; as listed in the regulations, was approved previously by the Director of the Federal Register as of January 28, 1998 (63 FR 1909, January 13, 1998).

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–01–15, amendment 39–10277 (63 FR 1909, January 13, 1998), which is applicable to certain Airbus Model A330 and A340 series airplanes, was published in the **Federal Register** on December 14, 1999 (64 FR 69674). The action proposed to continue to require repetitive operational tests of the override mechanism of the trimmable horizontal stabilizer (THS), and to require replacement of existing FCPC's with improved FCPC's, which would terminate the repetitive operational tests.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it will require approximately 1 work hour to accomplish the operational test required by AD 98–01–15, and retained in this AD, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the operational test on U.S. operators is estimated to be $60 per airplane, per test cycle.

It will require approximately 2 work hours to accomplish the FCPC replacements (or 9 work hours if the FCPC on-board replacement modules have been replaced or reprogrammed), at an average labor rate of $60 per work hour. Required parts will be provided to the operator at no charge. Based on these figures, the cost impact of the FCPC replacements required by this AD on U.S. operators will be $120 or $540 per airplane.

Accomplishment of the FCPC replacements required by this AD will allow operators to terminate the repetitive operational tests required by AD 98–01–15, thereby offsetting the cost of the actions required by this AD.

Regulatory Impact

The regulations adopted herein will not have a substantial 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10277 (63 FR 1909, January 13, 1998), and by adding a new airworthiness directive (AD), amendment 39–11648, to read as follows:

2000–06–08 Airbus Industrie: Amendment 39–11648. Docket 99–NM–185–AD. Supersedes AD 98–01–15, Amendment 39–10277.

Applicability: The following airplanes, certificated in any category, equipped with Aerospatiale Flight Control Primary Computer (FCPC), part number (P/N) LA2K01500190000:

1. Model A330–301, –321, –322, –341, and 342 series airplanes; excluding those on which Aerospatiale FCPC's, P/N LA2K01500210000 (Airbus Modification 45631), have been installed.

2. Model A340–211, –212, –213, –311, –312, and –313 series airplanes; excluding those on which Aerospatiale FCPC's, P/N LA2K01500210000 (Airbus Modification 45485), have been installed.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance

of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded movement of the trimmable horizontal stabilizer (THS), which could result in reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 98–01–15

(a) Within 500 flight hours after January 28, 1998 (the effective date of AD 98–01–15, amendment 39–10277), perform an operational test of the THS override mechanism to determine if the override system functions correctly, in accordance with paragraph (a)(1) or (a)(2) of this AD, as applicable. Repeat the operational test thereafter at intervals not to exceed 500 flight hours.

(1) For Model A330 series airplanes: Perform the test in accordance with Airbus Service Bulletin A330–27–3051, dated February 13, 1997; and, prior to further flight, repair any discrepancy in accordance with this service bulletin.

(2) For Model A340 series airplanes: Perform the test in accordance with Airbus Service Bulletin A340–27–4058, dated February 13, 1997; and, prior to further flight, repair any discrepancy in accordance with this service bulletin.

New Requirements of This AD

(b) Within 15 months after the effective date of this AD, accomplish the actions specified by either paragraph (b)(1) or paragraph (b)(2) of this AD, in accordance with Airbus Service Bulletin A330–27–3056, Revision 01, dated May 5, 1998 (for Model A330 series airplanes), or Service Bulletin A340–27–4061, Revision 02, dated May 5, 1998 (for Model A340 series airplanes); as applicable.

(1) Replace three Flight Control Primary Computers (FCPC) (2CE1, 2CE2, and 2CE3), P/N LA2K01500190000, with new FCPCs, P/N LA2K01500210000; in accordance with the applicable service bulletin. Such replacement constitutes terminating action for the requirements of paragraph (a) of this AD.

(2) Replace the on-board replaceable module (OBRM) of the three FCPCs (2CE1, 2CE2, and 2CE3), P/N LA2K01500190000, with OBRMs that have been modified by converting FCPC P/N's to LA2K01500210000 in accordance with the applicable service bulletin. Such replacement constitutes terminating action for the requirements of paragraph (a) of this AD.

Spares

(c) As of the effective date of this AD, no person shall install on any airplane an FCPC, P/N LA2K01500190000.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(f) The actions shall be done in accordance with Airbus Service Bulletin A330–27–3051, dated February 13, 1997; Airbus Service Bulletin A340–27–4058, dated February 13, 1997; Airbus Service Bulletin A330–27–3056, Revision 01, dated May 5, 1998; or Airbus Service Bulletin A340–27–4061, Revision 02, dated May 5, 1998; as applicable.

(1) The incorporation by reference of Airbus Service Bulletin A330–27–3056, Revision 01, dated May 5, 1998; and Airbus Service Bulletin A340–27–4061, Revision 02, dated May 5, 1998; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Airbus Service Bulletin A330–27–3051, dated February 13, 1997; and Airbus Service Bulletin A340–27–4058, dated February 13, 1997; was approved previously by the Director of the Federal Register as of January 28, 1998 (63 FR 1909, January 13, 1998).

(3) Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directives 98–124–069(B) (for Model A330 series airplanes) and 98–126–085(B) (for Model A340 series airplanes), both dated March 11, 1998.

(g) This amendment becomes effective on May 4, 2000.

Issued in Renton, Washington, on March 20, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–7334 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–75–AD; Amendment 39–11651; AD 2000–06–10]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Bell Helicopter Textron Canada (BHTC) Model 407 helicopters. This action requires preflight checking and repetitively inspecting the tail boom for a crack and replacing the tail boom if a crack is found. This amendment is prompted by four reports of cracks on the tail boom in the area of the horizontal stabilizer. The actions specified in this AD are intended to prevent separation of the tail boom and subsequent loss of control of the helicopter.

DATES: Effective April 14, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 14, 2000.

Comments for inclusion in the Rules Docket must be received on or before May 30, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–75–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, Room 663, Fort Worth, Texas or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aerospace Engineer, FAA, Rotorcraft Directorate, Regulations Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on the BHTC Model 407 helicopters. Transport Canada advises that there have been several reports of cracks to the tail boom skin in the area of the horizontal stabilizer.

BHTC has issued Alert Service Bulletin 407–99–26, dated April 13, 1999 (ASB), which specifies a preflight check of the left-side of the tail boom before the next flight and before the first flight of every day thereafter. The ASB also specifies within the next 25 hours time-in-service (TIS) and thereafter every 50 hours inspecting any tail boom that has accumulated 600 or more hours TIS for a crack and replacing any cracked tail boom before further flight. Transport Canada classified this ASB as mandatory and issued AD CF–99–17, dated June 14, 1999, to ensure the continued airworthiness of these helicopters in Canada.

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

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 407 helicopters of the same type design registered in the United States, this AD is being issued to prevent separation of the tail boom and subsequent loss of control of the helicopter. This AD requires a preflight check of the tail boom before further flight and thereafter before the first flight of each day. This AD also requires within 25 hours TIS and thereafter at intervals not to exceed 50 hours TIS, inspecting any tail boom that has accumulated 600 or more hours TIS for a crack with a 10X or higher magnifying glass and replacing any cracked tail boom with an airworthy tail boom before further flight. The actions are required to be accomplished in accordance with the ASB described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore, checking the tail boom for a crack is required prior to further flight and this AD must be issued immediately.

An owner/operator (pilot) may perform the visual check required by this AD but must enter compliance with this AD in the aircraft records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v)). This AD allows a pilot to perform this check because it involves only a visual check for a crack in the tail boom and can be performed equally well by a pilot or a mechanic.

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

The FAA estimates that 200 helicopters will be affected by this AD, that it will take approximately 4 work hours to accomplish the inspections, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $48,000 assuming no tail boom will be replaced.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–75–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 2000–06–10 Bell Helicopter Textron Canada: Amendment 39–11651. Docket No. 99–SW–75–AD.

Applicability: Model 407 helicopters, serial numbers 53000 through 53003, 53005 and higher, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the tail boom and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight and thereafter before the first flight of each day, check the left side of the tail boom for a crack in the areas shown in Figure 1. If a crack is found, replace the tail boom with an airworthy tail boom before further flight.

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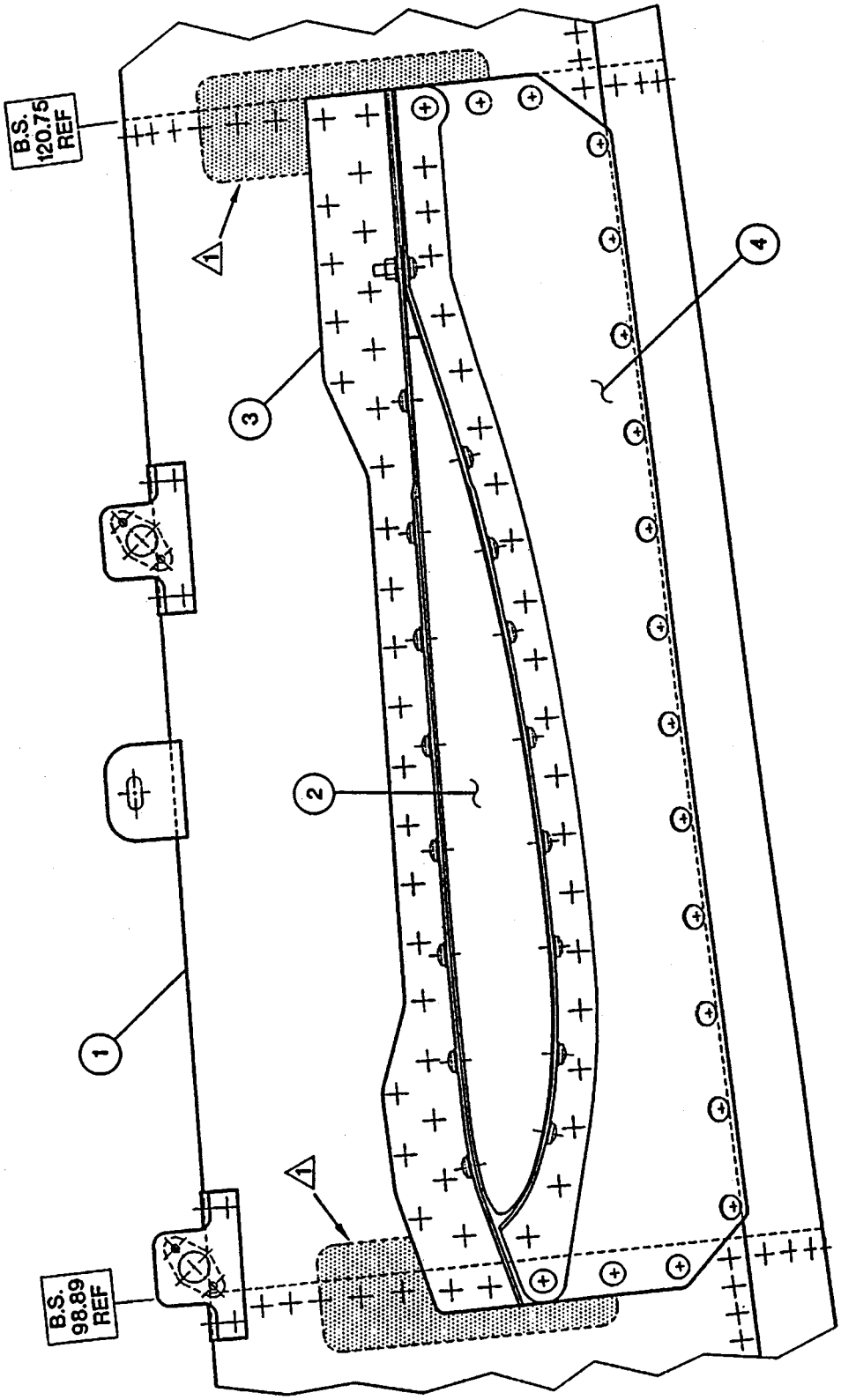


Figure 1. Preflight Check of the Tailboom

BILLING CODE 4910–13–C

(b) An owner/operator (pilot) holding at least a private pilot certificate may perform the visual check required by paragraph (a) but must enter compliance with paragraph (a) into the aircraft records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v)).

(c) Within 25 hours time-in-service (TIS) and thereafter at intervals not to exceed 50 hours TIS, visually inspect any tail boom with 600 or more hours TIS for a crack using a 10X or higher magnifying glass, in accordance with the Accomplishment Instructions, Part II, of Bell Helicopter Textron Canada Alert Service Bulletin 407–99–26, dated April 13, 1999, except that you are not required to contact Bell Helicopter Product Support Engineering. If a crack is found, replace the tail boom with an airworthy tail boom before further flight.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

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

(f) The inspection of the tail boom shall be done in accordance with the Accomplishment Instructions, Part II, of Bell Helicopter Textron Canada Alert Service Bulletin 407–99–26, dated April 13, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, Room 663, Fort Worth, Texas, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 14, 2000.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–99–17, dated June 14, 1999.

Issued in Fort Worth, Texas, on March 21, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–7552 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–49]

Amendment to Class E Airspace; Cameron, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Cameron, MO.

DATES: The direct final rule published at 64 FR 72925 is effective on 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 29, 1999 (64 FR 72925). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 20, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 24, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–7856 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Docket No. OST–2000–6984]

RIN 2105–AC75

Third Extension of Computer Reservations Systems (CRS) Regulations

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Department is revising its rules governing airline computer reservations systems (CRSs), 14 CFR part 255, to change the rules' expiration date for a third time. This revision changes the date from March 31, 2000, to March 31, 2001, to keep the rules from terminating on March 31, 2000. The rules will thus remain in effect while the Department continues its reexamination of the need for CRS regulations. The Department finds that the current rules should be maintained because they are necessary for promoting airline competition and helping to ensure that consumers and their travel agents can obtain complete and accurate information on airline services. The Department previously extended the rules from December 31, 1997, to March 31, 1999, and from March 31, 1999, to March 31, 2000.

DATES: This rule is effective on March 31, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, Department of Transportation, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: To ensure that we periodically review the need for our CRS rules and their effectiveness, section 255.12 of the rules establishes a sunset date. The original sunset date was December 31, 1997. We have changed the rules' expiration date twice before, once to March 31, 1999, 62 FR 66272 (December 18, 1997), and then to March 31, 2000, 64 FR 15127 (March 30, 1999).

We are now changing the sunset date to March 31, 2001, because we have been unable to complete our reexamination of the current rules by March 31, 2000. Given our view that the current rules should be maintained pending our reexamination of the need for rules, we proposed to change the rules' expiration date to March 31, 2001, and gave interested persons an opportunity to comment on that proposal. 65 FR 11009 (March 1, 2000).

We received comments from Delta Air Lines, Amadeus Global Travel Distribution, Worldspan, and the American Society of Travel Agents, all of which supported the proposal.

Background

We adopted our CRS rules because they are necessary to protect airline competition and to ensure that consumers can obtain accurate and complete information on airline services. 65 FR at 11010–11011. Because almost all airlines found it essential to participate in each CRS, market forces did not discipline the price and quality of service offered airlines by the CRSs. Travel agents relied on CRSs to provide airline information and bookings for their customers, and almost all airlines received a large majority of their bookings from travel agencies. Travel agencies typically used only one system (or predominantly used one system even if they had access to two or more systems). Each airline therefore had to participate in an agency's system if it wished to have its services readily saleable by that agency. Each system, moreover, was controlled by airlines or airline affiliates, who could use them to unreasonably prejudice the competitive position of other airlines or to provide misleading or inaccurate information to travel agents and their customers. For these reasons, we adopted rules regulating CRS operations in the United States, 57 FR 43780 (September 22, 1992). 65 FR at 11009–11010.

Our rules included a sunset date, December 31, 1997, to ensure that we would reexamine whether the rules remained necessary and whether they were effective. 57 FR at 43829–43830 (September 22, 1992). We have begun a reexamination of our current rules by publishing an advance notice of proposed rulemaking that invited interested persons to comment on whether we should readopt the rules and, if so, with what changes. 62 FR 47606 (September 10, 1997). Almost all of the parties responding to our advance notice of proposed rulemaking have urged us to maintain CRS rules, and many of them argued that various changes should be made to the rules to strengthen them. 65 FR at 11010.

Our Proposed Extension of the CRS Rules

Because we have been unable to complete our reexamination of the rules, we have twice changed the sunset date, most recently to March 31, 2000. 64 FR 15127 (March 30, 1999). We proposed again to change the expiration date for the rules to March 31, 2001, so that they would remain in effect pending our reexamination of our rules, since we could not complete that reexamination by March 31, 2000. 65 FR 11009 (March 1, 2000). The proposed temporary extension of the current rules would maintain the status quo until we determine which rules, if any, should be adopted. As we explained, maintaining the rules in effect appeared to be necessary to protect airline competition and consumers against unreasonable practices in view of our earlier findings on the market power of the systems and each airline owner's potential interest in using its affiliated CRS to prejudice the competitive position of other airlines. Furthermore, allowing the current rules to expire could be disruptive, since the systems, airlines, and travel agencies have been conducting their operations in the expectation that each system will comply with the rules. 65 FR at 11010–11011.

Finally, maintaining the rules in effect appeared necessary to comply with the United States' obligations under various treaties and bilateral air services agreements to assure foreign airlines a fair and equal opportunity to compete. 65 FR at 11011.

As we stated, our inability to complete the rules' reexamination is unfortunate due to the importance of adapting our rules to current industry conditions. This inability has stemmed from the need to address other airline competition issues that appeared to be more urgent. In addition, recent developments in airline distribution practices, most notably the growing importance of the Internet, are requiring additional study by the staff. As we noted, moreover, our existing rules appear to prevent the practices that present serious threats to airline competition and to the ability of consumers to obtain unbiased and accurate information through the systems. We have been aware, however, that several parties are alleging that the compelling need for certain additional CRS regulations requires us to act promptly on those issues without waiting for the completion of the overall reexamination of the rules. 65 FR 11010.

Because we needed to make the proposed amendment effective by March 31, 2000, we shortened the comment period to ten days. 65 FR at 11009.

Comments

We received comments from four parties: Delta Air Lines, Worldspan, Amadeus Global Distribution System (''Amadeus''), and the American Society of Travel Agents (''ASTA''). The commenters agree that the rules should be extended as we proposed. Amadeus, however, urges us to act on its request that we prohibit the tying of a travel agency's access to an airline's corporate discount fares with the agency's use of the system affiliated with that airline (Docket OST–99–5888). ASTA contends that we should act quickly on its proposal that systems be prohibited from selling marketing data derived from travel agent bookings to airlines, which would require the amendment of section 255.10. Worldspan, on the other hand, asserts that we should reexamine the rules in one comprehensive proceeding rather than address selected issues in separate proceedings.

Final Rule

We are changing the rules' sunset date to March 31, 2001, as we proposed. Delta, Amadeus, Worldspan, and ASTA support our proposal, and no one has objected to it. We based our proposal on the findings made by us in earlier CRS rulemakings and the position of almost all parties in the underlying rulemaking Docket OST–97–2881 that CRS rules are still necessary. 65 FR at 11011. In our overall reexamination of the rules we will, of course, consider whether recent developments, such as the divestiture by several airlines of their CRS ownership interests, indicate that there may be little need for some or all of the CRS rules.

ASTA and Amadeus each urge us to act quickly on the specific rule proposals of interest to it. We will consider their requests as part of our consideration of procedures for completing the reexamination of the rules and for updating the rules to reflect current industry conditions. We also plan to announce soon procedures for moving forward with the overall reexamination of the rules.

Effective Date

We have determined for good cause to make this amendment effective on March 31, 2000, rather than thirty days after publication as required by the Administrative Procedure Act, 5 U.S.C. 553(d), except for good cause shown. To maintain the current rules in force, we must make this amendment effective by March 31, 2000. Since the amendment preserves the status quo, it will not require the systems, airlines, and travel agencies to change their operating methods. As a result, making the amendment effective less than thirty days after publication will not burden anyone.

Regulatory Process Matters

Regulatory Assessment

This rule is a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and has not been reviewed by the Office of Management and Budget under that order. The proposal is also not significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034 (February 26, 1979).

In our notice of proposed rulemaking, we tentatively determined that maintaining the current rules should impose no significant costs on the CRSs. The systems' continuing compliance with the rules on displays and functionality should not impose a substantial burden, since they have already taken the steps necessary to comply with those requirements. Keeping the rules in effect would benefit participating airlines, since they would otherwise be subjected to unreasonable terms for participation, and benefit consumers, who might otherwise be given incomplete or inaccurate information on airline services. The rules also contain provisions that are designed to prevent abuses in the systems' competition with each other for travel agency subscribers. 65 FR at 11011.

Our last comprehensive CRS rulemaking included an economic analysis, and we stated our belief that that analysis remains applicable to our extension of the rules' expiration date. We concluded that no new economic analysis appeared to be necessary, but we stated that we would consider comments from any party on that analysis before we again revised the rules' sunset date. 65 FR at 11011.

No one filed comments on the economic analysis, so we are basing this rule on the analysis used in our last comprehensive CRS rulemaking. We will prepare a new economic analysis as part of our review of the existing rules, if we determine that rules remain necessary.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

Small Business Impact

Congress enacted the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this rule, small entities include smaller U.S. and foreign airlines and smaller travel agencies. Our notice of proposed rulemaking set forth the reasons for our proposed extension of the rules' expiration date and the objectives and legal basis for that proposed rule. 65 FR at 11011.

We also noted that keeping the current rules in force would not change the existing regulation of small businesses. We referred to the final rule in our last comprehensive CRS rulemaking, which contained an analysis underlying our determination that the rules would not have a significant economic impact on a substantial number of small entities. In proposing to revise the sunset date to March 31, 2001, we reasoned that that analysis appeared to remain valid for that proposed extension. We therefore adopted that analysis as our tentative regulatory flexibility statement but stated that we would consider any comments filed on that analysis in connection with the proposal. 65 FR at 11011.

We tentatively concluded that maintaining our existing CRS rules would primarily affect two types of small entities, smaller airlines and travel agencies. The rules would also affect all small entities that purchase airline tickets, since airline fares may be somewhat lower than they would otherwise be, although the amount may not be large, if our CRS rules allow airlines to operate more efficiently than they otherwise would. 65 FR at 11011.

Keeping the rules in effect would benefit smaller airlines that have no ownership interest in a CRS, since the rules prohibit certain potential system practices that could injure the smaller airlines' ability to operate profitably and compete successfully. The rules, for example, bar display bias and discriminatory booking fees. Without the rules, the systems' airline affiliates could use them to prejudice the competitive position of other airlines. 65 FR at 11011–11012.

The rules additionally affect the operations of smaller travel agencies, primarily by prohibiting certain CRS practices that could unreasonably restrict the travel agencies' ability to use more than one system or to switch systems. The rules prohibit CRS contracts that have a term longer than five years, give travel agencies the right to use third-party hardware and software, and prohibit certain types of contract clauses, such as minimum use and parity clauses, that restrict an agency's ability to use multiple systems. By prohibiting display bias based on carrier identity, the rules also enable travel agencies to obtain more useful displays of airline services. 65 FR at 11012.

We invited interested persons to address our tentative conclusions under the Regulatory Flexibility Act in their comments submitted in response to this notice of proposed rulemaking. 65 FR at 11012.

No one filed comments on our Regulatory Flexibility Act analysis. We will adopt the analysis set forth in the notice of proposed rulemaking.

Our proposed rule contained no direct reporting, record-keeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

I certify under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposal contains no collection-of-information requirements subject to the Paperwork Reduction Act, Pub.L. No. 96–511, 44 U.S.C. Chapter 35.

Federalism Implications

We stated that we had reviewed this rule in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and determined that it will not have a substantial 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. The rule will not limit the policymaking discretion of the States. Nothing in it would directly preempt any State law or regulation. We are adopting this amendment primarily under the authority granted us by 49 U.S.C. 41712 to prevent unfair methods of competition and unfair and deceptive practices in the sale of air transportation. In our notice of proposed rulemaking, we stated our belief that the policy set forth in the proposed rule is consistent with the principles, criteria, and requirements of the Federalism Executive Order and the Department's governing statute. We welcomed comments on our conclusions.

No one submitted comments on our federalism assessment. Therefore, we will make that assessment final. Because the rule will have no significant effect on State or local governments, as discussed above, no consultations with State and local governments on this rule were necessary.

List of Subjects in 14 CFR Part 255

Air carriers, Antitrust, Consumer protection, Reporting and recordkeeping requirements, Travel agents.

Accordingly, the Department of Transportation amends 14 CFR part 255, Carrier-owned Computer Reservations Systems, as follows:

PART 255—[AMENDED]

1. The authority citation for Part 255 continues to read as follows:

Authority: 49 U.S.C. 40101, 40102, 40105, 40113, 41712.

2. Section 255.12 is revised to read as follows:

§ 255.12. Termination.

The rules in this part terminate on March 31, 2001.

Issued in Washington, DC on March 27, 2000, under authority delegated by 49 CFR 1.56a (h) 2.

A. Bradley Mims,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 00–7861 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–64–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 101A]

Staff Accounting Bulletin No. 101A

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: Staff Accounting Bulletin No. 101 (''SAB 101'') was released on December 3, 1999 (64 FR 68936 December 9, 1999) and provides the staff's views in applying generally accepted accounting principles to selected revenue recognition issues. Since the issuance of SAB 101, the staff received requests from a number of groups asking for additional time to study the guidance. Many registrants have calendar year-ends and may need more time to perform a detailed review of the SAB since its issuance on December 3, 1999. This staff accounting bulletin delays the implementation date of SAB 101 for registrants with fiscal years that begin between December 16, 1999 and March 15, 2000.

EFFECTIVE DATE: March 24, 2000.

FOR FURTHER INFORMATION CONTACT: Richard Rodgers, Scott Taub, or Eric Jacobsen, Professional Accounting Fellows, Office of the Chief Accountant (202/942–4400) or Robert Bayless, Division of Corporation Finance (202/942–2960), Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549; electronic addresses: RodgerR@sec.gov; TaubS@sec.gov; JacobsenE@sec.gov; or BaylessR@sec.gov.

SUPPLEMENTARY INFORMATION: The statements in the staff accounting bulletins are not rules or interpretations of the Commission, nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: March 24, 2000.

Margaret H. McFarland,

Deputy Secretary.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 101A to the table found in Subpart B.

Staff Accounting Bulletin No. 101A

The staff hereby amends Question 2 of Section B of Topic 13 of the Staff Accounting Bulletin Series.

Topic 13: Revenue Recognition

* * * * *

B. Disclosures.

Question 1.

* * * * *

Question 2.

Question: Will the staff expect retroactive changes by registrants to comply with the accounting described in this bulletin?

Interpretive Response: All registrants are expected to apply the accounting and disclosures described in this bulletin. The staff, however, will not object if registrants that have not applied this accounting do not restate prior financial statements provided they report a change in accounting principle in accordance with APB Opinion No. 20, *Accounting Changes*, no later than the first fiscal quarter of the fiscal year beginning after December 15, 1999, except that registrants with fiscal years that begin between December 16, 1999 and March 15, 2000 may report a change in accounting principle no later than their second fiscal quarter of the fiscal year beginning after December 15, 1999 in accordance with FASB Statement No. 3, *Reporting Accounting Changes in Interim Financial Statements.* In periods subsequent to transition, registrants should disclose the amount of revenue (if material to income before income taxes) recognized in those periods that was included in the cumulative effect adjustment. If a registrant files financial statements with the Commission before applying the guidance in this bulletin, disclosures similar to those described in Staff Accounting Bulletin Topic 11–M, *Disclosure of the Impact that Recently Issued Accounting Standards Will Have on the Financial Statements of a Registrant When Adopted in a Future Period*, should be provided. With regard to question 10 of Topic 13–A and Topic 8–A regarding income statement presentation, the staff would normally expect retroactive application to all periods presented unless the effect of applying the guidance herein is immaterial.

However, if registrants have not previously complied with generally accepted accounting principles, for example, by recording revenue for products prior to delivery that did not comply with the applicable bill-and-hold guidance, those registrants should apply the guidance in APB Opinion No. 20 for the correction of an error.[1] In addition, registrants should be aware that the Commission may take enforcement action where a registrant in prior financial statements has violated the antifraud or disclosure provisions of the securities laws with respect to revenue recognition.

[FR Doc. 00–7839 Filed 3–29–00; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 401, 402, 404, 410, 416, and 422

[Regs. Nos. 1, 2, 4, 10, 16, and 22]

RIN 0960–AF04

Miscellaneous Amendments

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are correcting several invalid references and other minor

[1] APB Opinion No. 20, ¶ 13 and ¶ 36–37 describe and provide the accounting and disclosure requirements applicable to the correction of an error in previously issued financial statements. Because the term ''error'' as used in APB Opinion No. 20 includes ''oversight or misuse of facts that existed at the time that the financial statements were prepared,'' that term includes both unintentional errors as well as intentional fraudulent financial reporting and misappropriation of assets as described in Statement on Auditing Standards No. 82, *Consideration of Fraud in a Financial Statement Audit.*

problems in parts 401, 402, 404, 410, 416, and 422, chapter III, revised as of April 1, 1999.

DATES: Effective March 30, 2000.

FOR FURTHER INFORMATION CONTACT: Daniel T. Bridgewater, Social Insurance Specialist, Office of Process and Innovation Management, L2109 West Low Rise Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–3298 or TTY (410) 966–5609 for information about this rule. For information on eligibility or claiming benefits, call our national toll-free numbers, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION: We are correcting several references and other minor problems found in the following parts under 20 CFR chapter III, revised as of April 1, 1999.

1. Part 401—*Privacy and Disclosure of Official Records and Information.* We are amending § 401.20(b)((1) to show correct cross-references.

2. Part 402—*Availability of Information and Records to the Public.* We are amending § 402.35(b)(2) to show correct cross-references.

3. Part 404—*Federal Old-Age, Survivors and Disability Insurance (1950–).* We are correcting a typographical error in § 404.337(a), and we are amending §§ 404.401, 404.403(d)(1), 404.450(d), 404.456(c), 404.457(a)(3), 404.1275, 404.1408, and 404.1410(a) to show correct cross-references. Also, we are revising § 404.1201 to restore (a)(1) and (a)(2) which had been inadvertently removed. In addition, we are removing duplicate sentences in § 404.1597a(b)(3)(ii) and (h)(2)(ii).

4. Part 410—*Federal Coal Mine Health and Safety Act of 1969, Title IV—Black Lung Benefits (1969–).* We are correcting §§ 410.240(g) and 410.601(a) and (b) to show correct cross-references. We are also correcting the authority citation for Subpart F to show the correct punctuation.

5. Part 416—*Supplemental Security Income for the Aged, Blind, and Disabled.* We are correcting cross-references in: §§ 416.428, 416.702(''*Essential person*''); 416.929(d)(4); 416.993(a); 416.994a(g)(4) and (g)(6); 416.1104; 416.1202(a); 416.1323(a); 416.1336(b); 416.1442(f)(1); 416.1801(c) (''*Spouse*''); 416.2045(a); and 416.2096(c)(5).

6. Part 422—*Organization and Procedures.* We are correcting §§ 422.125, 422.135, and 422.135 to show correct cross-references.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Act (42 U.S.C. 902(a)(5)), SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because these are minor technical changes which make no substantive change in the regulations and have no effect on the public. Therefore, opportunity for prior comment is unnecessary, and we are issuing these changes to our regulations as a final rule. In addition, SSA is not providing a 30-day delay in the effective date of this final rule under 5 U.S.C. 553(d). This is not a substantive rule, and there is no change in policy. Accordingly, the requirements of 5 U.S.C. 553(d) are inapplicable.

Executive Order 12866

SSA has consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

SSA certifies that this final rule will not have a significant economic impact on a substantial number of small entities since it makes no changes in policy. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

This final rule imposes no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income; 96.007 Social Security—Research and Demonstration)

List of Subjects

20 CFR Part 401

Administrative practice and procedure, Disclosure, Privacy, Social Security, Supplemental Security Income (SSI).

20 CFR Part 402

Administrative practice and procedure, Archives and records, Freedom of information.

20 CFR Part 404

Administrative practice and procedure, Blind, Old-Age, Survivors and Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 410

Administrative practice and procedure, Black lung benefits, Claims, Investigations, and Workers' compensation.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

20 CFR Part 422

Administrative practice and procedure, Freedom of information, Organization and functions (Government agencies), Social Security.

Dated: March 20, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

PART 401—PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

1. The authority citation for part 401 continues to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b–11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

2. Section 401.20 is amended by revising the first sentence of paragraph (b)(1) to read as follows:

§ 401.20 Scope.

* * * * *

(b) *Disclosure*—(1) *Program records.* Regulations that apply to the disclosure of information about an individual contained in SSA's program records are set out in §§ 401.100 through 401.200 of this part.

* * * * *

PART 402—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

1. The authority citation for 20 CFR part 402 is revised to read as follows:

Authority: Secs. 205, 702(a)(5), and 1106 of the Social Security Act; (42 U.S.C. 405, 902(a)(5), and 1306); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 18 U.S.C. 1905; 26 U.S.C. 6103; 30 U.S.C. 923b; 31 U.S.C. 9701; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Section 402.35 is amended by revising the second sentence of paragraph (b)(2) to read as follows:

§ 402.35 Publication.

* * * * *

(b) * * *

(2) * * * They are binding on all components of the Social Security Administration, except with respect to claims subject to the relitigation procedures established in 20 CFR 404.984, 410.610, and 416.1484.

* * * * *

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart D—[Amended]

1. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

2. Section 404.337 is amended by revising paragraph (a) to read as follows:

§ 404.337 When widow's and widower's benefits begin and end.

(a) You are entitled to widow's or widower's benefits under § 404.335 or § 404.336 beginning with the first month covered by your application in which you meet all the other requirements for entitlement to such benefits.

* * * * *

Subpart E—[Amended]

3. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, and 902(a)(5)).

4. Section 404.401 is amended by revising the first sentence to read as follows:

§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.

Under certain conditions, the amount of a monthly insurance benefit (see §§ 404.380 through 404.384 of this part for provisions concerning special payments at age 72) or the lump-sum death payment as calculated under the pertinent provisions of sections 202 and 203 of the Act (including reduction for age under section 202(q) of a monthly benefit) must be increased or decreased to determine the amount to be actually paid to a beneficiary.

* * * * *

5. Section 404.403 is amended by revising the first sentence of paragraph (d–1)(1) to read as follows:

§ 404.403 Reduction where total monthly benefits exceed maximum family benefits payable.

* * * * *

(d–1) *Entitled to disability insurance benefits after June 1980.* * * *

(1) We take 85 percent of your average indexed monthly earnings and compare that figure with your primary insurance amount (see § 404.212 of this part).

* * * * *

6. Section 404.450 is amended by revising the second sentence in paragraph (d) to read as follows:

§ 404.450 Required reports of work outside the United States or failure to have care of a child.

* * * * *

(d) * * * (See § 404.614 of this part for procedures concerning place of filing and date of receipt of such a report.)

* * * * *

7. Section 404.456 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 404.456 Current suspension of benefits because an individual works or engages in self-employment.

* * * * *

(c) * * * Subject to the limitations of this paragraph, a determination about deductions may be reopened under the circumstances described in § 404.907.

8. Section 404.457 is amended by revising paragraph (a)(3) to read as follows:

§ 404.457 Deductions where taxes neither deducted from wages of certain maritime employees nor paid.

(a) * * *

(3) The services, under the provisions of § 404.1041 of this part, constituted employment for the purposes of title II of the Social Security Act; and

* * * * *

Subpart M—[Amended]

9. The authority citation for subpart M of part 404 continues to read as follows:

Authority: Secs. 205, 210, 218, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 410, 418, and 902(a)(5)); sec. 12110, Pub. L. 99–272, 100 Stat. 287 (42 U.S.C. 418 note); sec. 9002, Pub. L. 99–509, 100 Stat. 1970.

10. Section 404.1201 is amended by revising paragraph (a) to read as follows:

§ 404.1201 Scope of this subpart regarding coverage and wage reports and adjustments.

* * * * *

(a) Coverage under section 218 of the Act—

(1) How a State enters into and modifies an agreement; and

(2) What groups of employees a State can cover by agreement.

* * * * *

11. Section 404.1275 is amended by revising the second sentence to read as follows:

§ 404.1275 Adjustment of employee contributions—for wages paid prior to 1987.

* * * The State shall show any correction of an employee's contribution on statements it furnishes the employee under § 404.1225 of this part.

* * * * *

Subpart O—[Amended]

12. The authority citation for subpart O of part 404 continues to read as follows:

Authority: Secs. 202(l), 205(a), (c)(5)(D), (i), and (o), 210 (a)(9) and (l)(4), 211(c)(3), and 702(a)(5) of the Social Security Act (42 U.S.C. 402(l), 405(a), (c)(5)(D), (i), and (o), 410 (a)(9) and (l)(4), 411(c)(3), and 902(a)(5)).

13. Section 404.1408 is revised to read as follows:

§ 404.1408 Compensation to be treated as wages.

(a) *General.* Where pursuant to the preceding provisions of this subpart, services rendered by an individual in the railroad industry are considered to be employment as defined in section 210 of the Social Security Act (see § 404.1027 of this part). Thus, any compensation (as defined in section 1(h) of the Railroad Retirement Act of 1974 or prior to the 1974 Act, section 1(h) of the Railroad Retirement Act of 1937) received by such individual for such services shall constitute wages, provided that the provisions of § 404.1406 do not operate to bar the payments of benefits under title II of the Social Security Act.

(b) *Military Service Exception.* An exception to paragraph (a) of this section applies to any compensation

attributable as having been paid during any month on account of military service creditable under section 1 of the Railroad Retirement Act of 1974 (or section 4 of the Railroad Retirement Act of 1937 prior to the 1974 Act). Such compensation shall not constitute wages for purposes of title II of the Social Security Act if, based on such services, wages are deemed to have been paid to such individual during such month under the provisions described in §§ 404.1350 through 404.1352 of this part.

14. Section 404.1410 is amended by revising paragraph (a) to read as follows:

§ 404.1410 Presumption on basis of certified compensation record.

(a) *Years prior to 1975.* Where the Railroad Retirement Board certifies to SSA a report of record of compensation, such compensation is treated as wages under § 404.1408. For periods of service which do not identify the months or quarters in which such compensation was paid, the sum of the compensation quarters of coverage (see § 404.1412) will be presumed, in the absence of evidence to the contrary, to represent an equivalent number of quarters of coverage (see § 404.101). No more than four quarters of coverage shall be credited to an individual in a single calendar year.

* * * * *

Subpart P—[Amended]

15. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub.L. 104–193, 110 Stat. 2105, 2189.

§ 404.1597a [Amended]

16. Section 404.1597a is amended by removing the last sentence (duplicates) in paragraphs (b)(3)(ii) and (h)(2)(ii).

PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, TITLE IV—BLACK LUNG BENEFITS (1969–)

Subpart B—[Amended]

1. The authority citation for subpart B of part 410 continues to read as follows:

Authority: Sec. 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)); sec. 402, 411, 412, 413, 414, 426(a), and 508, 83 Stat. 792; 30 U.S.C. 902, 921–924, 936(a), 957.

2. Section 410.240 is amended by revising paragraphs (g)(1), (g)(2), (g)(3), (g)(4), (g)(5), and (g)(6) to read as follows:

§ 410.240 Evidence.

* * * * *

(g) *Evidence of matters other than total disability or death due to pneumoconiosis.* * * *

(1) *Age:* §§ 404.715 through 404.716 of this part;

(2) *Death:* §§ 404.720 through 404.722 of this part;

(3) *Marriage and termination of marriage:* §§ 404.723 through 404.728 of this part;

(4) *Relationship of parent and child:* §§ 404.730 through 404.750 of this part;

(5) *Domicile:* § 404.770 of this part;

(6) *Living with or member of the same household:* § 404.760 of this part.

* * * * *

Subpart F—[Amended]

3. The authority citation for subpart F of part 410 is revised to read as follows:

Authority: Sec. 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)); 30 U.S.C. 923(b), 936(a), 956, and 957.

4. Section 410.601 is amended by revising paragraphs (a) and (b) to read as follows:

§ 410.601 Determinations of disability.

(a) *By State agencies.* In any State which has entered into an agreement with the Commissioner to provide determinations as to whether a miner is under a total disability (as defined in § 410.412) due to pneumoconiosis (as defined in § 410.110(n)). Determinations as to the date total disability began, and as to the date total disability ceases, shall be made by the State agency or agencies designated in such agreement on behalf of the Commissioner for all individuals in such State, or for such class or classes of individuals in the State as may be designated in the agreement.

(b) *By the Administration.* Determinations as to whether a miner is under a total disability (as defined in § 410.412) due to pneumoconiosis (as defined in § 410.110(n)), as to the date the total disability began, and as to the date the total disability ceases, shall be made by the Administration on behalf of the Commissioner. The Administration shall make such determinations for individuals in any State which has not entered into an agreement to make such determinations, for any class or classes of individuals to which such an agreement is not applicable, or for any individuals outside the United States. In addition, all other determinations as to entitlement to and the amounts of benefits shall be made by the Administration on behalf of the Commissioner.

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart D—[Amended]

1. The authority citation for subpart D of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611(a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382(a), (b), (c), and (e), 1382a, 1382f, and 1383).

2. Section 416.428 is amended by revising the first sentence to read as follows:

§ 416.428 Eligible individual without an eligible spouse has an essential person in his home.

When an eligible individual without an eligible spouse has an essential person (as defined in § 416.222 of this part) in his home, the amount by which his rate of payment is increased is determined in accordance with §§ 416.220 through 416.223 and with 416.413 of this part.

* * * * *

Subpart G—[Amended]

3. The authority citation for subpart G of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1612, 1613, 1614, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382a, 1382b, 1382c, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

4. Section 416.702 is amended by revising the second sentence of the definition for ''*Essential person*'' to read as follows:

§ 416.702 Definitions.

* * * * *

Essential person means * * * (See §§ 416.220 through 416.223 of this part.)

* * * * *

Subpart I—[Amended]

5. The authority citation for subpart I of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

6. Section 416.929 is amended by revising the last sentence of paragraph (d)(4) to read as follows:

§ 416.929 How we evaluate symptoms, including pain.

* * * * *

(d) * * *

(4) * * * (See § 416.945 and §§ 416.924a through 416.924c.)

7. Section 416.993 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 416.993 Medical evidence in continuing disability review cases.

(a) * * * See §§ 416.987 and 416.994.

* * * * *

8. Section 416.994a is amended by revising paragraph (g)(4) and (g)(6) to read as follows:

§ 416.994a How we will determine whether your disability continues or ends, and whether you are and have been receiving treatment that is medically necessary and available, disabled children.

* * * * *

(g) * * *

(4) The first month in which you fail without good cause to follow prescribed treatment, when the rule set out in paragraph (f)(4) of this section applies;

* * * * *

(6) The first month in which you failed without good cause to do what we asked, when the rule set out in paragraph (f)(2) of this section applies.

* * * * *

Subpart K—[Amended]

9. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

10. Section 416.1104 is amended by revising the sixth sentence to read as follows:

§ 416.1104 Income we count.

* * * These rules are described in §§ 416.1130 through 416.1148 of this part.

* * * * *

Subpart L—[Amended]

11. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

12. Section 416.1202 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 416.1202 Deeming of resources.

(a) *Married individual.* In the case of an individual who is living with a person not eligible under this part and who is considered to be the husband or wife of such individual under the criteria in §§ 416.1802 through 416.1835 of this part, such individual's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of such spouse whether or not such resources are available to such individual.

* * * * *

Subpart M—[Amended]

13. The authority citation for subpart M of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611–1615, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382–1382d, 1382h, and 1383).

14. Section 416.1323 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 416.1323 Suspension due to excess income.

(a) *Effective date.* Suspension of payments due to ineligibility for benefits because of excess income is effective with the first month in which ''countable income'' (see §§ 416.1100 through 416.1124 of this part) equals or exceeds the amount of benefits otherwise payable for such month (see subpart D of this part).

* * * * *

15. Section 416.1336 is amended by revising the fourth sentence in paragraph (b) to read as follows:

§ 416.1336 Notice of intended action affecting recipient's payment status.

* * * * *

(b) * * * Where the request for the appropriate appellate review is filed more than 10 days after the notice is received but within the 60-day period specified in § 416.1413 or § 416.1425 of this part, there shall be no right to continuation or reinstatement of payment at the previously established level unless good cause is established under the criteria specified in § 416.1411 of this part for failure to appeal within 10 days after receipt of the notice.

* * * * *

Subpart N—[Amended]

16. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); 31 U.S.C. 3720A.

17. Section 416.1442 is amended by revising paragraph (f)(1) to read as follows:

§ 416.1442 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(f) * * *

(1) Authorize an attorney advisor to exercise the functions performed by an administrative law judge under §§ 416.920a, 416.927, and 416.946;

* * * * *

Subpart R—[Amended]

18. The authority citation for subpart R of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1614(b), (c), and (d), and 1631(d)(1) and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382c(b), (c), and (d), and 1383(d)(1) and (e)).

19. Section 416.1801 is amended by revising the definition of *''Spouse''* in paragraph (c) to read as follows:

§ 416.1801 Introduction.

* * * * *

(c) * * *

Spouse means a person's husband or wife under the rules of §§ 416.1806 through 416.1835 of this part.

* * * * *

Subpart T—[Amended]

20. The authority citation for subpart T of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1616, 1618, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382e, 1382g, and 1383); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 8(a), (b)(1)–(b)(3), Pub. L. 93–233, 87 Stat. 956 (7 U.S.C. 612c note, 1431 note and 42 U.S.C. 1382e note); secs. 1(a)–(c) and 2(a), 2(b)(1), 2(b)(2), Pub. L. 93–335, 88 Stat. 291 (42 U.S.C. 1382 note, 1382e note).

21. Section 416.2045 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 416.2045 Overpayments and underpayments; federally administered supplementation.

(a) * * * Rules and requirements (see §§ 416.550 through 416.586) in effect for recovery (or waiver) of supplemental security income benefit overpayments shall also apply to the recovery (or waiver) of federally administered State supplementary overpaid amounts.

* * * * *

22. Section 416.2096 is amended by revising the second sentence of paragraph (c)(5) to read as follows:

§ 416.2096 Basic pass-along rules.

* * * * *

(c) * * *

(5) * * * For purposes of § 416.2090 of this part, which discusses the rules for limitation on fiscal liability of States (hold harmless), these retroactive adjustments are State expenditures when made and shall be counted as a State expenditure in the fiscal year in which the adjustments are made.

* * * * *

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—[Amended]

1. The authority citation for subpart B of part 422 continues to read as follows:

Authority: Secs. 205, 232, 702(a)(5), 1131, and 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b-1, and 1320b-13).

2. Section 422.125 is amended by revising paragraph (c) to read as follows:

§ 422.125 Statements of earnings; resolving earnings discrepancies.

* * * * *

(c) *Detailed earnings statements.* A more detailed earnings statement will be furnished upon request, generally without charge, where the request is program related under § 402.170 of this part. If the request for a more detailed statement is not program related under § 402.170 of this part, a charge will be imposed according to the guidelines set out in § 402.175 of this part.

* * * * *

3. Section 422.130 is amended by revising the third sentence of paragraph (a) to read as follows:

§ 422.130 Claim procedure.

(a) * * * See § 404.614 of this chapter for offices at which applications may be filed.

* * * * *

4. Section 422.135 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 422.135 Reports by beneficiaries.

(a) * * * (See §§ 404.415 *et seq.* and 404.1571 of this chapter.)

* * * * *

[FR Doc. 00–7639 Filed 3–29–00; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 97F–0157]

Indirect Food Additives: Polymers

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 2-propenoic acid, polymer with 2-ethyl-2-(((1-oxo-2-propenyl)oxy)methyl)-1,3-propanediyl di-2-propenoate and sodium 2-propenoate (CAS Reg. No. 76774–25–9) as a fluid absorbent material intended for use in contact with food. This action responds to a petition filed by Japan Vilene Co., Ltd.

DATES: This rule is effective March 30, 2000. Submit written objections and requests for a hearing by May 1, 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: Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 22, 1997 (62 FR 19580), FDA announced that a food additive petition (FAP 7B4537) had been filed by Japan Vilene Co., Ltd., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 20191 (current 5200 Wolf Run Shoals Rd., Woodbridge, VA 22192). The petition proposed to amend the food additive regulations to provide for the safe use of 2-propenoic acid, polymer with 2-ethyl-2-(((1-oxo-2-propenyl)oxy)methyl)-1,3-propanediyl di-2-propenoate and sodium 2-propenoate (CAS Reg. No. 76774–25–9) as a fluid absorbent material intended for use in contact with food.

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 21 CFR 177.1211 should be amended as set forth below in this document.

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

This final rule contains no collections 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 file with the Dockets Management Branch (address above) written objections by May 1, 2000. 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 177

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 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

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

2. Section 177.1211 is amended by revising paragraphs (a), (d), and the last sentence in paragraph (c) to read as follows:

§ 177.1211 Cross-linked polyacrylate copolymers.

* * * * *

(a) *Identity.* For the purpose of this section, the cross-linked polyacrylate copolymers consist of:

(1) The grafted copolymer of cross-linked sodium polyacrylate identified as 2-propenoic acid, polymers with *N*,*N*-di-2-propenyl-2-propen-1-amine and hydrolyzed polyvinyl acetate, sodium salts, graft (CAS Reg. No. 166164–74–5); or

(2) 2-propenoic acid, polymer with 2-ethyl-2-(((1-oxo-2-propenyl)oxy)methyl)-1,3-propanediyl di-2-propenoate and sodium 2-propenoate (CAS Reg. No. 76774–25–9).

* * * * *

(c) *Extractive limitations.* * * * The solvent used shall be at least 60 milliliters aqueous sodium chloride solution per gram of copolymer.

(d) *Conditions of use.* The copolymers identified in paragraph (a)(1) of this section are limited to use as a fluid absorbent in food-contact materials used in the packaging of frozen or refrigerated poultry. The copolymers identified in paragraph (a)(2) of this section are limited to use as a fluid absorbent in food-contact materials used in the packaging of frozen or refrigerated meat and poultry.

Dated: March 20, 2000.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–7930 Filed 3–29–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Triamcinolone Acetonide Cream

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Med-Pharmex, Inc. The ANADA provides for veterinary prescription use of triamcinolone acetonide cream on dogs for topical treatment of allergic dermatitis and summer eczema.

DATES: This rule is effective March 30, 2000.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767–1861, filed ANADA 200–275 that provides for veterinary prescription use of triamcinolone acetonide cream on dogs for topical treatment of allergic dermatitis and summer eczema. Med-Pharmex's ANADA 200–275 MEDALOG cream is approved as a generic copy of Fort Dodge Animal Health's NADA 46–146 VETALOG® cream. ANADA 200–275 is approved as of February 4, 2000, and 21 CFR 524.2481(b) is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

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

§ 524.2481 [Amended]

2. Section 524.2481 *Triamcinolone acetonide cream* is amended in paragraph (b) by adding after ''No.'' the phrase ''051259 and''.

Dated: March 20, 2000.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 00–7931 Filed 3–29–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–4459–C–07]

RIN 2577–AB96

Renewal of Expiring Annual Contributions Contracts in the Tenant-Based Section 8 Program; Formula for Allocation of Housing Assistance; Correction

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: On October 21, 1999, HUD published a final rule that specified the method HUD will use in allocating housing assistance available to renew expiring contracts with public housing agencies (PHAs) for Section 8 tenant-based housing assistance. As required by statute, the October 21, 1999 final rule was the product of a negotiated rulemaking, following implementation, as further required by statute, of a HUD notice on this subject. The purpose of this document is to correct two typographical errors contained in the October 21, 1999 final rule.

DATES: *Effective Date:* November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477, extension 4069 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On October 21, 1999 (64 FR 56882), HUD published a final rule that specified the method HUD will use in allocating housing assistance available to renew expiring contracts with public housing agencies (PHAs) for Section 8 tenant-based housing assistance. As required by statute, the October 21, 1999 final rule was the product of a negotiated rulemaking, following implementation, as further required by statute, of a HUD notice on this subject. The purpose of this document is to correct two typographical errors contained in the October 21, 1999 final rule. Specifically, this document corrects all references to a ''CACC'' to read ''consolidated ACC.'' This document also inserts a missing hyphen in one of the references in § 982.102 to ''project-based assistance.''

Accordingly, in the final rule entitled ''Renewal of Expiring Annual Contributions Contracts in the Tenant-Based Section 8 Program; Formula for Allocation of Housing Assistance,'' FR Document 99–27445, beginning at 64 FR 56882, in the issue of Thursday, October 21, 1999, the following corrections are made:

§ 982.102 [Corrected]

1. On page 56887, beginning in the second column, § 982.102 is corrected as follows:

a. Correct all references to ''CACC'' to read ''consolidated ACC''; and

b. In paragraph (a), correct the reference to ''project based assistance'' to read ''project-based assistance.''

Dated: March 22, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 00–7643 Filed 3–29–00; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 982 and 983

[Docket No. FR–3482–C–08]

RIN 2501–AB57

Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Housing Receiving Federal Assistance and Federally Owned Residential Property Being Sold; Correction

AGENCY: Office of the Secretary—Office of Lead-Hazard Control, HUD.

ACTION: Correction.

SUMMARY: This document makes several corrections to HUD's September 15, 1999 final rule implementing sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. Specifically, this document corrects two typographical errors contained in the September 1, 1999 final rule that regard the Section 8 Housing Choice Voucher program and the Section 8 Project-Based Certificate program.

DATES: *Effective date:* September 15, 2000.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477, extension 4069 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On September 15, 1999, HUD published a final rule (64 FR 50140) that implements sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). The purpose of the rule is to ensure that Federally-owned or assisted housing does not pose lead-based paint hazards to young children. The majority of the provisions contained in the final rule will become effective on September 15, 2000 (one year following the date of publication). This document corrects two typographical errors contained in the September 15, 1999 final rule that regard the Section 8 Housing Choice Voucher program (codified at 24 CFR part 982) and the Section 8 Project-Based Certificate program (codified at 24 CFR part 983). The corrections made by this document are as follows:

1. *Correction to § 982.305 (PHA approval of assisted tenancy).* This document corrects a typographical error contained in § 982.305(b) of the September 15, 1999 final rule. The September 15, 1999 final rule amended paragraph (b)(3) of § 982.305 to reference the lead-based disclosure information required under 24 CFR 35.92(b). This reference is more appropriately set forth in paragraph (b)(1)(ii) of § 982.305. This document makes the necessary correction. As corrected by this document, 982.305(b)(1)(ii) provides that, before the beginning of the initial term of the lease for the unit, the landlord and the tenant must have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information as required in 24 CFR 35.13(b)).

2. *Correction to § 983.1 (Purpose and applicability).* This document corrects a typographical error contained in § 983.1 of the September 15, 1999 final rule. Paragraph (b) of § 983.1 describes the provisions of 24 CFR part 982 that apply to the Section 8 Project-Based Certificate program. The September 15, 1999 final rule amended § 983.1(b) by adding a citation to § 982.401(j). However, the citation did not explain to readers that § 982.401(j) contains applicable lead-based paint requirements. This document adds a parenthetical after the citation to clarify this point.

Accordingly, in the final rule captioned ''Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance,'' FR Document 99–23016, beginning at 64 FR 50140, in the issue of Wednesday, September 15, 1999, the following corrections are made:

1. On page 50229, in the third column, regulatory amendment 88 is corrected to read as follows:

88. Revise § 982.305(b)(1)(ii) to read as follows:

§ 982.305 PHA approval of assisted tenancy.

* * * * *

(b) * * *

(1) * * *

(ii) The landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information as required in § 35.13(b) of this title); and

* * * * *

2. On page 50230, in the first column, § 983.1(b)(2)(vii) is corrected to read as follows:

§ 983.1 Purpose and applicability.

* * * * *

(b) * * *

(2) * * *

(vii) In subpart I of this part, § 982.401(j) (lead-based paint requirements); § 982.402(a)(3), § 982.402(c) and (d) (Subsidy standards); and § 982.403 (Terminating HAP contract when unit is too small);

* * * * *

Dated: March 22, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 00–7641 Filed 3–29–00; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 982 and 983

[Docket No. FR–4428–C–06]

RIN 2577–AB91

Section 8 Tenant-Based Assistance; Statutory Merger of Section 8 Certificate and Voucher Programs; Housing Choice Voucher Program; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Correction.

SUMMARY: This document makes various corrections to HUD's October 21, 1999 final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs into the new Housing Choice Voucher program. Additionally, this document corrects several regulatory provisions of the new Section 8 merger program that were not part of the October 21, 1999 final rule. These technical, non-substantive amendments will help to ensure that, once codified, the regulations for the Housing Choice Voucher program are free of error and consistent with other HUD program requirements.

DATES: *Effective date:* November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477, extension 4069 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION

I. Background

On October 21, 1999 (64 FR 56894), HUD published a final rule implementing the Section 8 tenant-based program provisions of the Quality Housing and Work Responsibility Act of 1998 (Title V of the FY 1999 HUD Appropriations Act; Pub.L. 105–276, approved October 21, 1998) (referred to as the ''Public Housing Reform Act''). Of particular significance, the October 21, 1999 final rule implemented section 545 of the Public Housing Reform Act. Section 545 provides for the complete merger of the Section 8 tenant-based certificate and voucher programs. HUD's regulations for the new Section 8 merger program (known as the ''Housing Choice Voucher program'') are located at 24 CFR part 982.

The October 21, 1999 final rule became effective on November 22, 1999. The final rule was preceded by HUD's publication of an interim rule on May 14, 1999 (64 FR 56894). The October 21, 1999 final rule adopted without change the provisions of the interim rule. The final rule also took into consideration of the public comments received on the interim rule, and most of the changes made at the final rule stage were in response to public comment.

II. This Document

This document makes several corrections to the October 21, 1999 final rule. Additionally, this document corrects several regulatory provisions of the Housing Choice Voucher program that were not part of the October 21, 1999 final rule. These technical revisions correct typographical errors and inconsistencies with other HUD program requirements. These corrections are non-substantive, and do not modify or create any new program requirements. The corrections will help to ensure that, once codified in title 24 of the Code of Federal Regulations, the regulations for the new Section 8 merger program are free of error and consistent with other HUD program requirements.

For the convenience of readers, the following discussion of the corrections made by this document is organized in the order of the regulatory section being corrected.

1. *Definitions (§ 982.4).* This document corrects § 982.4, which sets forth the definitions applicable to the Housing Choice Voucher program. Currently, part 982 refers readers to section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) for the definitions of several terms applicable to the merger program. This document replaces the cross-reference to section 3(b) with a cross-reference to HUD's regulations at 24 CFR part 5, subpart D. HUD established 24 CFR part 5 to set forth the definitions and other program requirements that are generally applicable to HUD's programs. The definitions provided in part 5 are substantively identical to those located in section 3(b).

2. *How applicants are selected: General requirements (§ 982.202).* This document corrects § 982.202 to conform with § 982.207 of the October 21, 1999 final rule, since HUD approval is no longer required for the public housing agency (PHA) to adopt a residency preference. This document also corrects an erroneous regulatory citation contained in § 982.202.

3. *Waiting list: Administration of waiting list (§ 982.204).* This document corrects § 982.204 by removing paragraph (b)(5), which merely repeats the language of paragraph (b)(4).

4. *Waiting list: Different programs (§ 982.205).* This document corrects § 982.205(b)(1) to clarify the definition of ''other housing assistance.'' This document also removes § 982.205(b)(3), which incorrectly refers to a PHA offer of assistance under ''both the certificate program and the voucher program.'' As noted above, the new Housing Choice Voucher program merges the Section 8 tenant-based certificate and voucher programs into a single voucher program. Accordingly, PHAs no longer have two forms of Section 8 tenant-based assistance to offer families.

5. *Waiting list: Local preferences in admission to program (§ 982.207).* This document corrects § 982.207 to eliminate unnecessary redundancy. Specifically, paragraph (a)(1) of this section provides that the ''system of local preferences must be consistent with the PHA plan . . . and with the consolidated plans for local governments in the jurisdiction.'' Preferences are already covered under HUD's PHA Plan regulations, which require consistency with the Consolidated Plan (see 24 CFR part 903). Accordingly, it is unnecessary to include the quoted provision in part 982.

This document also corrects a typographical error contained in § 982.207(b)(5) of the October 21, 1999 final rule. Specifically, this document adds a phrase to the end of paragraph (b)(5) that clarifies that single persons who are elderly, displaced, homeless, or persons with disabilities may be granted an admissions preference *over other single persons*. The phrase ''over other single persons'' was inadvertently omitted from the October 21, 1999 final rule. This correction will also clarify

that a PHA may continue to have a selection preference that was statutorily mandated prior to the enactment of the Public Housing Reform Act.

6. *PHA disapproval of owner (§ 982.306) and Owner breach of contract (§ 982.453).* This document corrects a typographical error contained in these two sections. Specifically, it replaces the phrase ''housing assistance payments contract'' with the phrase ''HAP contract.''

7. *Table of contents for Subpart K—Rent and Housing Assistance Payment.* This document corrects several typographical errors contained in the table of contents for part 982, subpart K. As corrected by this document, the table of contents now accurately reflects the sections contained in subpart K.

8. *Conversion to voucher program (§ 982.502).* This document corrects § 982.502(c) to clarify the elimination of the so-called ''shopping incentive.'' Under the post-merger voucher subsidy formula (42 U.S.C. 1437f(o)(2), as amended by section 545 of the Public Housing Reform Act), the maximum subsidy for a family may not exceed the actual gross rent of the unit (rent to owner plus tenant-paid utilities) (§ 982.505(b)(2)). This change eliminates the old ''shopping incentive'' for a family that rents a unit below the applicable payment standard.

For a pre-merger voucher tenancy, the May 14, 1999 interim rule (which was adopted without change by the October 21, 1999 final rule) provides that the elimination of the shopping incentive (by application of § 982.505(b)(2) in the new voucher subsidy calculations) *does not apply* for calculation of the housing assistance payment *prior to* the second regular reexamination of family income on or after the merger date—but does not state explicitly that the elimination of the shopping incentive does apply in calculation of subsidy for such pre-merger voucher tenancies from that point on. The rule is now corrected to state positively, as originally intended, that the elimination of the shopping incentive (by application of § 982.505(b)(2)) is applicable for each interim or regular examination effective on or after the effective date of the second regular reexamination of family income and composition on or after the merger date.

9. *Voucher tenancy: Payment standard amount and schedule (§ 982.503).* This document makes two corrections to § 982.503. Under the Housing Choice Voucher program, the PHA adopts a ''payment standard schedule'' that sets ''payment standard amounts'' that are used to calculate the amount of subsidy for families assisted in the PHA's voucher program. This document corrects § 982.503(a)(3) to specify that the PHA schedule may set a single payment standard amount for a whole Fair Market Rent (FMR) area, or may establish a separate payment standard amount for each ''designated part'' of the FMR area.

The PHA voucher payment standard schedule establishes a single payment standard amount for each unit size. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may establish a separate payment standard amount for each designated part of the FMR area.

Under the terms of the May 14, 1999 interim rule (which was adopted by the October 21, 1999 final rule without change), a PHA may apply for HUD approval to set a payment standard amount—for a part of the FMR area—that is higher than the ''basic range'' (i.e., the range from 90 percent to 110 percent of the published FMR). However, the October 21, 1999 final rule failed to specify that the PHA may set a payment standard amount for part of an FMR area *within or below the basic range.*

As corrected by this document, the final rule now provides that the PHA may set payment standard amounts for designated parts of the FMR area. The PHA may establish such payment standard amounts above, within or below the basic range. However, as provided in the May 14, 1999 interim rule, the PHA must request HUD approval to set any payment standard amount that is higher or lower than the basic range. The correction does not change the regulatory requirement for HUD approval of a payment standard amount higher than the basic range (called a ''exception payment standard amount'').

The October 21, 1999 final rule is also corrected by deleting § 982.503(b)(1)(iii) concerning authority to establish a higher payment standard if required as a reasonable accommodation for a family that includes a person with disabilities. This subject is now moved to § 982.505(d), since § 982.505 covers establishment of the payment standard for an individual family (whereas § 982.503 concerns the establishment of the PHA payment standard schedule for families in the PHA program).

10. *Rent to owner: Effect of rent control (§ 982.509).* This document corrects the section heading of § 982.509. The May 14, 1999 interim rule provided an incorrect designation for this section (''Rent to owner in subsidized projects''). The incorrect section heading was adopted by the October 21, 1999 final rule. As corrected, the section heading for § 982.509 reads: ''Rent to owner: Effect of rent control.''

11. *Distribution of housing assistance payment (§ 982.514).* This document corrects § 982.514, to clarify that if the PHA elects to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

12. *Family income and composition: Regular and interim examinations (§ 982.516).* This document corrects a typographical error contained in § 982.516(g)(1) of the October 21, 1999 final rule. Specifically, this document replaces an incorrect citation to 24 CFR part 760 with the correct citation to 24 CFR 5.230.

13. *Rent to owner in subsidized project (§ 982.521).* This document corrects § 982.521, by reinserting regulatory language that was accidentally deleted from the pre-merger regulations (at § 982.512).

14. *PHA denial or termination of assistance for family (§ 982.552).* This document corrects a typographical error contained in § 982.552(x) of the October 21, 1999 final rule. The final rule provides that a PHA may deny or terminate assistance to a welfare-to-work (WTW) family, if the family fails to fulfill its obligations under the WTW voucher program. The final rule inadvertently failed to include the necessary qualifier that a family must ''willfully and persistently'' fail to fulfill its WTW obligations in order for the PHA to deny or terminate assistance to the WTW family. This document makes the necessary correction.

15. *Informal hearing for participant (§ 982.555).* This document corrects two typographical errors contained in § 982.555. First, it corrects the paragraph (b)(5) to provide that a PHA is not required to provide a hearing if the PHA determines not to approve a unit or ''tenancy'' (rather than ''lease''). Secondly, this document corrects the title of paragraph (e)(2) to read ''Discovery'' (rather than ''Discover'').

16. *Correction to 24 CFR part 983.* In addition to the corrections to the part 982 regulations, this document makes a correction to HUD's regulations at 24 CFR part 983. The part 983 regulations establish the requirements governing the Section 8 Project-Based Certificate program. This document removes an outdated statutory citation contained in § 983.1(a).

Accordingly, in the final rule entitled ''Section 8 Tenant-Based Assistance; Statutory Merger of Section 8 Certificate and Voucher Programs; Housing Choice Voucher Program,'' FR Document 99–

27519, beginning at 64 FR 56894, in the issue of Thursday, October 21, 1999, the following corrections are made:

1. On page 56911, in the second column, correct amendatory instruction 4 and the regulatory text to read as follows:

4. Amend § 982.4 as follows:

a. Remove paragraph (a)(1);

b. Redesignate paragraphs (a)(2), (a)(3), and (a)(4) as paragraphs (a)(1), (a)(2), and (a)(3), respectively;

c. Revise newly designated paragraphs (a)(2) and (a)(3);

d. In paragraph (b), add, in alphabetical order, definitions of the terms ''family rent to owner'', ''utility reimbursement'', and ''welfare-to-work (WTW) families'';

e. In paragraph (b), in the definition of ''public housing agency'' remove from the end of paragraph (1) of this definition the word ''or'' and add in its place the word ''and'', and remove from paragraph (2)(i) of this definition the word ''consortia'' and add in its place the word ''consortium''.

The revisions and additions read as follows:

§ 982.4 Definitions.

(a) * * *

(2) *Definitions under the 1937 Act.* The terms ''annual contributions contract (ACC),'' ''disabled family,'' ''displaced family,'' ''elderly family,'' ''family,'' ''live-in aide,'' ''near-elderly family'' and ''person with disabilities'' are defined in part 5, subpart D of this title.

(3) *Definitions concerning family income and rent.* The terms ''adjusted income,'' ''annual income,'' ''extremely low income family,'' ''tenant rent,'' ''total tenant payment,'' ''utility allowance,'' and ''utility reimbursement'' are defined in part 5, subpart F of this title. The definitions of ''tenant rent'' and ''utility reimbursement'' in part 5, subpart F of this title, apply to the certificate program, but do not apply to the tenant-based voucher program under part 982.

(b) * * *

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family. For calculation of family rent to owner, see § 982.515(b).

* * * * *

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner. (See § 982.514(b)). (For the certificate program, ''utility reimbursement'' is defined in part 5, subpart F of this title.)

* * * * *

Welfare-to-work (WTW) families. Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

2. On page 56912, in the second column, add amendatory instruction 7a. to read as follows:

7a. In § 982.202(b)(1), revise the last sentence to read as follows:

§ 982.202 How applicants are selected: General requirements.

* * * * *

(b) * * *

(1) * * * However, the PHA may target assistance for families who live in public housing or other federally assisted housing, or may adopt a residency preference (see § 982.207).

* * * * *

3. On page 56912, in the second column, add amendatory instruction 7b. to read as follows:

7b. In § 982.204, remove paragraph (b)(5) and redesignate paragraph (b)(6) as paragraph (b)(5).

4. On page 56912, in the second column, add amendatory instruction 7c. to read as follows:

7c. In § 982.205, revise paragraph (b)(1) and remove paragraph (b)(3) to read as follows:

§ 982.205 Waiting list: Different programs.

* * * * *

(b) * * *

(1) For purposes of this section, ''other housing subsidy'' means a housing subsidy other than assistance under the voucher program. Housing subsidy includes subsidy assistance under a federal housing program (including public housing), a State housing program, or a local housing program.

* * * * *

5. On page 56912, in the second column, correct amendatory instruction 8. to read as follows:

8. Amend § 982.207 as follows:

a. Remove the last sentence of paragraph (a)(1);

b. Add paragraph (a)(4); and

c. Revise paragraphs (b) and (d) to read as set forth below:

6. On page 56912, in the third column, correct § 982.207(b)(5) to read as follows:

§ 982.207 Waiting list: Local preferences in admission to program.

* * * * *

(b) * * *

(5) *Preference for single persons who are elderly, displaced, homeless, or persons with disabilities.* The PHA may adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

* * * * *

7. On page 56913, in the first column, correct amendatory instruction 12. to read as follows:

§ 982.306 [Amended]

12. Amend § 982.306 as follows:

a. Revise the section heading;

b. In paragraph (c)(1), revise the phrase ''housing assistance payments contract'' to read ''HAP contract'';

c. Amend the introductory paragraph of paragraph (c)(5) to add the words ''engaged in'' after the words ''for activity''; and

d. Amend paragraph (d) to add a new final sentence to that paragraph to read as follows:

8. On page 56914, in the second column, correct amendatory instruction 19. to read as follows:

§ 982.543 [Amended]

19. Amend § 982.453 as follows:

a. In paragraph (a)(2), revise the phrase ''housing assistance payments contract'' to read ''HAP contract''; and

b. Add paragraph (a)(6) to read as follows:

9. On page 56914, in the second column, add amendatory instruction 19a. to read as follows:

19a. Revise the table of contents for Subpart K to read as follows:

Subpart K—Rent and Housing Assistance Payment

10. On page 56914, in the second column, correct § 982.502(c)(2) to read as follows:

§ 982.502 Conversion to voucher program.

* * * * *

(c) * * *

(2) The payment standard for the family as calculated in accordance with § 982.505, except that § 982.505(b)(2) shall not be applicable until the effective date of the second regular reexamination of family income and composition on or after the merger date.

* * * * *

11. On page 56914, in the second column, correct regulatory instruction 21. and the regulatory text to read as follows:

21. Amend § 982.503 as follows:

a. Revise paragraph (a)(3);

b. Revise paragraph (b)(1)(ii);

c. Remove paragraph (b)(1)(iii)

d. Revise paragraph (d); and

e. Add paragraph (e):

§ 982.503 Voucher tenancy: Payment standard amount and schedule.

(a) * * *

(3) The PHA voucher payment standard schedule shall establish a single payment standard amount for each unit size. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may establish a separate payment standard amount for each designated part of the FMR area.

(b) * * *

(1) * * *

(ii) The PHA may establish a separate payment standard amount within the basic range for a designated part of an FMR area.

* * * * *

(d) *HUD approval of payment standard amount below the basic range.* HUD may consider a PHA request for approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve PHA establishment of a payment standard lower than the basic range. In determining whether to approve the PHA request, HUD will consider appropriate factors, including rent burden of families assisted under the program. HUD will not approve a lower payment standard if the family share for more than 40 percent of participants in the PHA's voucher program exceeds 30 percent of adjusted monthly income. Such determination may be based on the most recent examinations of family income.

(e) *HUD review of PHA payment standard schedules.* (1) HUD will monitor rent burdens of families assisted in a PHA's voucher program. HUD will review the PHA's payment standard for a particular unit size if HUD finds that 40 percent or more of such families occupying units of that unit size currently pay more than 30 percent of adjusted monthly income as the family share. Such determination may be based on the most recent examinations of family income.

(2) After such review, HUD may, at its discretion, require the PHA to modify payment standard amounts for any unit size on the PHA payment standard schedule. HUD may require the PHA to establish an increased payment standard amount within the basic range.

12. On page 56914, in the third column, correct amendatory instruction 22. and the regulatory text to read as follows:

22. Amend § 982.505 as follows:

a. Amend paragraph (b)(1) by removing the phrase ''payment standard'' and inserting instead the phrase ''payment standard for the family'';

b. Revise paragraph (c)(1) introductory text;

c. Revise paragraph (c)(2);

d. Amend paragraph (c)(3) by inserting ''first 24 months of the'' after the words ''During the'';

e. Redesignate paragraph (c)(4) as paragraph (c)(5);

f. Add new paragraph (c)(4); and

g. Add new paragraph (d).

The revisions and additions read as follows:

§ 982.505 Voucher tenancy: How to calculate housing assistance payment.

* * * * *

(c) * * *

(1) The payment standard for the family is the lower of:

* * * * *

(2) If the PHA has established a separate payment standard amount for a designated part of an FMR area in accordance with § 982.503 (including an exception payment standard amount as determined in accordance with § 982.503(b)(2) and § 982.503(c)), and the dwelling unit is located in such designated part, the PHA must use the appropriate payment standard amount for such designated part to calculate the payment standard for the family. The payment standard for the family shall be calculated in accordance with this paragraph and paragraph (c)(1) of this section.

* * * * *

(4) After the first 24 months of the HAP contract term, the payment standard for a family is the payment standard for the family as determined in accordance with paragraphs (c)(1) and (c)(2) of this section, as determined at the effective date of the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

* * * * *

(d) *PHA approval of higher payment standard for the family as a reasonable accommodation.* If the family includes a person with disabilities and requires a higher payment standard for the family, as a reasonable accommodation for such person, in accordance with part 8 of this title, the PHA may establish a higher payment standard for the family within the basic range.

13. On page 56914, in the third column, add amendatory instruction 23a. to read as follows:

23a. Revise the section heading of § 982.509 to read as follows:

§ 982.509 Rent to owner: Effect of rent control.

* * * * *

14. On page 56914, in the third column, correct amendatory instruction 24. to read as follows:

24. Revise § 982.514(b) to read as follows:

§ 982.514 Distribution of housing assistance payment.

* * * * *

(b) If the housing assistance payment exceeds the rent to owner, the PHA may pay the balance of the housing assistance payment (''utility reimbursement'') either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the PHA elects to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

§ 982.516 [Corrected]

15. On page 56915, in the first column, correct § 982.516(g)(1) by revising the phrase ''under part 760 of this title'' to read ''under § 5.230 of this title.''

16. On page 56915, in the second column, add amendatory instruction 26a. to read as follows:

26a. Revise § 982.521 to read as follows:

§ 982.521 Rent to owner in subsidized project.

(a) *Applicability to subsidized project.* This section applies to a program tenancy in any of the following types of federally subsidized project:

(1) An insured or non-insured Section 236 project;

(2) A Section 202 project;

(3) A Section 221(d)(3) below market interest rate (BMIR) project; or

(4) A Section 515 project of the Rural Development Administration.

(b) *How rent to owner is determined.* The rent to owner is the subsidized rent as determined in accordance with

requirements for the applicable federal program listed in paragraph (a) of this section. This determination is not subject to the prohibition against increasing the rent to owner during the initial lease term (see § 982.309).

(c) *Certificate tenancy—Rent adjustment.* Rent to owner for a certificate tenancy is not subject to provisions governing annual adjustment (§ 982.519) or special adjustment (§ 982.520) of rent to owner.

17. On page 56915, in the second column, correct § 982.552(c)(1)(x) to read as follows:

§ 982.552 PHA denial or termination of assistance for family.

* * * * *

(c) * * *

(1) * * *

(x) If a welfare-to-work (WTW) family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program.

* * * * *

§ 982.555 [Amended]

18. On page 56915, in the third column, add amendatory instruction 27a. to read as follows:

27a. Amend § 982.555 as follows:

a. In paragraph (b)(5), revise the reference to ''or lease'' to read ''or tenancy'';

b. Revise the heading for paragraph (e)(2) to read ''Discovery.''

19. On page 56915, in the third column, add amendatory instructions 29. and 30. to read as follows:

PART 983—SECTION 8 PROJECT-BASED CERTIFICATE PROGRAM

29. The authority citation continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§ 983.1 [Amended]

30. Amend § 983.1(a) by removing the phrase '', authorized under section 8(d)(2) of the 1937 Act (42 U.S.C. 1437f(d)(2))''.

Dated: March 22, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 00–7642 Filed 3–29–00; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 985

[Docket No. FR–4498–C–03]

RIN 2577–AC10

Technical Amendment to the Section 8 Management Assessment Program (SEMAP); Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Correction.

SUMMARY: On December 3, 1999, HUD published a final rule amending its regulations for the Section 8 Management Assessment Program (SEMAP). The December 3, 1999 final rule adopted without change the amendments to the SEMAP regulations made by HUD's July 26, 1999 interim rule. The final rule also made several amendments to conform the SEMAP regulations to HUD's October 21, 1999 final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs. The purpose of this document is to make two typographical corrections to the December 3, 1999 final rule.

DATES: *Effective Date:* January 3, 2000.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477, extension 4069 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On December 3, 1999 (64 FR 67982), HUD published a final rule amending its regulations for the Section 8 Management Assessment Program (SEMAP). The December 3, 1999 final rule adopted the amendments to the SEMAP regulations made by HUD's July 26, 1999 (64 FR 40496) interim rule. The July 26, 1999 interim rule made various technical amendments to the SEMAP regulations. The public comment period on the interim rule closed on September 24, 1999. No public comments were submitted on the interim rule. Accordingly, the December 3, 1999 final rule adopted the amendments made by the interim rule without change. The final rule became effective on January 3, 2000.

In addition to finalizing the July 26, 1999 interim rule, the December 3, 1999 final rule also made several amendments to conform the SEMAP regulations to HUD's October 21, 1999 (64 FR 56894) final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs into the new Housing Choice Voucher program (the regulations for this new program are codified at 24 CFR part 982).

The purpose of this document is to correct two typographical errors contained in the SEMAP regulations at 24 CFR part 985. Specifically, § 985.3 provides two incorrect percentages in the provisions regarding the rating of public housing agency (PHA) management performance. The corrections were intended to be part of the December 3, 1999 final rule, but were inadvertently omitted from that rule. This document makes the necessary correction to the December 3, 1999 final rule.

Accordingly, in the final rule entitled ''Technical Amendment to the Section 8 Management Assessment Program (SEMAP),'' FR Document 99–31440, beginning at 64 FR 67982, in the issue of Friday, December 3, 1999, the following corrections are made:

§ 985.5 [Corrected]

1. On page 67983, in the second column, amendatory instruction 2 is corrected by removing the word ''and'' after paragraph i., and adding new paragraphs k. and l. to read as follows:

k. In paragraph (l)(3)(i), revise the phrase ''99 percent'' to read ''100 percent''; and

l. In paragraph (o)(3)(v), revise the phrase ''70 percent'' to read ''79 percent.''

Dated: March 22, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 00–7640 Filed 3–29–00; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD08–99–023]

RIN 2115–AF93

Safety Zone; Outer Continental Shelf Platforms in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety zones around seven high-production, manned oil and natural gas platforms on the Outer Continental Shelf in the Gulf of Mexico. The seven platforms need to be protected from vessels operating outside the normal shipping channels and fairways. Placing safety zones around the platforms will significantly reduce the threat of allisions, oil spills, and releases of natural gas. The regulation prevents all vessels from entering or remaining in specified areas around the platforms except for the following: an attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth District Commander. The safety zones are necessary to protect the safety of life, property, and environment.

DATES: This rule will become effective May 1, 2000.

ADDRESSES: The public docket and all documents referred to in this rule are available for inspection or copying at the Eighth Coast Guard District Marine Safety Division, 501 Magazine Street, room 1341, New Orleans, Louisiana 70130, between 8:30 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Roderick Walker, Project Manager for Eighth District Commander, telephone (504) 589–3043.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking [CGD 08–99–023] was published on November 26, 1999.

One comment was received from Shell Exploration and Production Company requesting that the latitude and longitude for each referenced facility be added into the regulation. The Coast Guard agrees and has made the additions.

Background and Purpose

The safety zones established by this regulation are in the deepwater area of the Gulf of Mexico. For the purposes of this regulation the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the safety zones consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. The fairways include the Gulf of Mexico East-West fairway, the entrance and exit route of the Mississippi River, and the Houston-Galveston Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area.

Shell Offshore, Inc. requested that the Coast Guard establish safety zones around the following Shell platforms in the Gulf of Mexico: the Boxer Platform, The Bulwinkle Platform, the Ursa Tension Leg Platform, the West Delta Platform, the Mars Tension Leg Platform, the Ram-Powell Tension Leg Platform, and the Auger Tension Leg Platform.

The request for the safety zones was made due to the high level of shipping activity around the platforms and the safety concerns for both the personnel aboard the platforms and the environment. Shell Offshore, Inc. indicated that the location, production level, and personnel levels on board the seven platforms make it highly likely that any allision with the platforms would result in a catastrophic event. Some of the platforms are located near the edge of a shipping safety fairway or fairway intersection. Others are located in open waters where no fixed structures previously existed. All are high production oil and gas drilling platforms producing from 100,000 to 250,000 barrels of oil per day, and are manned with crews ranging from approximately 130 to 156 people.

The Coast Guard has reviewed Shell Offshore Inc.'s concerns and agrees that the risk of allision to the platforms and the potential for loss of life and damage to the environment resulting from such an accident warrant the establishment of these safety zones. The West Delta 143 platform covered by this regulation did not meet the deepwater criteria; however, the Coast Guard believes its exposed location adjacent to a safety fairway and volume of throughput necessitated its inclusion into the rulemaking. The regulation would significantly reduce the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico.

Regulatory Evaluation

This rule is not a significant regulatory action under Executive Order 12866 and is not significant under the ''Department of Transportation Regulatory Policies and Procedures'' (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. The impacts on routine navigation are expected to be minimal.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that it does not have federalism implications 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 costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would 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.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded that under section 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C this proposal is categorically excluded from further environmental documentation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard

must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small business and not-for-profit organizations that are independently owned and operated, that are not dominant in their field, and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Since alternate routes are available for the small number of vessels to be affected by this regulation, the Coast Guard expects the impact of this regulation on small entities to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605 (b) that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 147

Marine safety, Navigation (water), Outer Continental Shelf.

Regulation

In consideration of the foregoing, the Coast Guard amends part 147 of title 33, Code of Federal Regulations as follows:

PART 147—[AMENDED]

1. The authority citation for Part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; and 49 CFR 1.46.

§ 147.1101 [Redesignated and revised]

2. Section 147.1101 is redesignated § 147.20 and revised to read as follows:

§ 147.20 Definitions.

Unless otherwise stated, the term ''attending vessel'' refers to any vessel which is operated by the owner or operator of an OCS facility located in the safety zone, which is used for the purpose of carrying supplies, equipment or personnel to or from the facility, which is engaged in construction, maintenance, alteration, or repair of the facility, or which is used for further exploration, production, transfer or storage of natural resources from the seabed beneath the safety zone.

3. New sections § 147.801 through § 147.813 are added to read as follows:

§ 147.801 Boxer Platform safety zone.

(a) Description. The Boxer Platform is located at position 27° 56′ 48″ N, 90° 59′ 48″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent East—West Gulf of Mexico Fairway is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.803 Bullwinkle Platform safety zone.

(a) *Description.* The Bullwinkle Platform is located at position 27° 53′ 01″ N, 90° 54′ 04″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.805 Ursa Tension Leg Platform safety zone.

(a) *Description.* The Ursa Tension Leg Platform (Ursa TLP) is located at position 28° 09′ 14.497″ N, 89° 06′ 12.790″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.807 West Delta 143 Platform safety zone.

(a) *Description.* The West Delta 143 Platform is located at position 28° 39′ 42″ N, 89° 33′ 05″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent Mississippi River Approach Fairway, is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except: (1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.809 Mars Tension Leg Platform safety zone.

(a) *Description.* The Mars Tension Leg Platform (Mars TLP) is located at position 28° 10′ 10.29″ N, 89° 13′ 22.35″ W with two supply boat mooring buoys at positions 28° 10′ 18.12″ N, 89° 12′ 52.08″ W (Northeast) and 28° 09′ 49.62″ N, 89° 12′ 57.48″ W (Southeast). The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.811 Ram-Powell Tension Leg Platform safety zone.

(a) *Description.* The Ram-Powell Tension Leg Platform (Ram-Powell TLP) is located at position 29° 03′ 52.2″ N, 88° 05′ 30″ W with two supply boat mooring buoys at positions 29° 03′ 52.2″ N, 88° 05′ 12.6″ W (Northeast) and 29° 03′ 28.2″ N, 88° 05′ 10.2″ W (Southeast). The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.813 Auger Tension Leg Platform safety zone.

(a) *Description.* The Auger Tension Leg Platform (Auger TLP) is located at position 27° 32′ 45.4″ N, 92° 26′ 35.09″ W with two supply boat mooring buoys at positions 27° 32′ 38.1″ N, 92° 26′ 04.8″ W (East Buoy) and 27° 32′ 58.14″ N, 92° 27′ 04.92″ W (West Buoy). The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and an area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) an attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing or fishing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: March 14, 2000.

K. J. Eldridge,

Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.

[FR Doc. 00–7637 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Miami 00–030]

RIN 2115–AA97

Safety Zone Regulations; Fort Lauderdale, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard Captain of the Port is establishing a temporary fixed safety zone closing the Atlantic Intracoastal Waterway to all marine traffic at the Fort Lauderdale Southeast 17th Street (State Road A1A) highway bridge in Fort Lauderdale, FL. The safety zone will be in effect during construction activities associated with the disassembly of the temporary and existing drawbridges across the waterway. This safety zone is needed to protect all vessels from potential safety hazards associated with the removal of the bridge span sections. No vessels will be allowed to approach within 200 yards of the bridge during this period unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 6 a.m. on April 3, 2000, until 7 a.m. on April 15, 2000.

FOR FURTHER INFORMATION CONTACT: Lieutenant Boudrow, at Coast Guard Marine Safety Office, Miami, Florida, tel: (305) 535–8701.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Coast Guard Captain of the Port is establishing a temporary safety zone closing the Intracoastal Waterway at the 17th Street Causeway Bridge, Mile Marker 1065.9, in Fort Lauderdale, FL to all marine traffic. This closure has been requested by the Florida Department of Transportation in order to remove portions of the temporary and existing drawbridges across the waterway by contractors. The work includes removal of a 150-ton bridge span and 179-ton counterweight and will be carried out from several large barges anchored within the waterway. The Coast Guard has reviewed the planned scope of work and has determined that a safety zone and waterway closure are necessary to protect all vessels from potential safety hazards posed by construction activities. The closure of the waterway is scheduled for weekday and evening periods to minimize the impact to the boating community. The Coast Guard will issue Broadcast Notice to Mariners and the Florida Department of Transportation will place electronic message signs at various locations on the Intracoastal Waterway to advise mariners of the scheduled closure. Boat traffic will be directed to Hillsboro Inlet and the Port of Palm Beach to the north and Port Everglades to the south as alternate routes. The closure will be strictly enforced by the Coast Guard and will also be monitored by the Florida Marine Patrol.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this rule and good cause exists for making it effective in less than 30 days after **Federal Register** Publication. Publishing an NPRM and delaying its effective date would be contrary to public safety since immediate action is needed to minimize potential danger to the public.

Regulatory Evaluation

This proposal 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 FR 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 10(e) of the regulatory policies and procedures of DOT is unnecessary. The safety zone will only be in effect for two 12 hour periods at night, and a 72 hour weekday period during the removal of the temporary drawbridge. Further, mariners have been advised through local notices and have alternate ways around the closure.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small business, 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as the regulations will only be in effect for three days during the temporary bridge removal, the closure will be publicized by broadcasts and signs, and mariners can get around the closure by using alternative inlets.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–221), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this 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 disproportionately affect children.

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 safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this action and has determined under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Temporary Regulations

In consideration of the foregoing, the Coast Guard amends Subpart C of Part 165 of title 33, Code of Federal Regulations, 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; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. From 6 a.m. April 3, 2000, until 7 a.m., April 15, 2000, temporary § 165.T07–030 is added to read as follows:

§ 165.T07–030 Safety Zone; Fort Lauderdale, Florida

(a) *Regulated area.* All waters within 200 yards on either side of the 17th Street Causeway Bridge, Mile Marker 1065.9, in Fort Lauderdale, Florida.

(b) *Regulations.* In accordance with the general regulations in 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Effective dates.* This section is applicable from 6 a.m. on April 3, 2000, to 6 a.m. on April 6, 2000, and from 7 p.m. to 7 a.m. each night on April 12 and 13, 2000. In the event of inclement weather on April 12 or 13, this section is applicable from 7 p.m. on April 14 to 7 a.m., April 15, 2000.

Dated: March 20, 2000.

L.J. Bowling,

Captain, U. S. Coast Guard, Captain of the Port, Miami, Florida.

[FR Doc. 00–7854 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AJ09

Eligibility Reporting Requirements

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule the provisions of an interim final rule that amended the Department of Veterans Affairs (VA) adjudication regulations concerning eligibility verification reports (EVRs) for recipients of pension under programs in effect prior to January 1, 1979. The amendment reduces the number of circumstances under which VA requires such pensioners to furnish annual EVRs. The intended effect of this amendment is to reduce the reporting burden on these beneficiaries, reduce the workload at VA regional offices, and enable VA to use its resources more effectively.

DATES: *Effective Date:* March 30, 2000.

FOR FURTHER INFORMATION CONTACT: Don England, Chief, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: On October 6, 1998, VA published in the **Federal Register** an interim final rule generally exempting old law and section 306 pension beneficiaries from the requirement to submit annual eligibility verification reports (EVRs). (63 FR 53593–96, October 6, 1998.) The term ''old law pension'' means the disability and death pension programs that were in effect on June 30, 1960. The term ''section 306 pension'' means those disability and death pension programs in effect on December 31, 1978. VA uses EVRs to request information, such as income and marital status, that VA needs to determine or verify eligibility for its need-based benefit programs.

We requested interested persons to submit comments on or before December 7, 1998. We received no comments. Based on the rationale set forth in the interim final rule and in this document, we are adopting the interim final rule as a final rule without change, except that we are adding statements explaining that the information collections are approved by the Office of Management and Budget (OMB) under control number 2900–0101. We also affirm the information in the interim final rule document concerning the Regulatory Flexibility Act.

Paperwork Reduction Act

VA submitted the information collection provisions contained in the interim final rule to OMB for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The only action concerning information collection is to eliminate certain collections of information. We requested interested parties to submit comments on the collection of information provisions to OMB by October 14, 1998. No comments were submitted. OMB has approved the information collection provisions under control number 2900–0101.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.105.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: February 29, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

Accordingly, the interim final rule amending 38 CFR part 3 which was published at 63 FR 53593 on October 6, 1998, is adopted as final with the following change:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§§ 3.256 and 3.277 [Amended]

2. In §§ 3.256 and 3.277, a parenthetical is added at the end of each section to read as follows:

(The Office of Management and Budget has approved the information collection

requirements in this section under control number 2900–0101.)

[FR Doc. 00–7913 Filed 3–29–00; 8:45 am]

BILLING CODE 8320–01–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–51, 301–52, 301–54, 301–70, 301–71 and 301–76

[FTR Amendment 90]

RIN 3090–AG92

Federal Travel Regulation; Mandatory Use of the Travel Charge Card

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule; delay of applicability date.

SUMMARY: This document constitutes a deviation to the applicability date of the Federal Travel Regulation (FTR) provisions pertaining to payment by the Government of expenses connected with official Government travel published in the **Federal Register** of January 19, 2000 (65 FR 3054). Due to the difficulties involved in implementing the requirements of Public Law 105–264, October 19, 1998, regarding the required use of the travel charge card, collection of amounts owed, and reimbursement of travel expenses, the Associate Administrator for the Office of Governmentwide Policy hereby grants a class deviation that delays the applicability date until May 1, 2000, for mandatory use of the travel charge card and payment of associated penalties and interest. This delay will allow agencies time to work out the details of implementation of the mandatory use of the travel charge card regulations.

DATES: *Effective Date:* The effective date of this final rule remains July 16, 1999.

Applicability Date: The applicability date of the final rule published at 65 FR 3054 on January 19, 2000, is delayed from February 29, 2000, until May 1, 2000, or upon the issuance of agency implementing regulations, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Sandra Batton, Travel and Transportation Management Policy Division, at (202) 501–1538.

Dated: March 24, 2000.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

[FR Doc. 00–7819 Filed 3–29–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

RIN 1018–AF54

Marine Mammals; Incidental Take During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: These regulations authorize the incidental, unintentional take of small numbers of polar bears and Pacific walrus during year-round oil and gas industry (Industry) exploration, development, and production operations in the Beaufort Sea and adjacent northern coast of Alaska.

We made a finding that the total expected takings of polar bear and Pacific walrus during oil and gas industry exploration, development, and production activities will have a negligible impact on these species and will have no unmitigable adverse impacts on the availability of these species of subsistence use by Alaska Natives. We base this finding on results from 6 years of monitoring interactions between marine mammals and Industry and using oil trajectory models and polar bear density models to determine the likelihood of impacts to polar bears should an accidental oil release occur.

DATES: This rule is effective March 30, 2000, and remains effective through March 31, 2003.

ADDRESSES: Comments and materials received in response to this action are available for public and inspection during normal working hours of 8:00 a.m. to 4:30 p.m. Monday through Friday, at the Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503.

FOR FURTHER INFORMATION CONTACT: John Bridges, Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503, Telephone 907–786–3810 or 1–800–362–5148, or Internet John__Bridges@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (Act) gives the Secretary of the Interior (Secretary) through the Director of the U.S. Fish and Wildlife Service (We) the authority to allow the incidental, but not intentional, taking of small numbers of marine mammals, in response to requests by U.S. citizens (You) [as defined in 50 CFR 18.27(c)] engaged in a specified activity (other than commercial fishing) in a specified geographic region.

Under the provisions of the Act, and based on our finding and the best scientific evidence available that the total of such taking for the 3-year period will have a negligible impact on these species and will not have an unmitigable adverse impact on the availability of these species for taking for subsistence use by Alaska Natives, we will allow the incidental taking of polar bears and Pacific walrus. These regulations set forth: (1) permissible methods of taking; (2) means of effecting the least practicable adverse impact on the species and their habitat and on the availability of the species for subsistence uses; and (3) requirements for monitoring and reporting.

The term ''take'' as defined by the Act means to harass, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Harassment as defined by the Act, as amended in 1994, ''* * * means any act of pursuit, torment, or annoyance which—

(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

(ii) has the potential to disturb a marine mammal or mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.''

As a result of 1986 amendments to the Act, we amended 50 CFR 18.27 (i.e., regulations governing small takes of marine mammals incidental to specified activities) with a final rule published on September 29, 1989. Section 18.27(c) included, among other things, a revised definition of ''negligible impact'' and a new definition for ''unmitigable adverse impact'' as follows. Negligible impact is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. Unmitigable adverse impact means an impact resulting from the specified activity:

(1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by:

(i) causing the marine mammals to abandon or avoid hunting areas,

(ii) directly displacing subsistence users, or

(iii) placing physical barriers between the marine mammals and the subsistence hunters, and

(2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Industry conducts activities such as oil and gas exploration, development, and production in marine mammal habitat, and risks violating the prohibitions on the taking of marine mammals. Although Industry is under no legal requirement to obtain incidental take authority, Industry has chosen to seek authorization to avoid the uncertainties associated with conducting activities in marine mammal habitat. Along with their request for incidental take authority, Industry has also developed and implemented polar bear conservation measures.

On December 17, 1991, BP Exploration (Alaska), Inc., for itself and for Amerada Hess Corporation, Amoco Production Company, ARCO Alaska, Inc., CGG American Service, Inc., Conoco Inc., Digicon Geophysical Corp., Exxon Corporation, GECO Geophysical Co., Halliburton Geophysical Services, Inc., Mobil Oil Corporation, Northern Geophysical of America, Texaco Inc. Unocal corporation, and Western Geophysical company requested that we promulgate regulations pursuant to Section 101(a)(5) of the Act.

The geographic region defined in Industry's 1991 application included offshore waters beginning at a north/south line at Barrow, Alaska, east to the Canadian border, including all Alaska state waters and all Outer Continental Shelf (OCS) waters. The onshore region was defined by the same north/south line at Barrow, extending 25 miles inland and east to the Canning River. The Arctic National Wildlife Refuge was excluded from Industry's application.

On November 16, 1993 (58 FR 60402), we issued final regulations to allow the incidental, but not intentional, take of small numbers of polar bears and Pacific walrus when such taking(s) occurred during Industry activities during year-round operations in the Beaufort Sea Region as described in the preceding paragraph. The regulations were issued for 18 months. At the same time, the Secretary of the Interior directed us to develop, then begin implementation of, a polar bear habitat conservation strategy before extending the regulations beyond the initial 18 months for a total 5-year period as allowed by the Act. On August 14, 1995, we completed development of, and issued, our Habitat Conservation Strategy for Polar Bears in Alaska to ensure that the regulations met with the intent of the 1973 International Agreement on the conservation of Polar Bears. On August 17, 1995, we issued the final rule and notice of availability of a completed final polar bear habitat conservation strategy (60 FR 42805). We then extended the regulations for an additional 42 months to expire on December 15, 1998.

On August 28, 1997, BP Exploration (Alaska), Inc., submitted a petition for itself and for ARCO Alaska, Inc., Exxon Corporation, and Western Geophysical Company for rulemaking pursuant to Section 101(a)(5)(A) of the Act, and Section 553(e) of the Administrative Procedure Act (APA). Their request sought regulations to allow the incidental, but not intentional, take of small numbers of polar bears and Pacific walrus when takings occurred during Industry operations in Arctic Alaska. Specifically, they requested an extension of the incidental take regulations beginning at 50 CFR 18.121 for an additional 5-year term from December 16, 1998, through December 15, 2003. The geographic extent of the request was the same as that of previously issued regulations beginning at 50 CFR 18.121 that were in effect through December 15, 1998 (see above).

The petition to extend the incidental take regulations included two new oil fields (Northstar and Liberty). Plans to develop each field identified a need for an offshore gravel island and a buried subsea pipeline to transport crude oil to existing onshore infrastructure (Note: the term of these regulations will expire prior to the operation of Liberty; therefore, we neither analyzed nor authorized incidental take of polar bear and Pacific walrus at the Liberty prospect by this action, in part due to the preliminary and incomplete status of information available). Based on preliminary information related to subsea pipelines published in a Draft Environmental Impact Statement (DEIS) for the Northstar project, we were unable to make a finding of negligible impact and issue regulations for the full 5-year period. The information published in the Northstar DEIS suggested that the probability of an oil spill was 21–23 percent over the life of the project, and that up to 30 polar bears could be killed by a spill.

On November 17, 1998, we published proposed regulations (63 FR 63812) to allow the incidental, unintentional take of small numbers of polar bears and Pacific walrus in the Beaufort Sea and northern coast of Alaska. On January 28, 1999, we issued final regulations effective through January 30, 2000. These regulations did not authorize the incidental take of polar bears and Pacific walrus during construction or operation of subsea pipelines in the Beaufort Sea.

The U.S. Army Corps of Engineers finalized the Northstar Environmental Impact Statement in February 1999. Construction of the Northstar gravel island and subsea pipeline is scheduled for the winter of 1999–2000, with production beginning in the latter half of 2000. The Liberty development is proposed for early 2003. The Department of the Interior's Minerals Management Service (MMS) prepared a Preliminary Draft EIS for the Liberty development that was available as a working copy for participating and cooperating agencies. The MMS plans to issue a Draft EIS for Liberty this year.

Summary of Current Request

These regulations respond to the August 28, 1997, request by BP Exploration (Alaska), Inc. for the extension of ongoing incidental take regulations. That request was for a period of 5 years, from December 16, 1998, through December 15, 2003. As previously mentioned, we issued regulations for 1 year that expired on January 30, 2000. On February 3, 2000 (65 FR 5275), we reinstated these regulations effective through March 31, 2000, to ensure that we had adequate time to consider public comments on this final rulemaking. This rule is effective March 30, 2000 and remains effective through March 31, 2000.

Description of Regulations

These regulations are for a 3-year period from March 31, 2000 and include all activities associated with the Northstar project. These regulations do not authorize the actual activities associated with the oil and gas exploration, development, and production, but rather authorized the incidental, unintentional take of small numbers of polar bears and Pacific walrus associated with those activities. The MMS, the U.S. Army Corps of Engineers, and the Bureau of Land Management are responsible for permitting activities associated with oil and gas activities in Federal waters and on Federal lands. The State of Alaska is responsible for activities on State lands and in State waters. These regulations allow Industry to incidentally take small numbers of polar bear and Pacific walrus within the same area as covered by our previous regulations as defined by a north/south line at Barrow, Alaska, including all Alaska State waters and all OCS waters, and east of that line to the Canadian border, with the onshore region being the same north/south line at Barrow, 25 miles inland and east to

the Canning River. The Arctic National Wildlife Refuge is excluded from these regulations.

This rule requires an applicant to obtain from us a Letter of Authorization (LOA) to conduct exploration, development, and production activities pursuant to the regulations. Each group or individual conducting an oil and gas industry-related activity within the area covered by these regulations may request an LOA.

Applicants for LOAs must submit a plan to monitor the effects on polar bears and walrus that are present during the authorized activities. Applicants for LOAs must also include a Plan of Cooperation. The purpose of the Plan is to ensure that the impact of oil and gas activity on the availability of the species or stock for subsistence uses is negligible. The Plan must provide the procedures on how Industry will work with the affected Native communities and what actions will be taken to avoid interference with subsistence hunting of polar bears and Pacific walrus.

We will evaluate each request for an LOA on the specific activity and the specific location, and we will condition each LOA for that activity and location, if necessary. For example, a request to conduct activities on barrier islands with active bear dens or a history of polar bear denning may be conditioned to avoid the area until after the bears normally exit their dens.

Description of Activity

In accordance with 50 CFR 18.27, Industry submitted a request for the promulgation of incidental take regulations pursuant to Section 101(a)(5)(A) of the Act. Activities covered in this regulation include Industry exploration, development, and production of oil and gas, as well as wildlife monitoring associated with these activities.

Exploration activities include, but are not necessarily limited to, geological surveys; geotechnical site investigations; reflective seismic exploration; vibrator seismics data collection; airgun and water gun seismic data collection; explosive seismic data collection; vertical seismic profiles; geological surveys; construction and use of drilling structures such as artificial (gravel) islands, caisson-retained islands, ice islands, bottom-founded structures (concrete island drilling system—CIDS, and single steel drilling caisson—SSDC), ice pads and ice roads; oil spill prevention, response, and cleanup; site restoration and remediation. Exploratory drilling for oil and associated support activities includes, but is not necessarily limited to, transportation to site, setup to 90–100 person camps, support camps (lights, generators, snow removal, water plants, wastewater plants, dining halls, sleeping quarters, mechanical shops, fuel storage, camp moves, landing strips, aircraft support, health and safety facilities, data recording facility and communication equipment), building gravel pads, building gravel islands with sandbag and concrete block protection, ice islands, ice roads, gravel hauling, gravel mine sites, road building, pipelines, electrical lines, water lines, road maintenance, buildings, and facilities, operating heavy equipment, digging trenches, burying pipelines, and covering pipelines, sea lift, water flood, security operations, dredging, moving CIDS, moving floating drill units, helicopter support, and drill ships such as the CANMAR Explorer III and the Kulluk.

Development activities associated with oil and gas industry operations include, but are not necessarily limited to, road construction; pipeline construction; waterline construction; gravel pad construction; camp construction (personnel, dining, lodging, maintenance shops, water plants, wastewater plants); transportation (automobile, airplane, and helicopter traffic; runway construction; installation of electronic equipment); well drilling; drill rig transport; personnel support; and demobilization, restoration, and remediation.

Production activities include, but are not necessarily limited to, personnel transportation (automobile, airplane, helicopter, boats, rollagons, cat trains, and snowmobiles), and unit operations (building operations, oil production, oil spills, cleanup, restoration, and remediation).

A large number of variables influence exploration activities, therefore, predictions as to the exact dates and locations of exploratory operations that will take place over the next 3 years is speculative. However, requests for LOAs must include specific details regarding dates, duration, and geographic locations of proposed activities.

Alaska's North Slope encompasses an area of 88,280 square miles and contains 13 separate oil and gas fields in production: Prudhoe Bay, North Prudhoe Bay State, Kuparuk, Endicott, Point McIntyre, Lisburne, Milne Point, Cascade, West Beach, Niakuk, Schrader Bluff, Badami and Sag Delta North. Additional discoveries have been made at the Northstar and Alpine fields, both of which are now in the development phase.

During the period covered by the regulations, we anticipate a similar level of activity at existing production facilities as during the previous 6 years. The addition of new exploration, development, and production activities will increase human activity and the likelihood of polar bear sightings. We do not believe that the overall activity level will have a measurable impact on polar bears during the 3-year period covered by these regulations. One addition is the new Northstar project, the first offshore production facility on the North Slope which requires a subsea pipeline to transport crude oil to the Trans-Alaska Pipeline System.

Biological Information

Pacific Walrus

Pacific walrus *(Odobenus rosmarus)* typically inhabit the waters of the Chukchi and Bering seas. Most of the population congregates near the ice edge of the Chukchi Sea pack ice west of Point Barrow during the summer. In the winter, walrus inhabit the pack ice of the Bering Sea, with concentrations occurring in the Gulf of Anadyr, south of St. Lawrence Island, and south of Nunivak Island.

Walrus occur infrequently in the Beaufort Sea. Data from our Marking, Tagging, and Reporting Program show that, from 1994 through 1997, 73 walrus were reported killed by Barrow hunters. Tagging certificates show that nearly all of the 73 walrus were taken west of Barrow. In 6 years of monitoring Industry's activities in the Beaufort Sea, on-site monitors have observed only two walrus.

Polar Bear

Polar bears (*Ursus maritimus*) occur in the Northern Hemisphere, where their distribution is circumpolar and they live in close association with polar ice. In Alaska, their distribution extends from south of the Bering Strait to the U.S.-Canada border. Two stocks occur in Alaska: the Chukchi/Bering seas stock, whose size is unknown, and the Southern Beaufort Sea stock, which was estimated in 1992 to number about 1,800 bears.

Females without dependent cubs breed in the spring and enter maternity dens by late November. Females with cubs do not mate. An average of two cubs are usually born in December, and the family group emerges from the den in late March or early April. Only pregnant females den for an extended period during the winter; however, other polar bears may burrow out depressions to escape harsh winter winds. Reproductive potential (intrinsic

rate of increase) is low. The average reproductive interval for a polar bear is 3–4 years. The maximum reported age of reproduction in Alaska is 18 years. Based on these data, a polar bear may produce about 8–10 cubs in her lifetime. The loss of whole litters of cubs would result in additional reproductive effort sooner than if cubs survived. Even though reproduction increases, however, survival decreases.

The fur and blubber of the polar bear protect it from the cold air and frigid water. Newly emerged cubs of the year may not have a sufficient layer of blubber to maintain boy heat when immersed in water for long periods of time. Cubs abandoned prior to the normal weaning age of 2.5 years likely will not survive.

Ringed seals (*Phoca hispida*) are the primary prey species of the polar bear; however, occasionally, polar bears hunt bearded seals (*Erignathus barbatus*) and walrus calves. Polar bears also scavenge on marine mammal carcasses washed up on shore and eat non-food items such as styrofoam, plastic, car batteries, antifreeze, and lubricating fluids.

Polar bears have no natural predators, and they do not appear to be prone to death by disease or parasites. The most significant source of mortality is humans. Since 1972, with the passage of the Act, only Alaska Natives are allowed to hunt polar bears in Alaska. Bears are used for subsistence purposes such as the manufacture of handicraft and clothing items. The Native harvest occurs without restrictions on sex, age, number, or season, providing the population is not depleted and takes are non-wasteful. From 1980–1997, the total annual harvest in Alaska averaged 103 bears. The majority of this harvest (70 percent) came from the Chukchi and Bering Seas area.

Polar bears in the near shore Alaskan Beaufort Sea ware widely distributed in low numbers across the area with an average density of about one bear per 30 to 50 square miles. However, polar bears have been observed congregating on barrier islands in the fall and winter because of available food and favorable environmental conditions. Polar bears will occasionally feed on bowhead whale carcasses on barrier islands. In November 1996, biologists from the U.S. Geological Survey observed 28 polar bears near a bowhead whale carcass on Cross Island, and approximately 11 polar bears within a 2-mile radius of another bowhead whale carcass near the village of Kaktovik on Barter Island. In October 1997, we observed 47 polar bears on barrier islands and the mainland from Prudhoe Bay to the Canadian border, a distance of approximately 100 miles.

Effects of Oil and Gas Industry Activities on Marine Mammals and on Subsistence Uses

Pacific Walrus

Oil and gas industry activities that generate noise such as air and vessel traffic, seismic surveys, ice breakers, supply ships, and drilling may frighten or displace Pacific walrus. Nonetheless, the primary range of the Pacific Walrus is west of Point Barrow. Pacific walrus do not normally range into the Beaufort Sea. Occasionally, a single walrus may be sighted east of Point Barrow. From 1994 to 1997, two Pacific walrus were sighted during an open-water seismic program. The program was conducted in the vicinity of Gwydyr Bay approximately 10 miles west of Prudhoe Bay. Marine mammal monitors sighted one sub-adult walrus approximately 5 miles northwest of Howe Island and BP Exploration's Endicott Unit. The second, a single adult walrus, was observed from a survey aircraft approximately 20 miles north of Pingok Island.

In winter, Pacific walrus inhabit the pack ice of the Bering Sea. As the winter range of the Pacific walrus is well beyond the geographic area covered by these regulations (as defined above), we do not expect any impacts to walrus from oil and gas activities during winter.

If walrus are present, their movements may be affected by stationary drilling structures. Walrus are attracted to certain activities and are repelled from others by noise or smell. In 1989 an incident occurred during a drilling operation in the Chukchi Sea where a young walrus surfaced in the center hole (i.e., moonpool) of a drill ship. The crew used a cargo net to remove the walrus from the drilling area, after which the walrus left the scene of the incident and was not seen again. No similar incidents have been reported in the area of these regulations.

Seismic surveys generally take place on solid ice or in open water. Since walrus activity occurs near the ice edge, interactions between walrus and seismic surveys are unlikely.

Due to the small number of walrus in the area covered by the regulations, any take reasonably likely to or reasonably expected to be caused by oil and gas activities will not result in more than a negligible impact on this species.

Subsistence Use of Pacific Walrus

As the primary range of Pacific walrus is west and south of the Beaufort Sea, it is not surprising that few walrus are harvested in the Beaufort Sea along the northern coast of Alaska. Walrus constitute a small portion of the total marine mammal harvest for the village of Barrow. In the past 6 years, 73 walrus were reported taken by Barrow hunters. Reports indicate that all but 1 of the 73 walrus were taken west of Point Barrow, beyond the limits of the incidental take regulations. Hunters from Nuiqsut and Kaktovik do not normally hunt walrus east of Point Barrow and have taken only one walrus in the last 10 years. Therefore, due to the small number of walrus in the Native subsistence hunting areas covered by the regulations, any take reasonably likely to or reasonably expected to be caused by oil and gas activities will have no unmitigable adverse impacts on the availability of the Pacific walrus for subsistence use by Alaska Natives.

Polar Bear

In the southern Beaufort Sea, polar bears spend the majority of their lives on the ice, which limits the opportunity for impacts from Industry. For example, although polar bears have been documented in open water, miles from the ice edge or ice floes, it is a relatively rare occurrence. Therefore, any takes resulting from exploration activities in the open-water season will not have more than a negligible impact on the polar bear.

Polar bears also spend a limited amount of time on land, coming ashore to feed, den, or move to other areas. At times when the ice edge is near shore and then quickly retreats northward, bears may remain along the coast or on barrier islands for several weeks until the ice returns. For those brief periods, the likelihood of interactions between polar bears and Industry activities increases. We have found that polar bear interaction planning and training requirements of the LOA process have increased polar bear awareness and have helped minimize these encounters. For example, in 1999 Exxon terminated work on Flaxman Island due to the presence of several polar bears in the vicinity of the work area.

Disturbances to denning females, either on land or on ice, are of particular concern. As part of the LOA application for seismic surveys during denning season, Industry provides us with the proposed seismic survey routes. To minimize the likelihood of disturbance to denning females, we evaluate these routes along with information about known polar bear dens, historic denning sites, and probable denning habitat. A standard condition of LOAs requires Industry to maintain a 1-mile buffer

between survey activities and known denning sites. In addition, we may require Industry to avoid denning habitat until bears have left their dens. To further reduce the potential for disturbance to denning females, we are conducting research in cooperation with Industry to evaluate the use of remote sensing techniques, such as Forward Looking Infrared (FLIR) imagery, to detect active dens.

Industry activities that occur on or near the ice have greater possibility for encountering polar bears. Depending upon the circumstances, bears can be either repelled from or attracted to sounds, smells, or sights associated with these activities. As mentioned above, the LOA process requires the applicant to develop a polar bear interaction plan for each operation. These plans outline the steps the applicant will take to minimize impacts, such as garbage disposal procedures to reduce the attraction of polar bears. Interaction plans also outline the chain of command for responding to a polar bear sighting. In addition to interaction plans, Industry personnel participate in polar bear interaction training while on site. The result of these polar bear interaction plans and training is that when a bear encounters Industry activities, it is detected quickly, and responded to appropriately. Most often, this response involves deterring the bear from the site, with minimal effect. Without such plans and training, an undesirable outcome could be lethal take in defense of human life.

Over the span of our incidental take regulations, Industry reported 103 polar bear sightings. Of these, only 29 were instances where a bear was attracted to and/or deterred from the site. We have no indication that encounters that merely alter the behavior and movement of individual bears have any long-term effects on those bears. It is therefore unlikely that the small number of benign encounters between polar bears and Industry will have a significant overall effect on the populations.

No lethal takes have occurred during the period covered by incidental take regulations. Even before regulations were issued, lethal takes by Industry were a rare occurrence. since 1968, there have been two documented cases of lethal take of polar bears associated with oil and gas activities. In both instances, the lethal take was in defense of human life.

Based on the above discussion, any take reasonably likely to or reasonably expected to be caused by oil and gas activities will not result in more than a negligible impact on this species.

Oil Spills

In addition to routine operations, the potential exists for polar bears to be impacted by oil spills. Spills of crude oil and petroleum products associated with onshore production facilities are usually minor spills that are contained and removed upon discovery. As polar bears spend the majority of their time offshore, they are unlikely to encounter oil from an onshore spill.

Oil spills are of concern in the marine environment, where spilled oil will accumulate at the ice edge, in leads, and similar areas of importance to polar bears. Oil spilled from offshore production activities was not considered in our previous regulations. The Northstar Project will transport crude oil from a reconstructed gravel island in the Beaufort Sea to shore via a 5.96-mile buried subsea pipeline. The pipeline will be buried in a trench in the sea floor deep enough to reduce the risk of damage from ice gouging and strudel scour. Construction of the Northstar project began in the winter of 1999–2000.

Polar bears are at risk from an oil spill in the Beaufort Sea. Limited data from a Canadian study suggest that polar bears experimentally oiled with crude oil may die. This finding is consistent with what is known of other marine mammals that rely on their fur for insulation. The Northstar FEIS concluded that mortality of up to 30 polar bears could occur as the result of an oil spill greater than 1,000 barrels. This estimate was based on observations of aggregations of polar bears on barrier islands in the Beaufort Sea.

Two independent lines of evidence support our determination that only a negligible impact to the Beaufort Sea polar bear stock will occur from Northstar, one largely anecdotal, and the other quantitative. The largely anecdotal information is based on observations of polar bear aggregations on barrier islands and coastal areas in the Beaufort Sea. This information suggests that polar bear aggregations may occur for brief periods in the fall. The presence and duration of these aggregations are influenced by the presence of sea ice near shore and the availability of marine mammal carcasses, notably bowhead whales. In order for significant impacts to polar bears to occur, an oil spill would have to occur, an aggregation of bears would have to be present, the spill would have to contact the aggregation, and many of the bears would have to be killed. We believe the probability of all these events occurring simultaneously is low.

The quantitative rationale for negligible impact is based on a risk assessment that considered oil spill probability estimates for the Northstar Project, an oil spill trajectory model, and a polar bear distribution model. The Northstar FEIS provides estimates of the probability that one or more spills greater than 1,000 barrels of oil will occur over the project's life of 15 years. We consider here only spill probabilities for the drilling platform and subsea pipeline as these are the spill locations that will affect polar bears. Using exposure variables and production estimates from the Northstar EIS, we estimate the likelihood of one or more spills greater than 1,000 barrels in size occurring in the marine environment is 3–10 percent during the 3-year period covered by the regulations.

Applied Sciences Associates, Inc., was contracted by BP Exploration Inc. to run the OILMAP oil spill trajectory model. The size of the modeled spill was set at 3,600 barrels, simulating rupture and drainage of the entire subsea pipeline. Each spill was modeled by tracking the location of 100 ''spillets,'' each representing 36 barrels. Spillets were driven by wind, and their movements were stopped by the presence of sea ice. Open water and broken ice scenarios were each modeled with 250 simulations. A solid ice scenario was also modeled, in which oil was trapped beneath the ice and did not spread. In this event, we found it unlikely that polar bears will contact oil, and removed this scenario from further analysis. Each simulation was run for 96 hours with no cleanup of containment efforts simulated. At the end of each simulation, the size and location of each spill was represented in a geographic information system (GIS).

Telemetry data suggest that polar bears are widely distributed in low numbers across the Beaufort Sea with a density of about one bear per 30–50 square miles. Movement and distribution information was derived from radio and satellite relocations of collared adult females. The U.S. Geological Survey, Biological Resources Division, developed a polar bear distribution model based on an extensive telemetry data set of over 10,000 relocations. Using a technique called ''kernel smoothing,'' they created a grid system centered over the Northstar production island and estimated the number of bears expected to occur within each 0.25km^2 grid cell. Each of the simulated oil spills was overlaid with the polar bear distribution grid. If a spillet passed through a grid cell, the bears in that cell were

considered killed by the spill. In the open water scenario, the estimated number of bears killed ranged from less than 1 to 78,with a median of 8. In the broken ice scenario, results ranged from less than 1 to 108, with a median of 21. These results are based on an ''average'' distribution of polar bears and do not include potential aggregation of bears.

We estimated the likelihood of occurrence of mortality for various numbers of bears by multiplying the probability of mortality by the spill probability for each period of the year, and summing those probabilities over the entire year. We calculated that the probability of a spill that will cause mortality of one or more bears is 0.9–3.1 percent. As the threshold number of bears is increased, the likelihood of that event decreases; the likelihood of taking more bears becomes less and less. Thus the probability of a spill that will cause a mortality of 5 or more bears is 0.7–2.5 percent; for 10 or more bears is 0.6–2.0 percent; and for 20 or more bears is 0.3–1.1 percent.

The greatest source of uncertainty in our calculations is the probability of an oil spill occurring. The oil spill probability estimates for the Northstar Project were calculated using data for subsea pipelines outside of Alaska and outside of the Arctic. These spill probability estimates, therefore, do not reflect conditions that are routinely encountered in the Arctic, such as permafrost, ice gouging, and strudel scour. They may include other conditions unlikely to be encountered in the Arctic, such as damage from anchors and trawl nets. Consequently, there is some uncertainty about oil spill probabilities as presented in the Northstar FEIS. If the probability of a spill were actually twice the estimated value, however, the probability of a spill that will cause a mortality of one or more bears is still low (about 6 percent).

This analysis is dependent on numerous assumptions, some of which underestimate, while others overestimate, the potential risk to polar bears. These include variation in spill probabilities during the year, the length of time the oil spill trajectory model was run, whether or not containment occurred during the trajectory model, lack of efforts to deter wildlife during the model runs, contact with a spillet constitutes mortality, and that aggregations of bears were not included. We determined that the assumptions that will overestimate and underestimate mortalities were generally in balance.

We conclude that if an oil spill were to occur during the fall or spring broken-ice periods, a significant impact to polar bears could occur. However, in balancing the level of impact with the probability of occurrence, we conclude that the probability of serious impacts (large-volume spills that cause high polar bear mortalities) is low. Therefore, the total expected taking of polar bear during oil and gas industry exploration, development, and production activities will have No more than a negligible impact on this species.

Subsistence Use of Polar Bear

Within the area covered by the regulations, polar bears are taken in Barrow, Nuiqsut, and Kaktovik; however, it is not considered a primary subsistence species in these villages. Data from our Marking, Tagging, and Reporting Program indicate that from July 1, 1993, to June 30, 1998, a total of 94 polar bears was reported harvested by residents of Barrow; 7 by residents of the village of Nuiqsut; and 10 by residents of the village of Kaktovik. Hunting success varies considerably from year to year because of variable ice and weather conditions. Native subsistence polar bear hunting could be affected by an oil spill. Hunting areas where polar bears are historically taken may be viewed as tainted by an oil spill.

Industry works with local Native groups to achieve a cooperative relationship between oil and gas activities and subsistence activities. The Industry works with the local Native groups to develop a Plan of Cooperation to address subsistence mitigation measures to be incorporated into the Industry's plan of operation. Any taking of polar bears likely to result from oil and gas activities will not have an umitigable adverse impact on the availability of polar bears for taking for subsistence uses.

Cumulative Effects

Based on past LOA monitoring reports, we believe that any take resulting from the interactions between Industry and marine mammals (Pacific walrus and polar bears) has had a negligible impact on these species. Additional information, such as subsistence harvest levels and incidental observations of polar bears near shore, provides evidence that these populations have not been adversely affected. The projected level of activities during the period covered by the regulations (existing onshore development and proposed exploratory activities) are similar in scale to previous levels. Therefore, we conclude that any take reasonably likely to or reasonably expected to occur as a result of projected onshore activities will have a negligible impact on polar bears and Pacific walrus.

While the actual construction and operation of the Northstar development is not expected to significantly increase the impacts to Pacific walrus and polar bears, concern about potential oil spills in the marine environment was raised in the Northstar FEIS. We have analyzed the likelihood of an oil spill in the marine environment that will kill a significant number of polar bears and found it to be negligible. Thus, after considering the cumulative effects of existing onshore development, exploratory activities, and the new Northstar subsea pipeline, we find that the total expected takings of polar bears during oil and gas industry exploration, development, and production activities will have a negligible impact on polar bears and Pacific walrus and will have no unmitigable adverse impacts on the availability of these species for subsistence use by Alaska Natives.

Conclusions

Based on the previous discussion, we make the following findings regarding this action:

Impact on Species

We find, based on the best scientific information available, the results of monitoring data from our previous regulations and the results of our modeling assessments, that any take reasonably likely to result from the effects of oil and gas related exploration, development, and production activities from March 30, 2000 through March 31, 2003, in the Beaufort Sea and adjacent northern coast of Alaska will have a negligible impact on polar bears and Pacific walrus and their habitat. In making this finding, we are following Congressional direction in balancing the potential for a significant impact with the likelihood of that event occurring. The specific Congressional direction that justifies balancing probabilities with impacts follows:

> If potential effects of a specified activity are conjectural or speculative, a finding of negligible impact may be appropriate. A finding of negligible impact may also be appropriate if the probability of occurrence is low but the potential effects may be significant. In this case, the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. In applying this balancing test, the Service will thoroughly evaluate the risks involved and the potential impacts on marine mammal populations. Such determination will be made based on the best available scientific information. 53 FR at 8474; accord, 132 Cong. Rec. S 16305 (Oct. 15, 1986)

Even though the probability of an oil spill that will cause mortality to polar bears is extremely low, in the event of a catastrophic spill, we will reassess the impacts to the polar bear and walrus populations and reconsider the appropriateness of authorizations for incidental taking through Section 101(a)(5)(A) of the Act.

Our finding of ''negligible impact'' applies to oil and gas exploration, development, and production activities. The following are generic conditions intended to minimize interference with normal breeding, feeding, and possible migration patterns to ensure that the effects to the species remain negligible. We may expand the conditions in the LOAs based upon site-specific and species-specific reasons.

(1) These regulations do not authorize intentional taking of polar bear or Pacific walrus.

(2) For the protection of pregnant polar bears during denning activities (den selection, birthing, and maturation of cubs) in known and confirmed denning areas, Industry activities may be restricted in specific locations during certain specified times of the year. These restrictions will be applied on a case-by-case basis in response to each LOA request. In potential denning areas, we may require pre-activity surveys (e.g., aerial surveys) to determine the presence or absence of denning activity.

(3) Each activity authorized by an LOA requires a site-specific plan of operation and a site-specific polar bear interaction plan. The purpose of the required plans is to ensure that the level of activity and possible takes will be consistent with our finding that the cumulative total of incidental takes will have a negligible impact on polar bear and Pacific walrus and their habitat and, where relevant, will not have an unmitigable adverse impact on the availability of these species for subsistence uses.

Impact on Subsistence Take

We find, based on the best scientific information available and the results of monitoring data, that the effects of oil and gas exploration, development, and production activities for the next 3 years in the Beaufort Sea and adjacent northern coast of Alaska will not have an unmitigable adverse impact on the availability of polar bears and Pacific walrus for taking for subsistence uses.

Polar bear and Pacific walrus represent a small portion, in terms of the number of animals, of the total subsistence harvest for the villages of Barrow, Nuiqsut, and Kaktovik. The low numbers do not mean, however, that the harvest of these species is not important to Alaska Natives. Prior to receipt of an LOA, Industry must provide evidence to us that a Plan of Cooperation has been presented to the subsistence communities, the Eskimo Walrus Commission, the Alaska Nanuuq Commission, and the North Slope Borough. The plan will ensure that oil and gas activities will continue not to have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. This Plan of Cooperation must provide the procedures on how Industry will work with the affected Native communities and what actions will be taken to avoid interference with subsistence hunting of polar bear and walrus.

If there is evidence that oil and gas activities will affect, or in the future may affect, the availability of polar bear or walrus for take for subsistence uses, we will reevaluate our findings regarding permissible limits of take and the measures required to ensure continued subsistence hunting opportunities.

Monitoring and Reporting

Monitoring plans are required to determine short-term and direct effects of authorized oil and gas activities on polar bear and walrus in the Beaufort Sea and the adjacent northern coast of Alaska. Monitoring plans must identify the methods used to assess changes in the movements, behavior, and habitat use of polar bear and walrus in response to Industry's activities. Monitoring activities are summarized and reported in a formal report each year. The applicant must submit an annual monitoring and reporting plan at least 90 days prior to the initiation of a proposed exploratory activity, and the applicant must submit a final monitoring report to us no later than 90 days after the completion of the activity. We base each year's monitoring objective on the previous year's monitoring results.

We require an approved plan for monitoring and reporting the effects of oil and gas industry exploration, development, and production activities on polar bear and walrus prior to issuance of an LOA. Since development and production activities are continuous and long-term, upon approval, LOAs and their required monitoring and reporting plans will be issued for the life of the activity or until the expiration of the regulations, whichever occurs first. Each year, prior to January 15, we will require that the operator submit development and production activity monitoring results of the previous year's activity. We require approval of the monitoring results for continued operation under the LOA.

Discussion of Comments on the Proposed Rule

The proposed rule and request for comments was published in the **Federal Register** on December 9, 1999 (64 FR 68973). The closing date for comments was January 10, 2000. During this period we received 265 comments. These comments can be broadly categorized as relating to Legislation, National Environmental Policy Act (NAPA), Geography, Potential Impacts, Risk Assessment, Oil Spill Response, and Monitoring. A summary of these comments, and their responses, follows.

Legislative Issues

Comment: Allowing incidental take is contrary to the Act.

Response: Incidental take is authorized under Section 101(a)(5)(A) of the Act. While the Act placed a moratorium on the taking of any maritime mammal, Section 101(a) of the Act identifies exceptions to the moratorium. Section 101(a)(5)(A) of the Act provides for the incidental, but not intentional, take of small numbers of marine mammals, provided that the total take will have a negligible impact on the population and will not affect the availability of the species for subsistence users.

Comment: Allowing incidental take is a violation of the 1973 International Agreement on the Conservation of Polar Bears.

Response: The Agreement on the Conservation of Polar Bears calls for the prohibition on taking of polar bears with certain limited exceptions. However, the definition of ''taking'' in the Agreement differs substantially from that set out in the Act, in that the treaty definition includes only hunting, killing, and capturing. The only ''takings'' that are reasonably expected to occur during the period covered by this regulation would consist of the harassment of polar bears, which requires an authorization under the Act but does not constitute a ''take'' for purposes of the treaty. Further, the risk of any lethal taking of a polar bear incidental to the authorized activities is negligible and, therefore, would not be inconsistent with the provision for taking prohibitions in Article I of the Agreement.

Comment: Polar bears should not be harassed.

Response: While the Act placed a moratorium on the taking of any marine mammal, Section 101(a) identifies exceptions to the moratorium. Section 101(a)(5)(A) of the Act provides for the incidental, but not intentional take by

U.S. citizens of small numbers of marine mammals, provided that the total take will have a negligible impact on the population, and will not affect the availability of the species for subsistence users.

The term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. The term ''harass'' means any action that has the potential to injure or disturb a marine mammal. Incidental, but not intentional, taking means takings that are infrequent, unavoidable, or accidental. It does not mean that the taking must be unexpected.

This final regulation allows Industry (the U.S. citizen) to take polar bears and Pacific walrus incidental, but not intentional, to exploration, development, and production activities (specified activity) on the North Slope of Alaska (specified geographical area). We made a finding that the total taking of polar bear and Pacific walrus during the 3-years life of the regulation will have a negligible impact on polar bears and Pacific walrus and will not have an unmitigable impact on the availability of such species for taking for subsistence uses.

NEPA Comments

Comment: Significant new scientific information has shown that the impacts to polar bears would be greater than was expressed in the Northstar FEIS. Therefore, an EIS for the regulations is warranted.

Response: In developing our environmental analysis we utilized the best scientific information available. We evaluated information in the Northstar EIS as well as refining or supplementing this information. As a result of this effort we developed a better understanding of potential effects and the likelihood of these effects occurring. However, we are not aware of new scientific information that has shown that the impacts to polar bears would be greater than was expressed in the Northstar FEIS. Through the preparation of an Environmental Assessment (EA), we found that the proposed activity (issuance of implementing regulations) will not significantly affect the quality of the human environment, thereby resulting in a ''Finding Of No Significant Impact (FONSI).'' Therefore, in accordance with NEPA, an EIS is not required. Our analysis in the Final EA found that the total expected takings of polar bears during oil and gas industry exploration, development, and production activities will have a negligible impact on polar bears and will have no unmitigable adverse impacts on the availability of polar bears for subsistence use by Alaska Natives.

There appeared to be confusion between the potential impacts of these regulations and the potential impacts of the activities themselves. These incidental take regulations do not authorize the actual oil an gas activities. Those activities are authorized by other State and Federal agencies, and would likely occur even without incidental take authority. These regulations allow for the incidental take of marine mammals in accordance with the Act and provide us with a means of interacting with Industry to insure that the impacts to polar bears are as minimal as possible.

Our Final EA evaluated the impacts of the proposed incidental take regulations. The EA was not written to correct any perceived shortcoming of the Northstar EIS. We believe our EA adequately addresses the relevant issues with respect to the final regulations. As our NEPA document, the EA analyzes the affected environment and the environmental consequences of our action (i.e., the issuance of Federal implementing regulations).

Comment: Our NEPA analysis addressed an improper and insufficient array of alternatives.

Response: In order to issue regulations, we first had to assess if the sum total of all takings by all specified activities within the specified geographic region during the 3-year period covered by the proposed regulations would have a negligible impact on the species and would not have an unmitigable adverse impact on the availability of the species for taking for subsistence purposes. Since the regulations must consider the sum total of all takings, the only two relevant alternatives in the EA were to issue or not issue incidental take regulations.

Comment: Recommendations to conduct necessary studies of offshore oil development impacts on polar bears prior to and during the time of Northstar EIS preparation were ignored.

Response: The development of Federal regulations for the incidental take of marine mammals is a separate process from the Northstar EIS. For these regulations, we were required to make a determination of negligible or greater than negligible impact. With the cooperation of the U.S. Geological Survey's (USGS) Biological Resources Division, we facilitated the completion of a thorough analysis of the potential impacts of an Arctic oil spill on polar bears, which was included in our finding of negligible impact. That this analysis was not completed earlier and incorporated in the Northstar EIS does not change our finding of negligible impact, nor our ability to issue incidental take regulations.

Geographic Issues

Comment: The geographic scope of the regulations is overly broad and should be modified.

Response: Section 101(a)(5) of the Act states that incidental take regulations may be issued for ''specified activities'' and ''specified geographical areas.'' Industry's original petition (of December 1991) requested regulations for: (1) open-water exploration operations—Beaufort Sea, (2) oil and gas development and production in Arctic Alaska, and (3) exploration operations during the ice-covered period—coastal Arctic Alaska and Beaufort Sea. Due to the similarity of the activities and the geographical areas, we made the decision to issue one set of regulations instead of three sets of regulations.

Comment: The Beaufort Sea area covered by these regulations far exceeds that requested by the petitioner, and therefore it should be modified.

Response: On December 17, 1991, Industry requested that we promulgate incidental take regulations for the following specific geographical area: (1) A north/south line at Barrow including all Alaska State waters and the OCS east of that line to the Canadian border; (2) an area extending approximately from Barrow on the west to the Canning River on the east and from 25 miles inland from the coast on the south to approximately 5 miles offshore; and (3) a north/south line at Barrow including all Alaska coastal areas, State waters, and OCS waters east of that line to the Canadian border. Instead of responding to three different petitions in the same general area, requesting the same general activities, we chose to combine the three petitions into one action. The ''specified geographical area'' is defined as a north/south line at Barrow, Alaska, including all Alaska State waters and all OCS waters, and east of that line to the Canadian border, with the onshore region being the same north/south line at Barrow, 25 miles inland and east to the Canning River. The scope of the petitions was limited to pre-lease and post-lease oil and gas activities on private, State, or Federal lands in coastal Arctic Alaska with the exception of lands within the Arctic National Wildlife Refuge. Therefore, the Arctic National Wildlife Refuge is excluded from the regulations.

Comment: The National Petroleum Reserve—Alaska (NPRA) should be excluded from these regulations.

Response: We considered the total takings in the total geographical area as

defined in the regulations when we developed our finding of negligible impact. The oil and gas industry activities as defined to include exploration, production, and development that will occur in NPRA will be similar to activities that have occurred in areas that have previously been developed and the NPRA area has been made available for leasing through Federal actions. Our finding made the determination that the sum total of all takings for all activities for the 3-year term of these regulations will have a negligible impact on polar bears and Pacific walrus. This determination is supported by our past monitoring results, which have indicated no adverse impacts to polar bears or Pacific walrus. ''Important Habitat Areas'' identified in our Habitat Conservation Strategy for Polar Bears in Alaska (Strategy) will be adequately protected by LOA special conditions. Our Alaska National Interest Lands Conservation Act (i.e., ANILCA) section 810 responsibilities were fulfilled as a result of our finding that the total takings during our 3-year regulations will not have an unmitigable adverse impact on the availability of polar bears and Pacific walrus for taking for subsistence uses. Section 18.124 of these regulations requires a Plan of Cooperation between Industry and the affected subsistence communities to mitigate potential conflicts between Industry's activities and subsistence hunting.

Comment: Specific areas should be protected, including the Arctic National Wildlife Refuge, offshore of the refuge, and other Important Habitat Areas identified in the Habitat Conservation Strategy for Polar Bears in Alaska.

Response: The Arctic National Wildlife Refuge is excluded from this rulemaking. Also, Lease Sale 170 does not allow further oil and gas leasing in the OCS area offshore of the Arctic National Wildlife Refuge. However, some oil and gas industry activity may occur in this area at existing leases. The area from the coast to 3 miles out is under the jurisdiction of the State of Alaska. A State of Alaska lease sale is planned for this area in the future. With incidental take regulations in place, we will have a greater degree of involvement with oil and gas operations off the coast of the refuge to monitor and mitigate potential impacts through the LOA process.

Important habitat areas identified in our Strategy are presently considered when LOAs are issued. Habitat values are protected through area and timing conditions incorporated into LOAs.

Comment: East Barrow, South Barrow, and Walakpa gas fields were not referenced because they are operated by the North Slope Borough and not the oil industry.

Response: This assumption is correct. Section 101(a)(5)(A) of the Act states that ''Upon request * * * by citizens * * * who engage in a specified activity * * * within a specified geographical region, the Secretary shall allow * * * the incidental, but not intentional taking * * * by citizens while engaging in that activity * * *'' Only the oil and gas industry on the North Slope has asked that implementing regulations be developed for the incidental take of polar bears and Pacific walrus. East Barrow, South Barrow, and Walakpa gas fields were not identified in Industry's request for regulations. However, when regulations are in place, anyone who engages in a specified oil and gas industry activity within a specified (as defined in the regulations) geographical region may be authorized to take small numbers of polar bears and Pacific walrus.

Comment: The proposed regulations do not describe how far north the area goes, only that it includes the OCS.

Response: The specific area defined in our regulations includes all OCS waters. Therefore, the regulations to authorize the incidental take of polar bears and Pacific walrus extend 200 miles offshore. This area has been clarified in the final regulations.

Potential Impacts

Comment: Industry should not be allowed to disturb denning females.

Response: We agree that denning female polar bears should not be disturbed. Applications for LOAs must include information regarding the area of Industry activities. We evaluate these work areas and compare them with known den locations, known denning habitat, and probable denning habitat. When we identify a conflict, we include conditions in the LOA to protect denning polar bears. For example, in 1999 we worked with Exxon Corporation to schedule the timing and location of their work activities to avoid known dens and areas of historical dens. In the past 6 years while incidental take regulations have been in place, no cases of disturbance to a denning polar bear have been documented. While it is true that we do not know the location of every polar bear den, we use all available information (i.e., local knowledge, satellite transmitters, historic data) and we continue to work with Industry to explore the use of new technology to locate dens.

Comment: Subsea pipelines are an intrusion into polar bear habitats.

Response: We agree that Industry activities occur within polar bear habitat. Our findings of negligible impact included a review of the effects of oil and gas industry intrusion into polar bear habitats. Since regulations were first issued for the incidental take of polar bears on the North Slope, we have not seen declines in the polar bear population or rates of recruitment and survival. We are concerned about future cumulative effects of development activities on polar bears and their habitat, and, therefore, we will continue to monitor ongoing activities, interactions with polar bears, and loss of polar bear habitat.

Comment: Industry should not be able to kill polar bears as a result of a spill.

Response: As authorized by section 101(a)(5)(A) of the Act, these regulations allow for the incidental, but not intentional, take (including lethal take) of small numbers of polar bears and Pacific walrus so long as the total of such taking during the specified time period will have a negligible impact on the species and will not have an unmitigable adverse impact on the availability of the species for subsistence purposes. Section 101(a)(5)(B) of the Act states that we shall withdraw, or suspend the permission to take polar bears if the taking allowed is having, or may have more than a negligible impact on polar bears. In addition, incidental take authorization does not override requirements or penalties of other environmental legislation, such as the Clean Water Act and the Oil Pollution Act. In the event of a catastrophic spill that results in the lethal take of polar bears or Pacific walrus, we will reassess the impacts to polar bear and Pacific walrus populations and reconsider the appropriateness of authorization for incidental taking through specific LOAs or this regulation. Damages are collected under the Natural Resource Damage Assessment provision within the Comprehensive Environmental Response, Compensation, and Liability Act. Our incidental take regulations do not override this responsibility.

Comment: Routine operations pose great risks to polar bears.

Response: Over the past 6 years while incidental take regulations have been in effect, no instances of lethal take have occurred. We feel the level of non-lethal incidental take in the form of harassment that has occurred, and is likely to occur in the future, does not constitute ''great risk.'' With this regulation in place, we have established communication with Industry that fosters interactions that minimize potential impacts to polar bears.

Harassment that has been permitted defused incidents that otherwise may have resulted in lethal take in defense of human life.

Comment: Effects of chronic spills, transportation, and other spills and contaminants on polar bears were not considered.

Response: We did consider these indirect and direct effects and have clarified the types of activities analyzed and the scope of effects. The results of our monitoring program for the past 6 years shows that oil spills from any source have had no discernable impact on polar bears. In addition to our monitoring, onsite visits reveal that the oil and gas industry takes extensive precautions to avoid and reduce the release of petroleum products to the environment. Likewise, should a release of petroleum products occur, Industry is required to respond quickly and take corrective action. To date, we have no indication that the polar bears have been affected by spilled oil from any source.

Records from the Alaska Oil and Gas Conservation Commission (AOGCC) indicate that the release of hydrocarbons from a blowout has not occurred in the oil fields, onshore or offshore. During the 50-plus years of drilling on the North slope, AOGCC records show 6 gas blowouts and no oil blowouts. In the winter of 1991/92, an exploratory well (Cirque #1) in the Kuparuk Field west of the Colville River did experience a blowout. However, only gas and sands were released to the environment. When tested, no hydrocarbons were detected in the sands. Through December 1999, AOGCC records show 3,865 wells were permitted, and, through November 1999, 12,561,250,991 barrels of oil have been produced. Although the release of hydrocarbons from a blowout is unlikely, it could pose a risk to polar bears should it occur at an offshore site.

Comment: Polar bears are already stressed by climate change.

Response: We evaluated the size and trends of the Beaufort Sea polar bear population and did not detect changes caused by industrial effects. Recent re-analysis of long-term polar bear capture information indicates that the population grew during the 1970s and 1980s, and that the population is currently stable. Anecdotal information tends to support the position that the polar bear population is increasing. Our finding of negligible impact is made for 3 years, the life of the regulations. Climate change over time is a concern to us also. However, we have no evidence that the polar bear population is stressed by climate change. In the future, if climate change is shown to affect the polar bear population, this issue could affect future evaluations and findings.

Comment: The long-term cumulative impacts of harassment, disturbance, and oil spills on polar bear populations or habitat use, including selection of denning sites and success of reproduction were not considered.

Response: Long-term cumulative impacts were considered, and we remain cognizant and concerned regarding the potential effect of multiple offshore production facilities on the Beaufort Sea polar bear population in the future. Our efforts for this regulatory action apply through early 2003, and have focused on the location, level, frequency, and duration of Industry activities expected during this period as well as those activities having occurred in the past. Biological information we used in our assessment includes research publications and data, results from previous monitoring, information contained in our 1995 Strategy, traditional knowledge of polar bear habitat use, anecdotal observations, and professional judgment. We evaluated the sum total of impacts, both direct and indirect, subtle and acute, likely to occur from industrial activity. After considering all available sources of information, we have no indication, based on the best scientific information available, that cumulative effects of industrial activities had, or would have, population level effects on rates of recruitment or survival.

Existing data do not lend themselves to a quantitative assessment of cumulative effects of the indirect and subtle impacts of industrial activity. We have evaluated direct impacts, such as oiling, which have a quantifiable likelihood of occurrence. The more subtle impacts, such as habitat selection, harassment, disturbance, and stress and confounded by difficulties in detecting changes in life history parameters caused by human interaction and issues such as natural variation or harvest. In order to evaluate these types of impacts, either individual animals would need to be followed over time and a comparison of those exposed to human influence (e.g., hazing, presence of activities in denning habitat) versus those not exposed to human influence would have to be conducted, or a comparison of life history parameters prior to the presence of Industry activities with life history parameters in the presence of industrial activities would have to be done. We hope to obtain a better understanding through a concerted effort of various agency and public interests in the future.

Comment: the cumulative impact of the Liberty Development project should be considered.

Response: These regulations will authorize the incidental take of polar bears and Pacific walrus for a 3-year period ending in early 2003. The Liberty Project has been delayed and is proposed for startup in 2003. Under these regulations, no activities associated with the Liberty Project will be authorized for the incidental take of polar bears or Pacific walrus since information is incomplete or preliminary at this time. We are obligated to assess cumulative impacts for the duration of the proposed regulations and cannot include information that is speculative, incomplete, or beyond the term of these regulations.

Comment: Regulations are a ''License to Kill'' polar bears.

Response: During the past 6 years of incidental take regulations, no known instances have occurred where a polar bear was killed by Industry activities. Intentional take is not authorized by these regulations. When polar bears do encounter Industry activities, appropriate measures are taken to safeguard the lives of both humans and bears.

Comment: Polar bear and Pacific walrus populations are in decline.

Response: Our September 1998 Stock Assessment developed according to the provisions of Section 117 of the Act indicate that the Beaufort Sea polar bear populations has experienced growth since the 1970s and that the population is at a relatively high level. Recent reanalysis of long term polar bear capture information indicates that the population grew during the 1970s and 1980s and that the population is currently stable. Pacific walrus occur in extremely limited numbers in the area of the regulations. While some studies show evidence of low productivity in the walrus populations, we have no evidence of a population decline.

Comment: Higher rates of incidental take at production facilities, offshore operations, and past records of polar bear sightings during Northstar activities support a finding of significant impacts.

Response: We disagree that increases in the number of polar bear sightings constitute significant impacts. However, increases in the numbers of polar bear sightings to some degree may equate to increased levels of take. However, sightings do not necessarily equate to takes as defined in the regulations. Similarly, the scale of production and development activities is greater than exploration; therefore, it comes as no

surprise that the majority of polar bear sightings occur at those facilities; since the chance of detecting polar bears may be proportional to the number of observers. Also it is important to note that the increase in sighting may be related to multiple observations of the same bear as it transits the oil field and operations are year-round. However, it is inappropriate to conclude that development and production at Northstar constitutes a major expansion that will have significant population level effects.

We agree that increased incidental take associated with the construction of the Northstar production facility and sub-sea pipeline is likely, as well as with production activities. However, offshore developments occur in only a small portion of the overall range of the southern Beaufort Sea stock of polar bears. We do not consider all sightings to be takes and these levels of possible incidental take do not have population-level effects.

Comment: Despite a trend of increased level of oil and gas activities in polar bear habitats and greater incidental take, the level of take is assumed to be the same this year as last.

Response: We agree that the increase in numbers of LOAs issued indicates an increase in oil and gas industry activities. An increase in number of bears sighted, which is not necessarily a take, is therefore to be expected because we have more active monitoring plans in place. We do not agree, however, that the risk of death to polar bears and people is heightened. Note that, since our regulations have been in place (1993–1999), we have no record of an encounter resulting in injury to polar bears or humans. We credit this success to enhanced employee training and awareness about polar bear encounters.

In the proposed regulations, we stated that the types of activities would be similar to previous years, not that the level of activities and/or incidental take or types of take would be similar. The addition of new development, such as Northstar, will increase human activity and the likelihood of polar bear sightings. We do not believe that the overall activity level will have a measurable impact on polar bears during the 3-year period covered by these regulations.

Comment: Existing scientific information on long-term impacts of oil spill mortality to the population was not considered.

Response: All existing scientific information on long-term impacts of oil spill mortality to the populations was considered. We are unaware of additional information which should have been considered in our analysis. The commentor provides no indication of potential sources of additional information. A preliminary polar bear population model that estimates the response of the Beaufort sea polar bear stock to a one-time removal of polar bears, as could occur in the event of an oil spill, is under development and was tested using an oil spill scenario. While the underlying concepts of this model are sound, we consider it a work in progress that is very sensitive to the input parameters used. We continue to work on the model to refine those parameters.

Comment: Spills from the Endicott Production Facility were not considered in previous regulations.

Response: In developing implementing regulations and making the required finding of negligible impact to polar bears and Pacific walrus, and on the availability of polar bears and Pacific walrus for taking for subsistence uses, we considered all possible and probable impacts. Research conducted to date reveals that six documented cases of loss of secondary well control (blowouts) occurred during the period 1974–1997; no oil spills, fire, or loss of life occurred in any of the six events. To date, we have no record of a blowout directly or indirectly causing the take of a polar bear or Pacific walrus. Endicott has an above-surface pipeline similar in size and function as the other operating facilities on the North Slope. Pipelines located above ground increase the probability of rapid or timely leak detection, containment, and cleanup. We did consider the probability and effects of past activities, including Endicott, in making our negligible effect finding for polar bears and no unmitigable adverse effect for Native subsistence users. Therefore, Endicott was considered in the same detail as the Prudhoe Bay, Kuparuk, and other operating facilities.

Comment: Construction and operation of the Northstar facility may affect polar bear distribution, both directly and indirectly, by affecting ringed sealed distribution.

Response: We considered information contained in the Corps of Engineers' FEIS for the Northstar project. As required by NEPA, this document presents information on the overall environmental effect of the project in deciding if a Section 404 discharge permit should be issued. Our incidental take regulations provide for unintentional take of polar bear and Pacific walrus encountered during lawfully permitted activities provided that we find that the activity will have a negligible impact on the species' rates of recruitment or survival. Oil and gas activities in the Beaufort Sea occupy a small, yet expanding portion of the range of polar bears. In our evaluation of the best available scientific information, we find that even if the operation of Northstar would influence the distribution of ringed seals or polar bears, or increase interactions between humans and polar bears, the magnitude of these changes would not appreciably affect species' rates of recruitment or survival.

We have evaluated monitoring reports from other ''like'' type exploratory drilling activities during open water, freeze up with broken ice conditions, solid ice, and break-up and note that polar bears can be expected to occur near these facilities during all seasons, although the magnitude of these encounters varies within and between seasons. Thus, while we expect that the rate of polar bear and human interactions will increase from conditions without development, we do not expect the number or types of encounters to adversely affect rates of recruitment and survival.

Regarding the effects of development activities on ringed seals, we note that scientific information is limited and does not allow for quantitative assessment of the effects of these activities on ringed seals. The National Marine Fisheries Service (NMFS) is conducting monitoring programs on the Northstar facility focused on assessing the effects of industrial development on ringed seal distribution. We anticipate further discussions with the NMFS on this study and its application to questions about polar bear and prey relationships near the Northstar facility, and for coordinating future monitoring programs of mutual interest by our agencies. Consideration of the best available scientific information indicates that Northstar or other industrial activities considered within the scope of the regulation are not likely to and not reasonably expected to affect ringed seal populations to the point of measurably reducing polar bear rates of recruitment or survival. The NMFS states in its proposed ''taking'' regulations published in the **Federal Register** on October 22, 1999, (64 FR 57010) that because the taking of ringed seals incidental to Northstar activities will be almost exclusively by incidental harassment and no serious injury or mortality is expected as a result of Northstar construction and operation, fluctuating population levels should be of little consequence.

Assessment Risk

Comment: The number of bears potentially affected is unacceptable.

Response: Regulations that authorize the incidental take of polar bears and Pacific walrus have been in place on the North Slope of Alaska for 6 years. Our monitoring results during that period suggest that the impact of Industry activities have been negligible.

The greatest amount of concern appears to be in regard to the Northstar project and the use of a sub-sea pipeline. We acknowledge that, if an oil spill were to occur during the fall or spring broken-ice periods, a significant impact to polar bears could occur. In our risk assessment analysis, we followed Congressional direction in balancing the potential for a significant impact with the likelihood of that event occurring. For example, while our analysis showed that up to 108 polar bears could be killed by a spill, we estimate the likelihood of this event is roughly 1 in 30,000. The specific Congressional direction that justifies balancing probabilities with impacts follow:

> If the potential effects of a specified activity are conjectural or speculative, a finding of negligible impact may be appropriate. A finding of negligible impact may also be appropriate if the probability of occurrence is low but the potential effects may be significant. In this case, the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. In applying this balancing test, the Service will thoroughly evaluate the risks involved and the potential impacts on marine mammal populations. Such determination will be made based on the best available scientific information. 53 FR at 8474: accord, 132 Cong. Rec. S 16305 (Oct 15, 1986)

In the event of a catastrophic spill, Section 101(a)(5)(B) of the Act states that we may withdraw, or suspend the permission to take polar bears if the taking allowed is having, or may have more than a negligible impact on polar bears.

Comment: Oil spill probabilities presented in the Northstar FEIS contain considerable uncertainty.

Response: The probabilities of an oil spill presented in the Northstar FEIS were based on spill probabilities from other data sets in the Gulf of Mexico and Europe. Those data sets contain causes of oil spills that are unlikely to occur in the Arctic, such as damage from anchors and fishing trawlers. Conversely, they do not contain potential causes of oil spills unique to the Arctic, such as ice gouging and strudel scour. In addition, the Northstar pipeline will incorporate conservative design criteria, quality assurance programs, and internal inspection programs. While all these factors are likely to affect the actual Northstar spill probabilities, none of them can be quantified at this time. Therefore, we used oil spill probabilities calculated using the exposure variables presented in the Northstar FEIS.

Comment: The oil spill trajectory on polar bears provided shows major impacts from a spill.

Response: The oil spill trajectory analysis was designed to quantify the potential impacts of an oil spill from Northstar. The results are probabilistic and, therefore, cannot be directly compared to the mortality estimate in the Northstar FEIS, for which no probability was given.

Determination of risk involves two components: (1) The likelihood that an event will occur, and (2) the consequences of that event. The number of polar bears potentially impacted by a spill do not constitute ''risk'' without a measure of likelihood. We acknowledge that, if a spill were to occur during broken ice periods, major impacts to polar bears could result. However, the likelihood of this occurrence is sufficiently small to warrant a finding of negligible impact.

Comment: Oil spill trajectory information shows additional risk, such as spills during September or aggregations of bears, that were not considered in this analysis.

Response: Ice conditions in the Beaufort Sea are variable during September. In some years, the ice is adjacent to the shore, and in other years it remains offshore. The distribution of polar bears is largely dependent on the distribution of sea ice. Therefore, we chose to model a broken ice scenario in October when polar bear distributions are less variable. While the analysis could have been conducted on a month-by-month basis, we did not feel that this level of resolution would significantly improve the model.

Polar bear distribution data was based on over 10,000 radio and satellite-telemetry relocations. Anecdotal information on polar bear sightings is not suitable for incorporation into the analysis. Similarly, we did not have sufficient information (location, dates or occurrence, duration, number of bears, etc.) about polar bear aggregations to include them in the model. However, since capture and telemetry observations constitute a random sample of the population, the results reflect an ''average'' distribution of polar bears.

Comment: Oil spill trajectory analysis was not done for maximum-sized spill or for the full duration of time that oil would spread and be available in the environment.

Response: In the oil spill trajectory model, we modeled the spill that would be consistent with the oil spill probabilities presented in the Northstar FEIS. We did not choose to model the worst-case scenarios, as they are associated with well blowouts. While blowouts are possible, data from the Alaska Oil and Gas Conservation Committee indicate that only 6 gas blowouts, and no oil blowouts, have occurred during all North Slope drilling operations over the past 50 years. Therefore, we conclude that the likelihood of occurance for these worst-case scenarios are exceedingly small, constitute little risk to polar bears, and need not be modeled.

The trajectory model showed considerable variability in the spread of oil; some trajectories moved considerable distances, while others did not. This variability is reflected in the estimated numbers of polar bears that would be impacted by a spill. Therefore, the results of this analysis must be considered from a probabilistic perspective. The purpose of this modeling exercise was to quantify the risk to polar bears in general terms. We feel the level of detail included in the oil spill trajectory model, polar bear distribution model, and risk assessment was appropriate for the data at hand.

Comment: The Polar Bear Risk Analysis for the Northstar Project in the proposed rule is scientifically flawed, ignores available information, and cannot be used to overturn the results of the Northstar Draft and Final Environmental Impact Statements (EIS) prepared by the U.S. Army Corps of Engineers, nor to make findings of negligible impact to polar bear populations or subsistence.

Response: The Polar Bear Risk Analysis was favorably reviewed by other scientists, statisticians, and modeling experts. The oil spill probabilities used in the risk analysis were calculated based on exposure variables and oil production estimates from the Northstar EIS. Additional ''important oil spill risks'' could not be quantified and, therefore, were not included in the analysis.

We disagree with the stated opinion that ''a risk analysis approach is inappropriate, given the devastating effects of a spill in the event that it occurs.'' Managing by the worst-case scenario without consideration of the likelihood of occurrence is not practical. Following that rationale, people would not fly on commercial airlines, as the worst-case scenario is for hundreds of

fatalities. To the contrary, risk analysis indicates that air travel is one of the safest modes of transportation available.

We acknowledge that the risk analysis was simplistic, but we believe the level of analysis used was appropriate for the available data. We disagree with the statement that the results ''downgrade conclusions about impacts from a spill.'' In our opinion, the results provide the context necessary to interpret those impacts. We consider this approach to be an improvement over previous impact assessments.

Comment: Regardless of the probability of a major spill, or series of smaller spills, the effect on polar bear populations and habitats would be significant and cannot be ignored.

Response: We remain concerned about the impacts from a potential oil spill from Northstar. However, without some measure of probability, assessing the risk to polar bears is impossible. In this regard, we believe a risk assessment approach is appropriate.

The Northstar FEIS did not present a probability associated with the mortality estimate of 30 bears. The probability of an oil spill impacting an aggregation of polar bears is the product of: (1) the probability of a spill occurring; (2) the probability of an aggregation of bears being present; and (3) the probability of the spill contacting the aggregation.

Comment: Movement patterns and habitat use by females may not be representative of those of other demographic classes (i.e., males and juveniles) in the polar bear population.

Response: At this time, a technique to follow movements of adult males is not available, although some testing of ear tag transmitters and subcutaneous implanted transmitters has been attempted with limited success. Radio collars have not been successful on male polar bears due to the shape of their neck and head. Also, radio collars are not used to collect information on cubs because of their rapid rate of growth and possible injury to the bear. Without adequate information about these other demographic classes, we made the untested assumption that females were representative of the entire population. We acknowledge that additional data in this area would be desirable.

Comment: Cumulative impacts from Northstar should be considered beyond the 3-year period of the regulations.

Response: While operation of the Northstar facility is anticipated to last for at least 15 years, our cumulative impact assessment can only look 3 years into the future. We are obligated to assess cumulative impacts for the duration of the regulation and not to include information that is speculative, incomplete, or beyond the scope of the regulations. Any information and our assessment of effects on polar bears regarding future operations at the Northstar site would occur in future regulations.

Comment: Unpublished data, modeling activities, and reports used in determining the effects of oil and gas industry activities should be available for review

Response: The proposed rule announced that persons seeking further information on the proposed rulemaking should contact our Marine Mammals Management Office. Persons still seeking materials used in the production of these implementing regulations may request them from the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, AK 99503.

Oil Spill Response

Comment: It is impossible to clean up an oil spill during broken ice conditions.

Response: In our risk assessment analysis, we assumed that cleanup would not occur, but we also assumed that the chance of a spill is small and that containment would occur. Industry is working to develop better technology for cleanup and spill detection.

Comment: Spill response drill results and failure to comply with conditions of the Northstar Oil Spill Contingency Plan (C-Plan) provide reason for concern.

Response: The oil spill contingency plan was approved by the Alaska Department of Environmental Conservation, the U.S. Department of Transportation, the U.S. Coast Guard, and the Minerals Management Service. We were actively involved in the development of the Area Plan that establishes standards for the oil spill contingency plan and identifies sensitive resource areas. We believe the oil spill contingency plan does describe feasible techniques to minimize impacts of oil spills.

We are concerned about the efficacy of cleanup and containment efforts should a spill occur in the marine environment. Given the uncertainties associated with cleanup and containment, modeling all the possible cleanup and containment scenarios that could occur was not possible. Instead, we modeled a spill that was contained 72 hours after the final release of oil as required in the Northstar C-Plan. Any cleanup or containment that might occur prior to that point would decrease the size of the spill and, therefore, the potential impacts.

Comment: Incidental take associated with oil spill response activities was not considered.

Response: Incidental take associated with oil spill response activities was considered. Similar to mortality levels, the level of the type of incidental take, which includes harassment and deterrence, must be balanced with a likelihood of occurrence of a spill, which we believe to be small. However, in the event of a spill, we feel that nonlethal takes in the form of deterrence are preferable to the alternative.

Comment: Spilled oil trapped under solid ice may impact polar bears at a later time when the ice melts.

Response: In our modeling exercise, we believed that movement of oil during solid ice conditions and the potential for contact with polar bears is minimal and removed the scenario from further analysis. We recognized that movement of oil trapped beneath ice is possible over time, but believe that recovery of a portion of the oil trapped beneath ice and weathering of remaining oil would minimize potential impacts that may occur to polar bears at a later time. The indirect or latent effects of oiling are not qualified. We disagree with the assumption that no effective means exist for containing removing oil trapped beneath ice during the winter months. Review of the techniques for containment and removal of spilled oil in the solid ice conditions detailed in the oil spill contingency plan provides plausible explanation of the potential for greater effectiveness in cleanup of oil in these conditions. We acknowledge that 100 percent effectiveness of containment or cleanup is not possible. We believe that a greater potential impact to polar bears is illustrated in the open water or broken ice conditions scenarios, and we have chosen to focus our analysis on these scenarios. We have further clarified our rationale for excluding impact analysis for solid ice conditions within the final regulation and have included reference to the BPX oil spill contingency plan.

Monitoring

Comment: Monitoring results for 1998 and 1999 were not analyzed.

Response: In June 1998, we prepared a monitoring report, which is available for public review, that covered the period from 1994 to 1997. That monitoring report identifies activities that were recorded under the authority of an LOA. Our monitoring database is continually updated, and a new monitoring report will be prepared after monitoring results are compiled for the winter 1999/2000 season. Preliminary analysis of monitoring reports from

1998 and 1999 indicate that the number of encounters between polar bears and industry activities were comparable to 1997.

Comment: Monitoring and reporting requirements are vague and inadequate.

Response: The site-specific monitoring programs are designed to provide information on the number of bears encountered at or near industrial sites, how bears react, information regarding hazing of bears if necessary, and information on lethal interactions should they occur. It is true that existing site-specific monitoring observations, by themselves, do not entirely provide the type of information necessary to evaluate the long-term, indirect, subtle effects of the activity or provide a quantitative measurement of effect on the population. We are currently considering changes to monitoring and reporting requirements that, while not specified in these regulations, can be implemented as conditions to LOAs.

Required Determinations

We have prepared an Environmental Assessment (EA) in conjunction with this rulemaking and concluded in a Finding of No Significant Impact (FONSI) that this is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National environmental Policy Act of 1969. For a copy of the EA and FONSI, contact the individual identified above in the section entitled, **FOR FURTHER INFORMATION CONTACT**.

This document has not been reviewed by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review). This final rule will not have an annual effect of $100 million or more on the economy; 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; will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; and does not raise novel legal or policy issues. Expenses will be related to, but not necessarily limited to, the development of applications for regulations and LOAs, monitoring, record keeping, and reporting activities conducted during Industry oil and gas operations, development of polar bear interaction plans, and coordination with Alaska Natives to minimize effects of operations on subsistence hunting. Compliance with the rule is not expected to result in additional costs to Industry that it has not already been subjected to for the previous 6 years. Realistically, these costs are minimal in comparison to those related to actual oil and gas exploration, development, and production operations. The actual costs to Industry to develop the petition for promulgation of regulations (originally developed in 1997) and LOA requests probably does not exceed $500,000 per year, short of the ''major rule'' threshold that would require preparation of a regulatory impact analysis. As is presently the case, profits will accrue to Industry; royalties and taxes will accrue to the Government; and the rule will have little or no impact on decisions by Industry to relinquish tracts and write off bonus payments.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule is also not likely to result in a major increase in costs or prices for consumers, individual industries, or government agencies or have significant adverse effects on competition, employment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We have also determined that this rule 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.* Oil companies and their contractors conducting exploration, development, and production activities in Alaska have been identified as the only likely applicants under the regulations. These potential applicants have not been identified as small businesses. The analysis for this rule is available from the person in Alaska identified above in the section entitled, **FOR FURTHER INFORMATION CONTACT**.

This final rule is not expected to have a potential takings implication under Executive Order 12630 because it will authorize the incidental, but not intentional, take of polar bear and walrus by oil and gas industry companies and thereby exempt these companies from civil and criminal liability.

This final rule also does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132. In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The Service had determined and certifies pursuant to the Unfunded Mandates Reform Act that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. 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.

The Departmental Solicitor's Office has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

The information collection contained in this rule has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned clearance number 1018–0070. The OMB approval of our collection of this information will expire in October 2001. Section 18.129 of this document contains the public notice information—including identification of the estimated burden and obligation to respond—required under the Paperwork Reduction Act. Information from our Marking, Tagging, and Reporting Program is cleared under OMB Number 1018–0066 pursuant to the Paperwork Reduction Act. For information on our Marking, Tagging, and Reporting Program, see 50 CFR 18.23(f)(12).

The Administrative Procedure Act, 5 U.S.C. 553(d), generally requires that the effective date of a final rule not be less than 30 days from publication date of the rule. Section 553(d)(1) provides that the 30-day period may be waived if the rule grants or recognizes an exemption or relieves a restriction. Since this rule relieves certain restrictions concerning take of marine mammals, and is expected to be published prior to expiration of existing regulations, we have determined that this final rule should be made effective upon date of publication.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and record keeping requirements, Transportation.

For the reasons set forth in the preamble, the Service amends part 18, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations as set forth below:

PART 18—MARINE MAMMALS

1. The authority citation for 50 CFR part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Revise Subpart J to read as follows:

Subpart J—Taking of Marine Mammals Incidental to Oil and Gas Exploration, Development, and Production Activities in the Beaufort Sea and Adjacent Northern Coast of Alaska

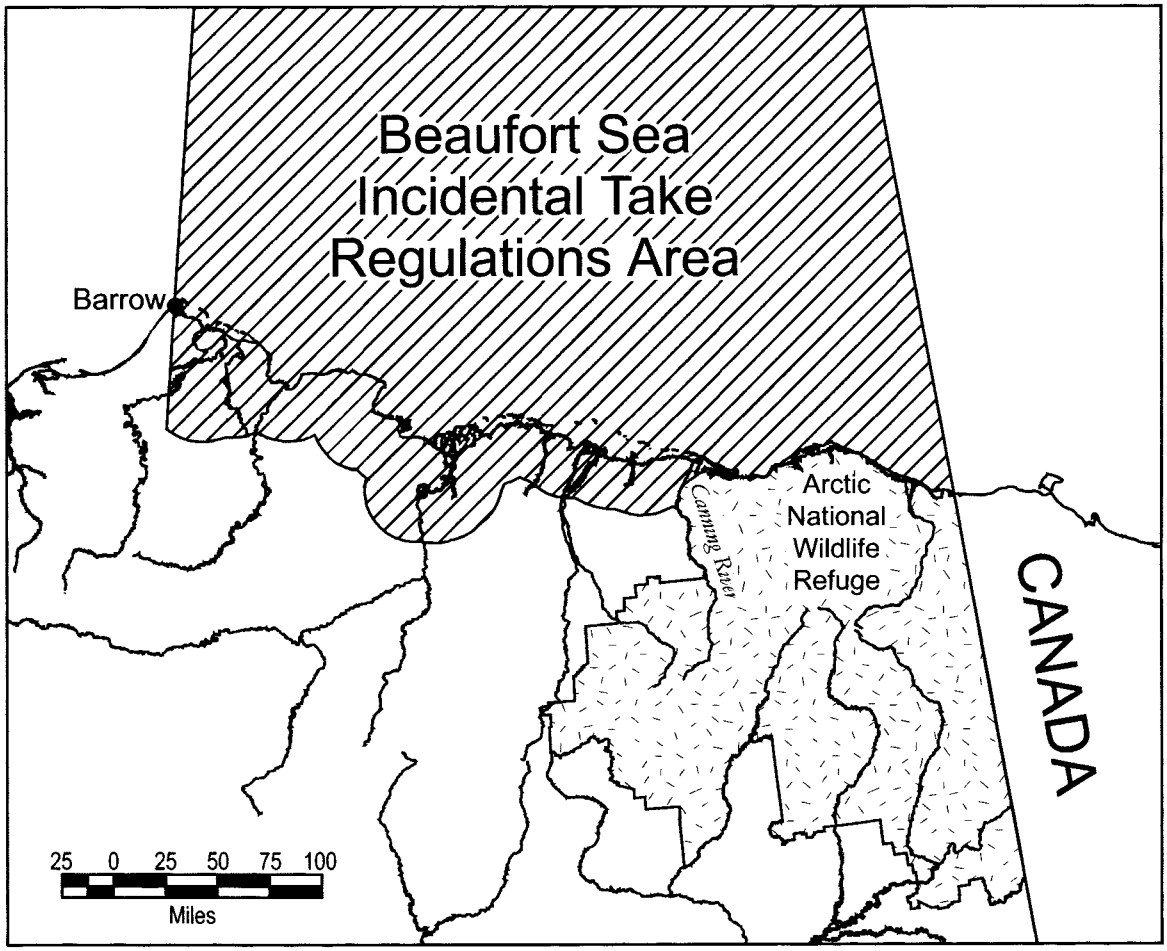
Sec.

§ 18.121 What specified activities does this rule cover?

Regulations in this subpart apply to the incidental, but not intentional, take of small numbers of polar bear and Pacific walrus by you (U.S. citizens as defined in § 18.27(c)) while engaged in oil and gas exploration, development, and production activities and environmental monitoring associated with oil and gas industry activities in the Beaufort Sea and adjacent northern coast of Alaska. The offshore exploration, development, and production facility, known as Northstar, is covered by this rule. Future offshore development and production, such as the proposed Liberty project, is not covered by this rule.

§ 18.122 In what specified geographic region does this rule apply?

This rule applies to the specified geographic region defined by a north/south line at Barrow, Alaska, and includes all Alaska coastal areas, State waters, and all Outer Continental Shelf waters east of that line to the Canadian border and an area 25 miles inland from Barrow on the west to the Canning River on the east. The Arctic National Wildlife Refuge is excluded from this rule.



§ 18.123 When is this rule effective?

Regulations in this subpart are effective March 30, 2000 and remain effective through March 31, 2003, for year-round oil and gas exploration, development, and production activities.

§ 18.124 How do you obtain a Letter of Authorization?

(a) You must be a U.S. citizen as defined in § 18.27(c) of this part.

(b) If you are conducting an oil and gas exploration, development, or production activity in the specified geographic region described in § 18.122 that may take a polar bear or Pacific walrus in execution of those activities and desire incidental take authorization under this rule, you must apply for a Letter of Authorization for each exploration activity or a Letter of Authorization for each development and production area. You must submit the application for authorization to our Alaska Regional Director (See 50 CFR 2.2 for address) at last 90 days prior to the start of the proposed activity.

(c) Your application for a Letter of Authorization must include the following information:

(1) A description of the activity, the dates and duration of the activity, the specific location, and the estimated area affected by that activity.

(2) A site-specific plan to monitor the effects of the activity on the behavior of polar bear and Pacific walrus that may be present during the ongoing activities. Your monitoring program must document the effects to these marine mammals and estimate the actual level and type of take. The monitoring requirements will vary depending on the activity, the location, and the time of year.

(3) A polar bear awareness and interaction plan. For the protection of human life and welfare, each employee on site must complete a basic polar bear encounter training course.

(4) A Plan of Cooperation to mitigate potential conflicts between the proposed activity and subsistence hunting. This Plan of Cooperation must identify measures to minimize adverse effects on the availability of polar bear and Pacific walrus for subsistence uses if the activity takes place in or near a traditional subsistence hunting area. You must contact affected subsistence communities to discuss potential conflicts caused by location, timing, and methods of proposed operations. You must make reasonable efforts to assure that activities do not interfere with subsistence hunting or that adverse effects on the availability of polar bear or Pacific walrus are properly mitigated.

§ 18.125 What criteria do we use to evaluate Letter of Authorization requests?

(a) When you request a Letter of Authorization, we will evaluate each request for a Letter of Authorization based on the specific activity and the specific geographic location. We will determine whether the level of activity identified in the request exceeds that considered by us in making a finding of negligible impact on the species and a finding of no unmitigable adverse impact on the availability of the species for take for subsistence uses. If the level of activity is greater, we will reevaluate our findings to determine if those findings continue to be appropriate based on the greater level of activity that you have requested. Depending on the results of the evaluation, we may allow the authorization to stand as is, add further conditions, or withdraw the authorization.

(b) In accordance with § 18.27(f)(5) of this part, we will make decisions concerning withdrawals of Letters of Authorization, either on an individual or class basis, only after notice and opportunity for public comment.

(c) The requirement for notice and public comment in § 18.125(b) will not apply should we determine that an emergency exists that poses a significant risk to the well-being of the species or stock of polar bear or Pacific walrus.

§ 18.126 What does a Letter of Authorization allow?

(a) Your Letter of Authorization may allow the incidental, but not intentional, take of polar bear and Pacific walrus when you are carrying out one or more of the following activities:

(1) Conducting geological and geophysical surveys and associated activities;

(2) Drilling exploratory wells and associated activities;

(3) Developing oil fields and associated activities;

(4) Drilling production wells and performing production support operations; and

(5) Conducting environmental monitoring activities associated with exploration, development, and production activities to determine associated impacts.

(b) You must use methods and conduct activities identified in your Letter of Authorization in a manner that minimizes to the greatest extent practicable adverse impacts on polar bear and Pacific walrus, their habitat, and on the availability of these marine mammals for subsistence uses.

(c) Each Letter of Authorization will identify allowable conditions or methods that are specific to the activity and location.

§ 18.127 What activities are prohibited?

(a) Intentional take of polar bears or Pacific walrus; and

(b) Any take that fails to comply with the terms and conditions of these specific regulations or of your Letter of Authorization.

§ 18.128 What are the monitoring and reporting requirements?

(a) We require holders of Letters of Authorization to cooperate with us and other designated Federal, State, and local agencies to monitor the impacts of oil and gas exploration, development, and production activities on polar bear and Pacific walrus.

(b) Holder of Letters of Authorization must designate a qualified individual or individuals to observe, record, and report on the effects of their activities on polar bear and Pacific walrus.

(c) We may place an observer on site of the activity on board drill ships, drill rigs, aircraft, icebreakers, or other support vessels or vehicles to monitor the impacts of your activity on polar bear and Pacific walrus.

(d) For exploratory activities, holders of a Letter of Authorization must submit a report to our Alaska Regional Director within 90 days after completion of activities. For development and production activities, holders of a Letter of Authorization must submit a report to our Alaska Regional Director by January 15 for the preceding year's activities. Reports must include, at a minimum, the following information:

(1) Dates and times of activity;

(2) Dates and locations of polar bear or Pacific walrus activity as related to the monitoring activity; and

(3) Results of the monitoring activities including an estimated level of take.

§ 18.129 What are the information collection requirements?

(a) The collection of information contained in this subpart has been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned clearance number 1018–0070. We need to collect information in order to describe the proposed activity and estimate the impacts of potential takings by all persons conducting the activity. We will use the information to evaluate the application and determine whether to issue specific regulations and, subsequently, Letters of Authorization.

(b) For the initial year, we estimate your burden to be 200 hours to develop an application requesting us to promulgate incidental take regulations. For the initial year and annually thereafter when you conduct operations under this rule, we estimate an 8-hour burden per Letter of Authorization, a 4-hour burden for monitoring, and an 8-hour burden per monitoring report. You must respond to this information collection request to obtain a benefit pursuant to Section 101(a)(5) of the Marine Mammal Protection Act. You should direct comments regarding the burden estimate or any other aspect of this requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, Department of the Interior, Mail Stop 222 ARLSQ, 1849 C Street, NW., Washington, D.C. 20240, and the Office of Management and Budget, Paperwork Reduction Project (1018–0070), Washington, D.C. 20503.

Dated: March 23, 2000.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–7912 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990713189–9335–02; I.D. 060899B]

RIN 0648–AK79

Fisheries of the Northeastern United States; Spiny Dogfish Fishery Management Plan

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

ACTION: Final rule; delay of effectiveness.

SUMMARY: NMFS delays the effective date of a final rule published January 11, 2000, from March 27, 2000, until April 3, 2000. The final rule was to have been effective February 10, 2000; however, its effectiveness was delayed until March 15, 2000, and again until March 27, 2000. The final rule will implement approved management measures for the spiny dogfish fishery, as contained in the Spiny Dogfish Fishery Management Plan (FMP). This action is being taken in order to provide the Secretary of Commerce with adequate time to evaluate the alternatives offered by the Mid-Atlantic and New England Fishery Management Councils (Councils) before proceeding with implementation of the FMP.

DATES: The effective date of the final rule implementing the Spiny Dogfish Fishery Management Plan (published on January 11, 2000, at 65 FR 1557) and whose effectiveness was delayed twice, first, to March 15, 2000 (65 FR 7461, February 15, 2000), and second, to March 27, 2000 (65 FR 15110, March 21, 2000), is further delayed until April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Richard Pearson, Fishery Policy Analyst, at 978–281–0279.

SUPPLEMENTARY INFORMATION: The FMP was developed jointly by the Councils, with the Mid-Atlantic Council having the administrative lead. A Notice of Availability for the FMP was published in the **Federal Register** on June 29, 1999 (64 FR 34759), and solicited public comment through August 30, 1999. The proposed rule to implement the FMP was published in the **Federal Register** on August 3, 1999 (64 FR 42071), and solicited public comments through September 17, 1999. NMFS made the decision to partially approve the FMP on September 29, 1999. A final rule to implement the FMP was published in the **Federal Register** January 11, 2000 (65 FR 1557), to be effective on February 10, 2000. A delay in effectiveness of the final rule was filed on February 10, 2000, and published on February 15, 2000 (65 FR 7460), which made the effective date of this rule March 15, 2000. A second delay in effectiveness of the final rule was filed on March 15, 2000, and published on March 21, 2000 (65 FR 15110), which made the effective date of this rule March 27, 2000. The final rule will now be effective April 3, 2000.

Dated: March 27, 2000.

Andrew J. Kemmerer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 00–7860 Filed 3–27–00; 3:25 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 62
Thursday, March 30, 2000

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–20–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. PA–42 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain The New Piper Aircraft, Inc. (Piper) PA–42 series airplanes. The proposed AD requires that you revise the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews have the information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. Without this information, flightcrews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this rule on or before June 2, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–20–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES.**The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov*.

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–20–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this AD? On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

We reviewed the icing-related incident history of certain airplanes and we determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Based on the incidents above, we initiated AD action against several make and model airplanes, including The New Piper Aircraft, Inc. (Piper) PA–31 series airplanes (Docket No. 99–CE–49–AD). The AD's required revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Comments received on Docket No. 99–CE–49–AD indicated that the proposed actions should also apply to Piper PA–42 series airplanes. Rather than hold up the AD on the Piper PA–31 series airplanes, we decided to initiate a separate AD action (NPRM) for the Piper Models PA–42, PA42–720, PA42–720R, and PA42–1000 airplanes.

What are the consequences if the condition is not corrected? This condition, if not corrected, could lead to

reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided? After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—an unsafe condition referenced in this document exists or could develop on other Piper PA–42 series airplanes of the same type design; and

—AD action should be taken in order to prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

What does this AD require? The proposed AD requires you to revise the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

How many airplanes does the proposed AD impact? We estimate that 120 airplanes in the U.S. registry would be affected by the proposed AD.

What is the cost impact of the initial inspection on owners/operators of the affected airplanes? We estimate that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

Regulatory Impact

The regulations proposed herein would not have a substantial 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. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The New Piper Aircraft, Inc.: Docket No. 2000–CE–20–AD.

(a) *What airplanes are affected by this AD?* Models PA–42, PA–42–720, PA–42–720R, and PA–42–1000 airplanes, all serial numbers, that are:

(1) Equipped with pneumatic deicing boots; and

(2) Certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register. The AD does not apply to your airplane if it is not equipped with pneumatic de-icing boots.

(c) *What problem does this AD address?* The information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation is critical for flight in icing conditions. If we did not take action to include this information, flight crews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

(d) *What must I do to address this problem?* To address this problem, you must revise the Limitations Section of FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. You must accomplish this action within the next 10 calendar days after the effective date of this AD, unless already accomplished. You may insert a copy of this AD in the AFM to accomplish this action:

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after:

—Leaving known or observed/detected icing that the flight crew has visually observed on the aircraft or was identified by the on-board sensors; and

—After the airplane is determined to be clear of ice.''

Note: The FAA recommends periodic treatment of deicing boots with approved ice release agents, such as ICEX™, in accordance with the manufacturer's application instructions.

(e) *Can the pilot accomplish the action?* Yes. Anyone who holds at least a private pilot certificate, as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), may incorporate the AFM revisions required by this AD. You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(f) *Can I comply with this AD in any other way?* Yes.

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

(2) This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(g) *Where can I get information about any already-approved alternative methods of compliance?* Contact the Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4121; facsimile: (816) 329–4091.

(h) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

Issued in Kansas City, Missouri, on March 22, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–7878 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 900

[Docket No. 99N–4578]

RIN 0910–AB98

State Certification of Mammography Facilities

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to implement the patient notification provisions of the Mammography Quality Standards Act of 1992 (the MQSA). This action will permit FDA to authorize individual States to certify mammography facilities, to conduct the inspection of the facilities, to enforce the MQSA quality standards, and to administer other related functions. FDA retains oversight responsibility for the activities of the States to which this authority has been delegated and mammography facilities certified by those States must continue to meet the quality standards established by FDA for mammography facilities nationwide. The document proposes procedures for application, approval, evaluation, and withdrawal of approval of States as certification agencies. It also proposes standards to be met by States receiving this authority.

DATES: Submit written comments on the proposed rule by June 28, 2000. Written comments on the information collection requirements should be submitted by May 1, 2000.

ADDRESSES: Submit written comments on the proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy A. Taylor, Desk Officer for FDA. The Regulatory Impact Study (RIS) and cost analysis is available at the Dockets Management Branch for review between 9 a.m. and 4 p.m., Monday through Friday. Requests for copies of the RIS should be submitted to the Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A-16, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ruth A. Fischer, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332, FAX 301–594–3306.

SUPPLEMENTARY INFORMATION:

I. Background

The MQSA (Public Law 102–539) was enacted on October 27, 1992. The purpose of the legislation was to establish minimum national quality standards for mammography. The MQSA required that to provide mammography services legally after October 1, 1994, all mammography facilities, except facilities of the Department of Veterans Affairs, had to be accredited by an approved accreditation body and certified by the Secretary of Health and Human Services (the Secretary). The authority to approve accreditation bodies and to certify facilities was delegated by the Secretary to FDA. The MQSA replaced a patchwork of Federal, State, and private standards with uniform Federal standards designed to ensure that all women nationwide receive adequate quality mammography services. On October 9, 1998, the Mammography Quality Standards Reauthorization Act (the MQSRA) (Public Law 105–248) was enacted to extend the MQSA through fiscal year 2002.

A. Provisions of the MQSA

The key requirements of MQSA to be met by the facilities in order to receive and maintain their FDA certification include:

(1) Compliance with quality standards for personnel, equipment, quality assurance programs, and reporting and recordkeeping procedures.

(2) Accreditation by private, nonprofit organizations or State agencies that have been approved by FDA as meeting standards established by the agency for accreditation bodies and that continue to pass annual FDA reviews of their activities. As part of the accreditation process, the accreditation body must evaluate for quality actual clinical mammograms from each unit in the facility, and determine that the facility quality standards have been met.

(3) Demonstration of continued compliance with the facility quality standards through annual inspections performed by FDA-certified Federal or State Inspectors.

B. Accomplishments to Date

Interim facility quality standards were published in the **Federal Register** of December 21, 1993 (58 FR 67558), and used as the basis for the initial certification of mammography facilities by October 1, 1994, the date by which mammography facilities had to have an FDA certificate in order to continue lawfully providing mammography services. In the **Federal Register** of October 28, 1997 (62 FR 55852), more comprehensive facility quality standards and accreditation body requirements were published, which became effective on April 28, 1999. Five accreditation bodies, the American College of Radiology (ACR) and the States of Arkansas, California, Iowa, and Texas, have been approved by FDA to accredit mammography facilities. Approximately 250 Federal and State inspectors were trained and certified to conduct the MQSA inspections, and the 5th year of inspections has now begun. The number of certified mammography facilities varies with time but typically is slightly under 10,000.

C. Role of the States

State agencies have played a very important role in the development and implementation of the MQSA program. As already noted, four of the five accreditation bodies are States, thus providing an alternative to the ACR for accreditation of facilities within the borders of the accrediting States. Most of the FDA-certified inspectors are State personnel who, working under contract with FDA, have conducted the great majority of the inspections. FDA currently has contracts for the performance of inspections with 46 States, the District of Columbia, Puerto Rico, and New York City.

MQSA also provides for an even more significant State role in the MQSA program. In accordance with section 354(q) of the Public Health Service Act (the PHS Act) (42 U.S.C. 263b(q)), States

may become the certifying agency for mammography facilities operating within their borders and also may be delegated other important responsibilities, such as the conduct of the inspections of the facilities they certify and enforcement of MQSA quality standards. The purpose of this proposed rule is to establish the requirements to be met by States as Certification Agencies (commonly known as and hereafter referred to as States as Certifiers (SAC's)) and the procedures for the application, approval, and withdrawal of approval of SAC's.

D. The Patient Notification Provisions

Section 354(q) of the PHS Act allows FDA to delegate to qualified States, the authority for: (1) Issuing, renewing, suspending, and revoking certificates, (2) conducting annual facility inspections and followup inspections, and (3) implementing and enforcing the MQSA quality standards for mammography facilities within the jurisdiction of the qualified State.

To be approved, a State must: (1) Have enacted laws and issued regulations equivalent to the MQSA standards and regulations, (2) have the legal authority and qualified personnel to enforce those laws and regulations, (3) devote adequate funds to the administration and enforcement of those laws and regulations, and (4) provide FDA with information and reports, as required.

FDA is to retain exclusive responsibility for: (1) Establishing quality standards, (2) approving accreditation bodies, (3) approving and withdrawing approval of State certification agencies, and (4) maintaining oversight over State certification programs. Moreover, FDA retains authority to suspend or revoke the certificate of facilities within an approved State, and to take other administrative and judicial actions against such facilities provided for in the MQSA.

E. Development of the SAC Proposed Rule

This proposed rule covers procedures for application for FDA approval as a certification agency and the requirements and responsibilities of such agencies. It also establishes procedures for oversight of approved States and for withdrawal of approval. Four sources of information were relied upon by FDA in developing these regulations, in addition to the expertise and research of FDA personnel.

First, the proposed SAC program was discussed with the National Mammography Quality Assurance Advisory Committee (NMQAAC). NMQAAC is a committee of health professionals, whose work focuses significantly upon mammography, and of representatives of consumer groups and State agencies. This committee has the responsibility of advising FDA on regulatory requirements implemented under the MQSA. Advice about the direction of the SAC program and the content of the proposed rule was provided by NMQAAC at meetings held in September 1994 and July 1996. NMQAAC has received updates on the proposed program at subsequent meetings.

Second, the SAC program and the proposed rule were discussed in meetings of a SAC Working Group formed by FDA in accordance with 21 CFR 20.88(e). Although NMQAAC was a source of valuable information from a wide segment of the mammography community, FDA partnership with the States would be an essential key to the future success of the SAC program. This second group was intended to serve as a means to begin building that partnership. Working group participants have included regional and headquarters FDA staff, representatives of the States of Arkansas, California, Florida, Illinois, Iowa, Massachusetts, Nevada, New Hampshire, New Jersey, and Texas, and the American College of Radiology. The State participants were chosen with the goal of obtaining input from all regions of the country and from States that are MQSA accreditation bodies. The Working Group met in June 1996, January and September 1997, May and November 1998, and May 1999 and has contributed greatly to the development of the proposed rules.

Third, FDA's experience over the last 4 years with the accreditation bodies has greatly influenced the proposed rule because there is similarity with respect to the objectives targeted, the problems to be solved, and the oversight needed for the delegation of accreditation and certification authority.

Finally, in August 1998, FDA established a SAC Demonstration Project in which certification authority was delegated to approved States for a 1 year period, with the possibility of renewal for a second year. The States of Illinois and Iowa applied for and received approval from FDA to participate in the demonstration project. The experience gained proved to be valuable in the development of the long term SAC program.

II. Provisions of the Proposed Rule

FDA is proposing to add subpart C, entitled States as Certifiers, to part 900 (21 CFR part 900—Mammography). This subpart will contain sections defining: (1) The requirements for application by a State for approval as a certification agency, (2) the requirements to be met and the responsibilities of the States delegated certification authority, (3) the process to be used by FDA in evaluating the performance of each certification agency, (4) the criteria for and the process to be followed to withdraw approval of a State as a certification agency, and (5) opportunities for hearings and appeals related to adverse actions taken by FDA with respect to certification agencies. FDA is also proposing conforming amendments to § 16.1(b)(2) (21 CFR 16.1(b)(2)), which deals with hearing procedures, and to § 900.2 Definitions.

In proposing this rule, and in all activities related to MQSA, FDA is guided by the intent of the MQSA to ensure access to high quality mammography services for all women in the United States. FDA believes that women in States with certification authority can be provided the same assurance of high quality mammography as women in States for which FDA retains that authority. There are also potential cost savings to the facilities and the public through a reduction in the inspection fee in States whose inspection costs are lower than the national average that is used to calculate the present national inspection fee. Other cost savings may be achieved through States being able to combine the MQSA program with other State mammography initiatives.

A. Scope

Proposed § 900.20 describes the scope of subpart C. The new subpart establishes procedures for a State to apply to become an FDA-approved certification agency for mammography facilities. It further defines the responsibilities to be met by the certification agencies and the oversight procedures to be used by FDA to ensure that the responsibilities are adequately fulfilled.

B. Application for Approval as a Certification Agency

Before FDA can approve a State as a certifying agency, the agency must have assurance that the State can adequately meet the associated responsibilities. Proposed § 900.21 summarizes the information to be provided by the State to FDA to enable the agency to make an informed decision on the likelihood that the State will be able to adequately carry out certification responsibilities. Under section 354(q) of the PHS Act, only FDA may establish quality standards. States

retain authority under paragraph (m), however, to enact and enforce standards ''as stringent as'' those established under MQSA. The application must include a detailed description of the mammography quality standards the applicant will require facilities to meet and, if different from FDA's quality standards, information substantiating the equivalence of those standards to FDA standards. The application also must include information about the applicant's decision making process for issuing, suspending, and revoking a facility's certificate and its procedures for notifying facilities of inspection deficiencies and the monitoring of the correction of those deficiencies. Finally, information must be provided about the resources the State can devote to the program, including information about: (1) The qualifications of the State's professional staff; (2) adequacy of the State's staffing, finances, and other resources; (3) the State's ability to provide data and reports in an electronic format compatible with FDA data systems; and (4) the adequacy of the State's enforcement authority and compliance mechanisms.

FDA also plans to issue application guidance to prospective State certification agencies to further assist them in preparing the necessary materials and supporting documentation.

Proposed § 900.21(c) also provides a general description of the process that FDA will follow in arriving at a decision on whether or not to accept a State as a certification agency. Proposed § 900.20(d) notes that FDA may limit the types of facilities for which certification authority is being granted; for example, FDA does not expect to grant certification authority for Federal facilities to States.

FDA specifically invites comments on the nature and extent of the information collection burden that is included in § 900.21

C. Standards for Certification Agencies

Proposed § 900.22 proposes requirements and responsibilities to be met by States that have been approved as certification agencies.

Proposed § 900.22(a) would require the certification agency to have FDA-approved measures to reduce the possibility of conflict of interest or facility bias on the part of individuals acting on the agency's behalf.

Proposed § 900.22(b) would require that the statutory and regulatory requirements used by the certification agencies for the certification and inspection of mammography facilities be those of MQSA and part 900 or appropriate more stringent requirements.

Proposed § 900.22(c) would require that the scope, timeliness, disposition, and technical accuracy of completed inspections and related enforcement activities conducted by the certification agencies be adequate to ensure compliance with MQSA quality standards.

Proposed § 900.22(d) would require that the certification agencies have appropriate criteria and processes for the suspension and revocation of certificates and that the certification agencies promptly investigate and take regulatory action against facilities that operate without a certificate.

Proposed § 900.22(e) would require that there be means by which facilities can appeal adverse certification decisions made by a certification agency.

Proposed § 900.22(f) would require that approved certification agencies have processes for requesting additional mammography review from accreditation bodies for issues related to mammography image quality and clinical practice.

Proposed § 900.22.(g) would require that the certification agencies have procedures for patient notification for situations when the certification agency has determined that mammography quality has been compromised to the extent that there may be a serious risk to human health.

Proposed § 900.22(h) would require that approved certification agencies have processes to ensure the timeliness and accuracy of electronic transmission of inspection data and facility certification status in a format and timeframe determined by FDA. FDA believes that such electronic transfer is necessary in view of the need to transmit large amounts of data rapidly among the accreditation bodies, certification agencies, FDA, and other involved agencies such as the Health Care Financing Administration (HCFA). Without a rapid transfer of certification information, facilities may not be able to operate for a period of time or may face delays for Medicare and Medicaid reimbursement because HCFA has not been informed of their certification status. Similarly, without rapid transfer of data concerning inspection deficiencies and corrective actions, members of the public may be put at risk for an unacceptable period.

Proposed § 900.22(i) would require FDA authorization for any changes a certification agency proposes to make to any standards FDA previously accepted under § 900.21 or § 900.22. FDA believes that this is necessary to assure the standards for certification agencies continue to be met.

D. Evaluation

Section 900.23 proposes standards for the annual evaluation of the performance of each certification agency. The evaluation will be based on performance indicators related to the adequacy of the certification agency's performance in the areas of certification, inspection, and compliance. FDA plans to provide further guidance on the nature of these performance indicators. The experience gained during the SAC Demonstration Project is expected to be of significant value in developing this guidance.

During the evaluation, FDA will consider the responsiveness, timeliness, and effectiveness with which the certification agencies meet their various responsibilities. The evaluation also will include a review of any changes in the standards or procedures that the certification agency has made in the areas listed in §§ 900.21(b) and 900.22. The evaluation shall include a determination of whether there are major deficiencies in the certification agency's performance that, if not corrected, would warrant withdrawal by FDA of the agency's approval. The evaluation will also include identification of any minor deficiencies that require corrective action. In performing these evaluations, FDA will use the results of annual inspections, information from required reports from certification agencies, and any other appropriate source of information. For example, the agency may visit facilities or certification agencies as part of the evaluation and may request additional information from the certification agency or other sources.

E. Withdrawal of Approval

In § 900.24, FDA has proposed actions to be taken if evaluations carried out under proposed § 900.23 or other information leads to a determination that a certification agency is not adequately carrying out its responsibilities. If FDA determines that there are major deficiencies in the certification agency's performance, FDA may withdraw approval of the certification agency. Examples of major deficiencies include commission of fraud, willful disregard for the public health, failure to provide adequate resources for the program, performing or failing to perform a delegated function in a manner that may cause serious risk to the public health, or the submission of material false statements to FDA. If there are less serious deficiencies, termed minor deficiencies in the

regulations, FDA will establish a definite time period during which the certification agency must either take corrective measures as directed by FDA or submit to FDA for its approval the certification agency's own plan of corrective action. FDA may place the certification agency on probationary status while the minor deficiencies are being addressed. Probationary status would be used in situations where the certification agency is not implementing the corrective action satisfactorily or within the established schedule. FDA also may withdraw approval of the agency as a certification agency if corrective action is not taken or if the identified minor deficiencies have not been eliminated within the established schedule.

While an agency is developing and carrying out its corrective action plan, even if on probationary status, it will retain its certification authority. If a certification agency loses its approval, it must notify all facilities certified or seeking certification by it and appropriate accreditation bodies of its change in status. A certification agency that has lost its approval must also transfer facility records and other information required by FDA to a location and according to a schedule approved by FDA. The goal will be to return the facilities within its jurisdiction to the FDA certification program without an interruption in their certification status.

F. Hearings/Appeals

Under proposed § 900.25, FDA will provide an opportunity for a certification agency to challenge in an informal hearing an adverse action taken by FDA with respect to approval or withdrawal of approval of that certification agency. The opportunity for a hearing shall be provided in accordance with 21 CFR part 16. Certification agencies also are required to provide facilities that have been denied certification with the opportunity to appeal that decision. The appeals process of each certification agency shall be specified in writing and shall have been approved by FDA in accordance with proposed § 900.21.

G. Conforming Amendments

A conforming amendment to § 16.1 is proposed to add § 900.25 to the list of provisions under which regulatory hearings are available.

Conforming amendments to § 900.2 are also proposed to indicate that the definitions in that section applied to subpart C, as well as to subparts A and B of part 900. Two definitions, § 900.2 (zz) *Certification agency* and (aaa) *Performance indicator*, are proposed for addition to the definition list. In adding these definitions, FDA proposes to depart from its earlier practice of placing the definitions in alphabetical order and to simply add the new definitions to the end of the list. This was done to avoid the necessity of making numerous changes in the citations of the definitions in subparts A and B with all the potential for confusion and error that such citation changes would entail.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(g) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impact of the proposed rule under Executive Order 12866, under the Regulatory Flexibility Act (Public Law 96–354), and under the Unfunded Mandates Reform Act (Public Law 104–4). Executive Order 12866 directs agencies to prepare an assessment of all anticipated costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity). The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation). The agency has conducted preliminary analyses of the proposed rule, and has determined that the proposed rule is consistent with the principles set forth in the Executive Order and in these two statutes. The regulatory impact study and cost analysis that details the agency's calculation of these economic aspects is available at the Dockets Management Branch for review.

FDA realized from the beginning that the cost impact of these regulations would be heavily dependent upon the number and characteristics of the States that choose to participate in the SAC program. However, because participation will be entirely voluntary on the part of the States, FDA cannot determine in advance which States will decide to become SAC States. The first assumptions that had to be made, therefore, were related to which States might become SAC States. Three separate scenarios were used to establish the possible range of the impact of these proposed regulations.

In scenario 1, FDA assumed only the States of Iowa and Illinois would choose to participate in the program. Iowa and Illinois are the current participants in the SAC Demonstration Project and have indicated a strong interest in continuing. In scenario 2, FDA assumed that Iowa and Illinois would be joined in the SAC program by six additional States. The States chosen have in the past indicated significant interest in becoming SAC States when the program is fully implemented. In scenario 3, FDA assumed that seven additional States would join the eight States included in the scenario 2 analysis. These additional States have indicated some interest in becoming SAC States when the program is fully implemented. The selection of the States for these scenarios does not indicate either a commitment by the States to participate or a commitment by FDA to accept their participation in a future SAC program.

Both the six States added in scenario 2 and the seven added in scenario 3 have a wide geographical distribution and the number of mammography facilities within their borders ranges from relatively large to relatively small. Thus, although the basis of selection was FDA's perception of the State's interest, the resulting groups are representative of the country as a whole.

The costs or savings from the SAC program were estimated by comparing the pre-SAC costs for performing the functions that would be affected by the program with the costs of performing them under each scenario. The proposed regulations would permit FDA to delegate to the SAC States the responsibility (with FDA oversight) for the function of MQSA certification as it applies to non-Federal mammography facilities within their borders, and shared responsibility for other functions such as enforcement. Control and execution of the annual inspections of mammography facilities also would be delegated to the SAC States; however, to permit effective oversight of an SAC State's inspection program, FDA would retain responsibility for inspection-related support functions including training the inspectors, calibration of their equipment, and functions related to the transfer of information

electronically between the States and FDA. Underlying all of these functions is the significant task of keeping the public and facilities informed about the MQSA activities. Because of the importance of this public information task, its cost was considered separately in the analysis.

Funding to support the MQSA activities pre-SAC comes from two sources: User fees and appropriated funds. Paragraph (r) of the MQSA provides for user fees to cover costs related to inspections, which FDA collects from each non-governmental mammography facility inspected in a year. Presently, the inspection fee is $1,549 per facility plus an additional $204 per mammography unit for each unit beyond the first 1 at the facility. Appropriated funds support all activities other than those that are covered by this fee. In addition, an amount equal to the inspection fee for each governmental facility is allotted from appropriated funds to support the inspection program for those facilities. These sources of funding will continue to be relied upon for support of MQSA activities in States that choose not to enter the SAC program.

If a State becomes a SAC State, the non-governmental facilities within that State will pay an inspection support fee to FDA to reimburse the agency, as required by the statute, for the inspection-related services that the agency has provided. This fee has been initially set at $509 per facility, regardless of the number of mammography units in the facility. As with the inspection fees in non-SAC States, this fee will be collected in a given year only from those facilities in SAC States that were actually inspected during that year. The same amount of $509 will also be provided from appropriated funds for each governmental facility inspection within the State.

The SAC State will determine how the responsibilities that it has assumed will be funded. The funding could come from State appropriations, from a fee charged by the State either under its own authority or under paragraph (r) of the MQSA, or some combination of these sources.

The baseline value (given in tables 1 and 2 of this document) used for the pre-SAC cost of the MQSA functions to be delegated to the SAC States is a total of the costs of the individual functions pre-SAC determined from review of recent FDA budgets. The total costs to the public as a whole under each of the three scenarios will be:

Post-SAC Costs to the public = Costs in non-SAC States + Costs in SAC States

The costs in non-SAC States are calculated as follows:

Costs in non-SAC States = Inspection Program Costs + Certification Costs + Compliance Costs + Public Information Costs

The Inspection Program Costs term was estimated for non-SAC States by subtracting from the baseline inspection costs the total of the inspection fees that will no longer be paid by the facilities (or, in the case of governmental facilities, from appropriated funds) located within the SAC States in each scenario. The other costs were obtained by multiplying the baseline costs for those functions by the percentage of the nation's mammography facilities remaining in non-SAC States. In other words, it was assumed, for example, that if only 80 percent of the nation's facilities remain in non-SAC States, the cost of carrying out these functions would be only 80 percent of the pre-SAC cost.

The costs in SAC States are calculated as follows:

Costs in SAC States = FDA Inspection Support Costs + State Costs

FDA's Inspection Support Costs term was obtained by multiplying the inspection support fee by the number of facilities within the SAC States that would be expected to be inspected during the year (in all these calculations an inspection rate of 82.8 percent was assumed in both non-SAC and SAC States, for reasons discussed in the regulatory impact study and cost analysis available at the Dockets Management Branch). The State Costs assumed by the SAC States could be funded either by State appropriations or a fee charged by the State under State law or the MQSA. If fees are used, they could be State certification fees, inspection fees collected by States under State law, inspection fees collected by States under MQSA, or some combination of these.

The two States currently in the SAC Demonstration Project both decided to fund their activities through a fee. Iowa set its fee at $850 per facility plus $300 for each additional unit beyond the first in the facility. Illinois's fee is $750 per facility. Both States decided to charge these fees to all non-Federal facilities within their borders, whether they were inspected in a given year or not, since the functions being funded are not all related to inspections. For scenario 1, the Total of Other Fees term was obtained by multiplying the number of facilities in the two States (and in Iowa, the number of additional units) by the fee or fees of that State.

The SAC States in scenarios 2 and 3, other than Iowa and Illinois, are not presently SAC States. There is no established fee, therefore, to serve as the basis for estimating their costs. The State Costs term thus had to be estimated using a series of assumptions. The equation used for the estimation was:

State Costs = Inspection Costs + Inspection Support Costs + Certification Costs + Enforcement Costs + Public Information Costs

To obtain the inspection costs term, it was assumed that the average cost per inspection would be the same as the State is presently receiving for performing inspections under contract with FDA; the inspection cost term would be the average per facility cost times the number of facilities inspected. The inspection support costs was the cost of the inspection-support services included in the delegation to the States. Like the last three terms in the equation, this cost related to functions that were new to the States. For all four of these terms, the estimate of cost was made by multiplying the pre-SAC baseline cost for the function by the percentage of the nation's facilities in each SAC State. For example, if 5 percent of the nation's facilities were located in a particular SAC State, the Certification Cost in that State would be estimated as five percent of the pre-SAC cost for the entire nation. For the personnel components of the costs of these functions, further correction factors were applied to take into account the fact that the cost of a State Full Time Employee (FTE) is typically less than that of a Federal FTE.

The analysis results summarized in tables 1 and 2 of this document support the initial statement that the potential net savings or cost to the public from the SAC program is heavily dependent upon the number and characteristics of the States that choose to become SAC States. All three of the scenarios show that there is the potential for savings to the public from the SAC program. However, the estimated amount of that savings is not proportional to either the number of States in the program or the number of facilities. In fact, the estimated savings in scenario 3, with 15 SAC States including 54 percent of the nation's facilities, is less than in scenario 2, with 8 States and a little more than 26 percent of the facilities.

TABLE 1.—COST OF CERTIFICATION IN NON-SAC[1] STATES

Scenario	Non-SAC States Facilities (%)	Non-SAC States Cost
Baseline	100.0	16,067,499
1	94.1	15,140,562
2	73.8	11,841,663
3	46.0	7,394,421

[1] SAC means States as certifiers.

TABLE 2.—COST OF CERTIFICATION IN NON-SAC[1] STATES

Scenario	SAC States Facilities (%)	SAC States Costs	Total Costs	Savings to Public
Baseline	0	0	16,067,499	0
1	5.9	709,870	5,850,432	217,067
2	26.2	3,650,563	15,492,226	575,273
3	54.0	8,180,723	15,575,444	492,055

[1] SAC means States as certifiers.

The explanation of why these results show the pattern that they do begins with the realization that the SAC program will save (or cost) the public more money than the pre-SAC program depending upon whether SAC States can carry out their delegated functions more economically than they were carried out within their borders pre-SAC. The biggest component of the cost to the public pre-SAC is the inspection fee. This fee is a national average fee that is the same for all facilities no matter where they are located. On the other hand, the actual cost of performing the inspection varies widely from State to State. If a State whose inspection cost is significantly lower than the national average becomes a SAC State, there is an increased probability that the total cost per facility for inspections, the other State functions, and the inspection support fee will be less than the inspection fee that the facility paid pre-SAC. If so, there will be a net savings to the public from that State becoming a SAC State. On the other hand, in States with high inspection costs, the combined cost per facility of the inspections, the other functions, and the inspection support fee may exceed the inspection fee, in which case there will be a net cost to the public arising from that State being in the SAC program.

The bulk of the SAC facilities in scenario 1 are in a State with an inspection cost below the national average. It is not surprising then to find a net savings in scenario 1. The inspection costs in the States added in scenario 2 range from lower than to a little higher than the average. Again, it is not surprising to find that there is a net savings and, since the number of facilities in SAC States is greatly increased, it is also not surprising to find that the total net savings is significantly increased over scenario 1. On the other hand, three of the States added to scenario 3 have per facility inspection costs that are well above the national average. Thus, there is an increase in cost to the public arising from these States being in the program. The impact of their participation is magnified because these three States include over two thirds of the facilities added in scenario 3. As a result, there are lower net savings in scenario 3 than in scenario 2.

One additional factor had to be taken into account to provide a more accurate evaluation of the cost to the public of the proposed SAC regulations. The initial round of calculations assumed that the inspection fee charged to the facilities in the non-SAC States will not change as the result of some States becoming SAC States. This is not necessarily true. The funds available for the FDA inspection program in the non-SAC States will decrease as more States become SAC States because facilities in SAC States will only be paying FDA the inspection support fee instead of the higher inspection fee. On the other hand, the cost of the FDA inspection program will also decrease because it will no longer include the cost of inspecting the facilities in the SAC States. However, as noted, the inspection cost varies greatly from State to State. If predominantly low inspection cost States become SAC States, the reduction in cost of the MQSA inspection program in the non-SAC States plus the inspection support fee paid by the SAC State facilities may not be as great as the reduction in the funds available to FDA to fulfill its MQSA inspectional responsibilities. In that case it will be necessary to raise the inspection fees in the non-SAC States or the inspection support fee for SAC State facilities, or both, because the FDA inspection program must be fee supported. On the other hand, if predominantly high inspection cost States become SAC States, the reverse would be true and it may be possible to reduce the inspection fees in the non-SAC States.

To refine the analysis, the funds needed by FDA to carry out its post-SAC MQSA inspection responsibilities were compared to the funds that would be available if the inspection and inspection support fees remained unchanged. It was found that estimated additional amounts of $127,593, $563,710, and $605,208, in scenarios 1, 2, and 3 respectively would have to be raised by increasing fees. The following table 3 shows the effect of applying these corrections to the previously estimated savings to the public as a whole. The savings to the public in scenario 1 are reduced but still significant, those in scenario 2 virtually disappear, and in scenario 3, there would be an increase in cost.

TABLE 3.—IMPACT OF NON-SAC[1] STATE INSPECTION FEE CHANGE

Scenario	Savings Before Fee Change	Savings/(Cost) After Fee Change
1	$217,067	$89,474
2	$575,273	$11,563
3	$492,055	($113,173)

[1] SAC means States as certifiers.

The above discussion provides estimates of the economic impact of the proposed SAC regulations on the public in general. In accordance with the Regulatory Flexibility Act, the economic impact on the portion of the public represented by the small entities was also evaluated. All of the approximately 10,000 mammography facilities in the country were considered to be small entities for the purposes of the analysis.

In the case of facilities in non-SAC States, any economic impact in the scenarios examined would appear as an increase or decrease in their inspection fee. As noted above, with the scenarios used in the analysis, additional funds would be needed for FDA's post-SAC MQSA inspection program. The decision on whether these additional funds would come from an increase in the inspection fee paid by non-SAC State facilities, the inspection support fee paid by SAC State facilities, or both would depend upon which fee(s) was (were) failing to cover the cost of the activities for which it was being assessed. However, as a worst case estimate for non-SAC State facilities, it was assumed that 100 percent of the needed funds would have to come from an increase in inspection fee. If the changes in fee are limited to changes in the facility inspection fee, leaving the fee for extra units unchanged, increases of $16.52, $93.16, and $160.23 respectively would be needed in scenarios 1, 2, and 43. Even the largest estimated increase, that for scenario 3, was only about 10 percent of the present $1,549 inspection fee.

Turning to the impact on State facilities, as of August 3, 1998, the SAC States in the three scenarios had within their borders 583; 2,613; and 5,374 mammography facilities respectively. The analysis of the economic impact on these small entities was performed by comparing their savings arising from no longer paying the FDA inspection fee to their costs for the inspection support fees and the State costs.

TABLE 4.—SMALL ENTITY ECONOMIC IMPACT

Scenario	SAC[1] State Facility Savings	SAC State Facility Costs	Net Cost to Small Entities	Net Savings to Small Entities
1	$797,580	$709,870		$87,710
2	$3,651,401	$3,650,563		$838
3	$7,489,128	$8,180,723	$691,595	

[1] SAC means States as certifiers.

If the savings/cost is divided by the number of facilities in each scenario, it is found that, on the average, a facility in scenario 1 would save about $150 per year, as compared to the present inspection fee. On the other hand, the average cost to a facility in scenario 3 would increase about $129 per year. The average cost per facility in scenario 2 is essentially unchanged.

The actual impact on an individual facility varies widely with the State. The extremes of this variation among the States in the analysis are illustrated by comparing the situation in the State with the highest inspection cost from among the 15 with the State with the lowest inspection cost. The facilities in the State with the lowest inspection cost would save, on the average, an estimated $200 per facility per year, over 10 percent of the FDA inspection fee, if their State became a SAC State. Facilities in the State with the highest inspection cost, however, would have to pay an average of about over $507 additional per year, an increase of one-third over the FDA inspection fee, if their State became a SAC State.

Interestingly, both of the States joined the SAC program in scenario 3, showing how much the impact varies with the State. Even with an overall increase in the cost to the public as a whole and to the part of the public represented by the mammography facilities, some facilities will see savings.

This great variation is a major reason why the nearly $700,000 cost to facilities in scenario 3 is a ''worst case'' situation that will probably never be reached. The States included in this analysis were States that had shown some level of interest in becoming a SAC State. This interest was primarily based on a belief that by becoming a SAC State they could provide a service to the facilities and mammography patients within their borders. The service that they expect to be able to provide was an assurance of quality mammography at least equal to that under the national program but at a lower cost. The analyses above indicate that such a belief may be too optimistic in the case of the States whose inspection costs are significantly higher than the national average. If such States realize that this is indeed the case when they conduct their own analysis, it is unlikely that they will apply to become SAC States unless there are other benefits to compensate for the increased costs.

Another encouraging factor is that there were still net savings to the small entities in scenario 1. Scenario 1, it should be remembered, is the scenario where the cost in the SAC States could be based upon the actual fees charged by the States in the Demonstration Project. It would be expected that this would lead to more accurate cost estimates than in scenarios 2 and 3 where a number of assumptions had to be substituted for actual experience. It is possible that these assumptions led to an overestimation of the costs and as other States enter the program they may be able to set their fees so as to adequately fund their activities but at a lower cost than in these estimates.

The evaluations discussed above are based on evaluating the average impact on the mammography facilities in the non-SAC and SAC States. However, mammography facilities, even though

all are considered to be small entities, vary greatly in size and thus their ability to bear additional costs of complying with the MQSA requirements. To further evaluate the impact on small entities, facility compliance costs were compared with facility revenues derived from mammography for a low volume mammography facility. For this comparison, a model developed by the Eastern Research Group was used. This model estimated that the lowest volume mammography facility (performing less than 300 mammograms annually) would have approximately $24,000 in annual revenues from mammography.

The following tables 5 and 6 present the average facility costs for facilities in both non-SAC and SAC States as a percentage of low volume facility revenues. For the non-SAC State facilities, the additional costs to the facilities through a worst case increase in the inspection fee (where all of the additional funds needed by FDA to fulfill its responsibilities for the MQSA inspection program must be raised by an increased inspection fee) is used for the comparison. It should be remembered that only the 82.4 percent of the non-SAC facilities inspected will see this impact. The 17.6 percent of these facilities that are not inspected in the year under consideration will pay no inspection fee and will not feel any impact from the increase. For the SAC State facilities, the average per facility cost in scenario 3 (as shown above, there would be a savings in scenarios 1 and 2) is compared to the facility revenues. These costs would be borne by all SAC State facilities.

TABLE 5.—COST/SAVINGS PER FACILITY IN NON-SAC[1] STATES

Scenario	Per Facility Increase in Inspection Fee	Inspection Fee Increase as Percentage of Facility Revenue
1	$16.52	<0.1%
2	$93.16	<1.0%
3	$160.23	<1.0%

[1] SAC means States as certifiers.

TABLE 6.—COST/SAVINGS PER FACILITY IN SAC STATES

Scenario	Net (Cost)/Savings to SAC[1] Small Entities	Average per Facility Net (Cost) Savings	Cost as a Percentage of Facility Revenues[2]
1	$87,710	$150.45	NA
2	$838	$0.33	NA
3	($691,595)	($128.69)	<1.0%

[1] SAC means States as certifiers.
[2] Revenues for a facility performing less than 300 mammograms annually with revenues of approximately $24,000.

The third aspect of the economic impact to be considered is the issue of unfunded mandates. The Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million. Because participation in the SAC program is entirely voluntary on the part of the State and not mandated, and because the costs of those who choose to participate will be far less than $100 million, FDA concluded that the proposed SAC regulation is consistent with the principles of the Unfunded Mandates Reform Act without the need for further analysis.

Finally, in addition to the impact analyses discussed above, Executive Order 12866 requires agencies to select regulatory approaches that maximize net benefits while the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. To fulfill these obligations, FDA considered and rejected the following three alternatives to the approach taken in the proposed rule: (1) Not implementing section 354(q) of the PHS Act; (2) recognizing existing State certification programs; and (3) implementing section 354(q) of the PHS Act through the issuance of more detailed regulations. The reasons for these rejections are discussed in detail in the regulatory impact study and cost analysis which is available at the Dockets Management Branch.

In summary, this analysis shows that the economic impact on both the public and the small entities from the SAC program will vary with how many and which States become SAC States. However, even in the scenario with the greatest adverse impact, the increased cost to the public as a whole was estimated to be less than 1 percent of the present cost of the MQSA activities that would be affected by the SAC program. The situation with respect to the component of the public represented by the mammography facilities was more complicated. For facilities in non-SAC States, it appears that the SAC program might lead to an increase in their inspection fee. The estimated amount of the increase ranges from about 1 percent of the present fee in scenario 1 up to approximately 10 percent of the present fee in scenario 3. For facilities in the SAC States, the estimated impact ranged from the total of their inspection support fee and any fee paid to the State being about 10 percent less than the present inspection fee in scenario 1 to being about 8 percent greater in scenario 3. When the average cost for either SAC or non-SAC facilities in the various scenarios was compared to the revenues of a very small mammography facility, in no case did it exceed 1 percent of the facility revenues.

Although the estimated average savings or increases for the facilities in both the non-SAC and SAC States vary with the scenario, they have in common the fact that they all represent small changes in the pre-SAC costs to the facilities from the inspection fee. However, it should be kept in mind that these averages camouflage much greater State by State variations in savings or added costs. As discussed above, FDA believes that a State is unlikely to apply

to become a SAC State if the costs to its facilities will be significantly increased by that action. The facilities in the States that do become SAC States are thus likely to experience a more favorable economic impact than that estimated in this analysis.

FDA also believes that the expected benefits that will be achieved in guaranteeing quality mammography and reducing breast cancer mortality will be no less after these proposed regulations are implemented than before. Facilities in SAC States will have to meet the same quality standards as facilities in non-SAC States. They will be accredited by the same FDA-approved accreditation bodies and they will be inspected by the same FDA-trained and equipped inspectors as would be the case if their State did not enter the SAC program. Because the benefits may actually increase, implementing these regulations will bring the administration of the delegated MQSA functions closer to the facilities and the public. With their closer proximity, State agencies may be able to respond more rapidly to assist mammography facilities seeking to improve the quality of their services or take enforcement actions against those relatively few facilities that present serious threats to the public health.

Based upon these considerations, FDA has determined that this proposed rule is consistent with the principles set forth in the Executive Order, the Regulatory Flexibility Act, and the Unfunded Mandates Act. The economic impact on the public as a whole or on the portion of the public represented by the mammography facilities will depend upon which States choose to enter the program. In the worst case revealed by the analysis, an insignificant increase in costs may be experienced. However, because States are not likely to enter the program unless such entry will be of benefit to the facilities within their borders, a scenario leading to savings to the public as a whole and to the mammography facilities is more likely to occur. Finally, because participation in this program is voluntary on the part of the States and costs incurred by the SAC States can be recouped through user fees, there are no unfunded mandates.

V. Executive Order 13132—Federalism

On August 4, 1999, the President issued Executive Order 13132, *Federalism*, in which he set forth certain principles to be followed by Executive departments and agencies in developing policies that affect the division of governmental responsibilities between the Federal Government and the States. For the reasons discussed below, and, to some extent described in more detail above, FDA believes that this proposed rule is consistent with the principles embodied in Executive Order 13132.

As noted above, section 354(q) of the PHS Act permits FDA to authorize qualified States to: (1) Issue, renew, suspend, and revoke certificates; (2) conduct annual facility inspections; and (3) enforce the MQSA quality standards for mammography facilities within the jurisdiction of the qualified State. FDA retains responsibility for: (1) Establishing quality standards, (2) approving accreditation bodies, (3) approving and withdrawing approval of State certification agencies, and (4) maintaining oversight of State-certification programs. FDA believes that this division of responsibilities provides for necessary uniformity of national standards, and, at the same time provides States that wish to become certification agencies with maximum flexibility in administering the program within their State.

Also, as previously noted, interested States have had several opportunities to participate in the development of this policy through NMQAAC, the SAC Working Group, as accreditation bodies, and through the SAC Demonstration Project. States will have an additional opportunity to participate by submitting comments on this proposed rule.

Participation in the SAC program is voluntary on the part of each State but subject to approval by FDA. The Federal Government will perform all the necessary functions for implementation of MQSA in States that chose not to serve as certification agencies.

If a State becomes a SAC State, the facilities within its borders will no longer pay Federal inspection fees nor will federally appropriated funds be used to support the inspection of governmental facilities within that State. Facilities will pay an inspection support fee to FDA to reimburse the agency, as required by the statute, for the inspection-related functions that the agency has retained. A State that becomes a certification agency will determine how the responsibilities that it has assumed will be funded. The funding could come from State appropriations or from a State fee assessed under either State or MQSA authority or some combination of these two sources.

VI. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by OMB under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). A description of these provisions is given below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Requirements for States As Certification Agencies

Description: These information collection requirements apply to State certification agencies. In order to be an approved certification agency, State agencies must submit an application to FDA and must establish procedures that give adequate assurance that the mammography facilities that they certify will meet minimum national standards for mammography quality. The certifying agency also must provide such information as is needed by the FDA to carry out its ongoing responsibility to ensure that the certification agency is complying with the requirements. These actions are being taken to ensure the continued availability of safe, accurate, and reliable mammography on a nationwide basis.

Respondent Description: State Governments.

TABLE 7.—PROPOSED REQUIREMENTS FOR STATES AS CERTIFIERS DURING INITIAL YEAR (ESTIMATED ANNUAL REPORTING BURDEN) [1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours	Total Capital Costs
900.21(b)	13	1.0	13	50	650	$130.00
900.21(c)(2)	13	1.0	13	25	475	$65.00
900.22(i)	2.0	0.1	0.2	5	2.0	$2.00
900.23	2.0	1.0	2.0	20	40.0	$20.00
900.24(a)	2.0	0.05	0.1	10	1.0	$2.00
900.24(b)	2.0	0.2	0.4	20	8.0	$4.00
900.24(b)(2)	2.0	0.05	0.1	20	2.0	$2.00
900.25(a)	2.0	0.25	0.5	5	2.5	$5.00
Total					1,410.5	$230.00

[1] There are no operating and maintenance costs associated with this collection of information.

TABLE 8.—PROPOSED REQUIREMENTS FOR STATES AS CERTIFIERS DURING INITIAL YEAR (ESTIMATED ANNUAL RECORDKEEPING BURDEN) [1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours	Total Capital Costs
900.22(a)	2.0	1.0	2.0	1.0	2.0	$5.00
900.22(d) through (g)	2.0	1.0	2.0	1.0	2.0	$5.00
900.25(b)	2.0	1.0	2.0	2.0	2.0	$5.00
Total					6.0	$15.00

[1] There are no operating and maintenance costs associated with this collection of information.

TABLE 9.—PROPOSED REQUIREMENTS FOR STATES AS CERTIFIERS DURING SECOND AND LATER YEARS (ESTIMATED ANNUAL REPORTING BURDEN) [1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours	Total Capital Costs
900.22(i)	15.0	0.1	1.5	5	7.5	$15.00
900.23	15.0	1.0	15.0	20	300.0	$150.00
900.24(a)	15.0	0.05	0.75	10	7.5	$7.50
900.24(b)	15.0	0.2	3.0	20	60.0	$30.00
900.24(b)(2)	15.0	0.05	0.75	20	15.0	
900.25(a)	15.0	0.4	6.0	5	30.0	$60.00
Total					420.0	$262.50

[1] There are no operating and maintenance costs associated with this collection of information.

TABLE 10.—PROPOSED REQUIREMENTS FOR STATES AS CERTIFIERS DURING SECOND AND LATER YEARS (ESTIMATED ANNUAL RECORDKEEPING BURDEN) [1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours	Total Capital Costs
900.22(a)	15	1.0	15.0	1.0	15.0	$37.50
900.22(d) through (g)	15	1.0	15.0	1.0	15.0	$37.50
900.25(b)	15	1.0	15.0	1.0	15.0	$37.50
Total					45	$112.50

[1] There are no operating and maintenance costs associated with this collection of information.

In contrast to the situation with the economic impact analysis, the additional reporting and recordkeeping burden will fall on the State Governments that choose to become certification agencies and not upon the approximately 10,000 mammography facilities in the country (all of whom are considered to be small entities). The mammography facilities will continue to provide the same reports that they are presently providing. The bulk of these reports will continue to go to the accreditation bodies that are currently receiving them. The occasional report (for example, if a facility appeals an adverse decision) that presently goes to FDA will in SAC States go to the State. The facility recordkeeping requirements also are unchanged.

The total of the additional reporting and recordkeeping burden on the State Governments from these regulations is dependent upon the States that choose to become certification agencies. Since this choice is voluntary on the part of the States, it is impossible to say with certainty how many will seek these responsibilities. However, for purposes of estimation of the possible maximum

impact, it is assumed that the 15 States used in scenario 3 of the economic impact analysis will become certification agencies. This number included the 2 States currently participating in the SAC Demonstration Project (Iowa and Illinois) and 13 new States added.

A further complication is that the regulations will lead to two types of reporting and recordkeeping burdens. The first is the initial, one time burden resulting from applying for and obtaining approval as a State certification agency. The second is the ongoing burden arising from FDA fulfilling its oversight responsibilities. Because of the different nature and timeframes of these burdens, it is not possible to follow the usual practice of stating the burden on a single set of tables. For this reason, two sets of tables are provided. The first provides estimates of the burden during the first year of the program. During this year, it is assumed that the 13 new States will apply for and obtain approval as certification agencies and so during that year they will bear the initial one time burden associated with applying for and receiving approval as a SAC State under proposed § 900.21. Iowa and Illinois, having already received approval during the Demonstration Project, will not have this burden. However, during the first year, they will have the ongoing burdens of the evaluation process (proposed § 900.23) and possibly that associated with obtaining FDA approval for changes in previously approved standards (proposed § 900.22(i)) and correcting deficiencies (proposed §§ 900.24 through 900.25). The 13 new States will not have been approved in time to have to face this ongoing burden during the first years. The second set of tables estimates the recordkeeping and reporting burden in succeeding years when all 15 States have only the ongoing burden.

With respect to the ongoing burden, based upon the agency's experience with accreditation bodies, which must meet a similar requirement, it was estimated that a SAC State would seek approval for a change in previously approved standards once every 10 years. The annual frequency for reporting under proposed § 900.22(i) thus would be 0.1. Each SAC State will be evaluated annually so the annual frequency for reporting under proposed § 900.23 will be one. It was estimated that each State will have to respond to major deficiencies under proposed § 900.24(a) only once every 20 years and minor deficiencies under proposed § 900.24(b) only once every 5 years. The annual frequencies for reporting under those requirements were thus 0.05 and 0.2 respectively. In the cases where there are minor deficiencies, it was assumed that the State will in most cases make the necessary corrections, but once every 20 years (in other words, once out of every four times it has minor deficiencies), the State would face possible withdrawal of approval under proposed § 900.24(b)(2), so an annual of frequency of response of 0.05 was used there as well. Finally, it was assumed that once every 4 years (an annual frequency of 0.25) each SAC State would seek an informal hearing under proposed § 900.25(a) in responding to some adverse action against it.

The estimated recordkeeping burden was related to the maintenance of standard operating procedures (SOP's) in several areas. It was assumed that each State would spend an hour per year maintaining each SOP.

The total estimated annual burden for the final MQSA regulations that went into effect on April 28, 1999, was 184,510 hours. Adding a subpart C to part 900 Mammography to incorporate these proposed regulations would lead to an estimated additional annual burden of 1,416.5 hours during the first year after the regulations were effective and an estimated additional burden of 465.0 hours in each succeeding year. Again, it should be remembered that the actual burden is dependent upon how many States voluntarily choose to enter the SAC program. These estimates are based up 15 States becoming SAC States. They would be reduced or increased if fewer than or more than 15 States join the program.

In compliance with the PRA (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection by May 1, 2000 to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy A. Taylor, Desk Officer for FDA.

List of Subjects

21 CFR Part 16

Administrative practice and procedure.

21 CFR Part 900

Electronic products, Health facilities, Medical devices, Radiation protection, Reporting and recordkeeping requirements, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 16 and 900 be amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. The authority citation for 21 CFR part 16 is revised to read as follows:

Authority: 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201–262, 263b, 364.

2. Section 16.1 is amended in paragraph (b)(2) by adding in numerical order an entry for § 900.25 to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(2) * * *

§ 900.25, relating to approval or withdrawal of approval of certification agencies.

* * * * *

PART 900—MAMMOGRAPHY

3. The authority citation for part 900 continues to read as follows:

Authority: 21 U.S.C. 360i, 360nn, 374(e); 42 U.S.C. 263b.

4. Section 900.2 is amended by revising the introductory paragraph and by adding paragraphs (zz) and (aaa) to read as follows:

§ 900.2 Definitions.

The following definitions apply to subparts A, B, and C of this part:

* * * * *

(zz) *Certification agency* means a State that has been approved by FDA under § 900.21 to certify mammography facilities.

(aaa) *Performance indicators* means the measures used to evaluate the certification agency's ability to conduct certification, inspection, and compliance activities.

5. Subpart C, consisting of §§ 900.20 through 900.25, is added to read as follows:

Subpart C—States as Certifiers

Sec.

Subpart C—States as Certifiers

§ 900.20 Scope.

The regulations set forth in this part implement the Mammography Quality

Standards Act (MQSA) (42 U.S.C. 263b). Subpart C of this part establishes procedures whereby a State can apply to become an FDA-approved certification agency to certify facilities to perform mammography services. Subpart C of this part further establishes requirements and standards for State certification agencies to ensure that all mammography facilities under their jurisdiction are adequately and consistently evaluated for compliance with national quality standards established by FDA.

§ 900.21 Application for approval as a certification agency.

(a) *Eligibility*. State agencies capable of meeting the requirements of this subpart may apply for approval as certification agencies.

(b) *Application for approval*. (1) An applicant seeking FDA approval as a certification agency shall inform the Division of Mammography Quality and Radiation Programs (DMQRP), Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, Rockville, MD 20850, marked Attn: SAC[1] Coordinator, in writing, of its desire to be approved as a certification agency.

(2) Following receipt of the written request, FDA will provide the applicant with additional information to aid in the submission of an application for approval as a certification agency.

(3) The applicant shall furnish to FDA, at the address in paragraph (b) of this section, three copies of an application containing the following information, materials, and supporting documentation:

(i) Name, address, and phone number of the applicant;

(ii) Detailed description of the mammography quality standards the applicant will require facilities to meet and, for those standards different from FDA's quality standards, information substantiating their equivalence to FDA standards under § 900.12;

(iii) Detailed description of the applicant's review and decision making process for facility certification, including:

(A) Policies and procedures for notifying facilities of certificate denials and expirations;

(B) Procedures for monitoring and enforcement of the correction of deficiencies by facilities;

(C) Policies and procedures for suspending or revoking a facility's certification;

(D) Policies and procedures that will ensure processing certificates within a timeframe approved by FDA;

(E) A description of the appeals process for facilities contesting adverse certification status decisions;

(F) Education, experience, and training requirements of the applicant's professional and supervisory staff;

(G) Description of the applicant's electronic data management and analysis system;

(H) Fee schedules;

(I) Statement of policies and procedures established to avoid conflict of interest;

(J) Description of the applicant's mechanism for handling facility inquiries and complaints;

(K) Description of a plan to ensure that fully certified mammography facilities will be inspected according to statutory requirements and procedures and policies for notifying facilities of inspection deficiencies;

(L) Policies and procedures for enforcement of the correction of facility deficiencies discovered during inspections or by other means;

(M) Policies and procedures for additional mammography review and for requesting such reviews from accreditation bodies;

(N) Policies and procedures for patient notification; and

(O) Any other information that FDA identifies as necessary to make a determination on the approval of the State as a certification agency.

(c) *Rulings on applications for approval*. (1) FDA will conduct a review and evaluation to determine whether the applicant substantially meets the applicable requirements of this subpart and whether the certification standards the applicant will require facilities to meet are substantially the same as the quality standards published under subpart B of this part.

(2) FDA will notify the applicant of any deficiencies in the application and request that those deficiencies be rectified within a specified time period. If the deficiencies are not rectified to FDA's satisfaction within the specified time period, the application for approval as a certification agency may be denied.

(3) FDA shall notify the applicant whether the application has been approved or denied. The notification shall list any conditions associated with approval or State the bases for any denial.

(4) The review of any application may include a meeting between FDA and representatives of the applicant at a time and location mutually acceptable to FDA and the applicant.

(5) FDA will advise the applicant of the circumstances under which a denied application may be resubmitted.

(d) *Scope of authority*. FDA may limit the scope of certification authority delegated to the State in accordance with the MQSA.

§ 900.22 Standards for certification agencies.

The certification agency shall accept the following responsibilities in order to ensure safe and accurate mammography at the facilities it certifies and shall perform these responsibilities in a manner that ensures the integrity and impartiality of the certification agency's actions:

(a) *Conflict of interest*. The certification agency shall establish and implement measures that FDA has approved in accordance with § 900.21(b) of this section to reduce the possibility of conflict of interest or facility bias on the part of individuals acting on the certification agency's behalf.

(b) *Certification and inspection responsibilities*. Mammography facilities shall be certified and inspected in accordance with statutory and regulatory requirements that are equivalent to those of MQSA and this part 900.

(c) *Compliance with quality standards*. The scope, timeliness, disposition, and technical accuracy of completed inspections and related enforcement activities shall ensure compliance with facility quality standards required under § 900.12.

(d) *Enforcement actions*. (1) There shall be appropriate criteria and processes for the suspension and revocation of certificates.

(2) There shall be prompt investigation of and appropriate enforcement action for facilities performing mammography without certificates.

(e) *Appeals*. There shall be processes for facilities to appeal inspection findings, enforcement actions, and adverse accreditation or certification decisions.

(f) *Additional mammography review*. There shall be a process for the certification agency to request additional mammography review from accreditation bodies for issues related to mammography image quality and clinical practice.

(g) *Patient notification*. There shall be processes for the certification agency to conduct, or cause to be conducted, patient notifications should the State determine that mammography quality has been compromised to such an extent that it may present a serious risk to human health.

(h) *Electronic data transmission*. There shall be processes to ensure the timeliness and accuracy of electronic

[1] SAC means States as certifiers.

transmission of inspection data and facility certification status information in a format and timeframe determined by FDA.

(i) *Changes to standards.* A certification agency shall obtain FDA authorization for any changes it proposes to make in any standards that FDA has previously accepted under § 900.21 or this section.

§ 900.23 Evaluation.

FDA shall evaluate annually the performance of each certification agency. Such an evaluation shall include the use of performance indicators that address the adequacy of program performance in certification, inspection, and enforcement activities as well as any additional information deemed relevant by FDA that has been provided by the certification body or other sources or has been required by FDA as part of its oversight initiatives. The evaluation also shall include a review of any changes made in the standards or procedures in the areas listed in §§ 900.21(b) and 900.22 that have taken place since the original application or the last evaluation, whichever is most recent. The evaluation shall include a determination of whether there are major deficiencies in the certification agency's performance that, if not corrected, would warrant withdrawal of the approval of the certification agency under the provisions of § 900.24 or minor deficiencies that would require corrective action.

§ 900.24 Withdrawal of approval.

If FDA determines, through the evaluation activities of § 900.23, or through other means, that a certification agency is not in substantial compliance with this subpart, FDA may initiate the following actions:

(a) *Major deficiencies.* If FDA determines that a certification agency has demonstrated willful disregard for public health, has committed fraud, has failed to provide adequate resources for the program, has submitted material false statements to the agency, or has performed or failed to perform a delegated function in a manner that may cause serious risk to human health, FDA may withdraw its approval of that certification agency.

(1) FDA shall notify the certification agency of FDA's action and the grounds on which the approval was withdrawn.

(2) A certification agency that has lost its approval shall notify facilities certified or seeking certification by it as well as the appropriate accreditation bodies with jurisdiction in the State that its approval has been withdrawn. Such notification shall be made within a timeframe and in a manner approved by FDA.

(b) *Minor deficiencies.* If FDA determines that a certification agency has demonstrated deficiencies in performing certification functions and responsibilities that are less serious or more limited than the deficiencies in paragraph (a) of this section, including failure to follow its own procedures and policies as approved by FDA, FDA shall notify the certification agency that it has a specified period of time to take particular corrective measures as directed by FDA or to submit to FDA for approval the certification agency's own plan of corrective action addressing the minor deficiencies. If the corrective actions are not being implemented satisfactorily or within the established schedule, FDA may place the agency on probationary status for a period of time determined by FDA, or may withdraw approval of the certification agency.

(1) Probationary status shall remain in effect until such time as the certification agency can demonstrate to the satisfaction of FDA that it has successfully implemented or is implementing the corrective action plan within the established schedule, and that the corrective actions have substantially eliminated all identified problems, or

(2) If FDA determines that a certification agency that has been placed on probationary status is not implementing corrective actions satisfactorily or within the established schedule, FDA may withdraw approval of the certification agency. The certification agency shall notify all facilities certified or seeking certification by it, as well as the appropriate accreditation bodies with jurisdiction in the State, of its loss of FDA approval, within a timeframe and in a manner approved by FDA.

(c) *Transfer of records.* A certification agency that has its approval withdrawn shall transfer facility records and other related information as required by FDA to a location and according to a schedule approved by FDA.

§ 900.25 Hearings and appeals.

(a) Opportunities to challenge final adverse actions taken by FDA regarding approval of certification agencies or withdrawal of approval of certification agencies shall be communicated through notices of opportunity for informal hearings in accordance with part 16 of this chapter.

(b) A facility that has been denied certification is entitled to an appeals process from the certification agency. The appeals process shall be specified in writing by the certification agency and shall have been approved by FDA in accordance with §§ 900.21 and 900.22.

Dated: December 15, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–7653 Filed 3–29–00; 8:45 am]

BILLING CODE 4160–01–F

POSTAL SERVICE

39 CFR Part 111

Amendments to Proposed Domestic Mail Manual Changes for Sacking and Palletizing Periodicals Nonletters and Standard Mail (A) Flats, for Traying First-Class Flats, and for Labeling Pallets

AGENCY: Postal Service.

ACTION: Proposed Rule; Amendment.

SUMMARY: This rule sets forth amendments to the proposed rule published in the **Federal Register** issue of February 29, 2000 (65 FR 10735). The Postal Service has determined to add a 5-digit scheme carrier routes sack and a 5-digit scheme carrier routes pallet to the proposed presort rules published in the aforementioned **Federal Register**.

Dates: Comments to this proposed rule amendment and to the proposed rule published February 29, 2000 (65 FR 10735) must be received on or before April 14, 2000.

ADDRESSES: Mail or deliver written comments to the Manager, Mail Preparation and Standards, USPS Headquarters, 475 L'Enfant Plaza SW, Room 6800, Washington, DC 20260–2413. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday at the Postal Service Library, 475 L'Enfant Plaza SW, Room 11-N, Washington DC.

FOR FURTHER INFORMATION CONTACT: Lynn Martin, (202) 268–6351, or Linda Kingsley, (202) 268–2252.

SUPPLEMENTARY INFORMATION: On February 29, 2000, the Postal Service published a proposed rule in the **Federal Register** (65 FR 10735). This proposed rule set forth, along with other proposed Domestic Mail Manual (DMM) changes, the addition of new DMM section M720. This proposed DMM M720, if adopted, will allow mailers to place carrier route, 5-digit automation rate, and 5-digit Presorted rate packages of Periodicals and Standard Mail (A) in the same 5-digit container. The new 5-digit containers are named ''merged 5-digit'' and if scheme sortation is opted

by the mailer, ''merged 5-digit scheme.'' To use this new sortation option, it was proposed that mailers be required to use a new ''Carrier Route Indicators'' Field in the AMS City State Product to determine when such merged 5-digit or merged 5-digit scheme containers may be prepared.

The Postal Service is hereby amending that proposal by adding a new sack and pallet level, 5-digit scheme carrier routes, when Periodicals and Standard Mail (A) mailings are prepared using the new ''Carrier Route Indicators'' Field in the AMS City State Product with 5-digit scheme sortation using Labeling List L001 under proposed Domestic Mail Manual (DMM) sections M720.1.5, M720.1.7, M720.2.5, and M720.2.7 that were contained in the February 29 **Federal Register** (65 FR 10735).

The original proposed rule instructed mailers to prepare containers as follows if the City State Product indicates that mailers are not allowed to merge carrier route packages with 5-digit packages for any of the 5-digit ZIP Codes in an L001 scheme. For palletized mail, mailers were instructed to prepare a merged 5-digit scheme pallet containing carrier route packages for the scheme and a 5-digit scheme pallet containing the 5-digit packages of automation rate and Presorted rate packages. For sacked mail, mailers were instructed to prepare a merged 5-digit scheme sack(s) containing the carrier route packages for all 5-digit ZIP Codes in the scheme and to prepare separate 5-digit sacks containing packages of automation rate and Presorted rate mail for each 5-digit ZIP Code in the scheme.

The original proposal was to identify sacks and pallets containing only carrier route packages for a scheme as ''merged'' if they are created under DMM M720, even though the City State Product indicates that mailers may not merge carrier route packages with 5-digit packages for any of the 5-digit ZIP Codes in an L001 scheme. Upon further consideration, the Postal Service believes this proposal is inconsistent with the concept of ''merging.'' This amendment to the proposed rule ensures that a ''merged'' sack or pallet is created, and identified accordingly, only when there is the possibility, based on the ''Carrier Route Indicators'' field in the AMS City State Product, that carrier route packages are allowed to be merged with 5-digit automation and Presorted rate packages for at least one of the 5-digit ZIP Codes in a scheme.

In instances when no 5-digit ZIP Codes in a scheme are permitted to be merged with carrier route packages based on the ''Carrier Route Indicators'' field in the AMS City State product, the Postal Service is further proposing that mailers prepare and label any carrier route packages for the 5-digit ZIP Codes in the scheme as ''5-digit scheme carrier routes'' pallets or sacks. This new pallet and sack level is contained in amended DMM sections M720.1.5c, M720.1.7b, M7202.5c, and M720.2.7b set forth in this proposal. These new container levels would be also consistent with the contents and identification of scheme pallets containing only carrier route packages prepared under proposed DMM M045.4.1a and M045.4.2a, and of scheme sacks containing only carrier route packages prepared under current DMM M200.3.1c and M620.4.2c.

This notice also amends proposed DMM sections M720.1.5e, M720.1.7e, M720.1.7f, M720.2.5e, M720.2.7e, and M720.2.7f, to clarify that 5-digit carrier routes pallets and sacks would be prepared only for 5-digit ZIP Codes that are not part of a scheme in L001 and that have an indicator in the City State Product that does not allow co-containerization of carrier route packages and 5-digit packages. Proposed DMM sections M720.1.5f and M720.2.5f are also amended to clarify that 5-digit sacks would only prepared for 5-digit ZIP Codes that have an indicator in the City State Product that does not allow co-containerization of carrier route packages and 5-digit packages.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 USC 553 (b), (c)) regarding rulemaking by 39 USC 410, the Postal Service hereby gives notice of the following proposed revisions to the Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations (see 39 CFR Part 111).

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) as set forth below:

Domestic Mail Manual

M720 Merged Containerization of Periodicals and Standard Mail (A) Carrier Route, Automation, and Presorted Rate Mail Packages for the Same 5–Digit ZIP Code or 5–Digit Scheme

1.0 PERIODICALS MAIL

* * * * *

[Amend proposed 1.5 to read as follows:]

1.5 Optional Sack Preparation and Labeling With Scheme Sort

When mailers choose to prepare mail under this option they must prepare sacks containing the individual carrier route and 5-digit packages from the carrier route, automation rate, and Presorted rate mailings in the mailing job in the following manner and sequence. All carrier route packages must be placed in sacks under 1.5a through e as described below. When sortation under this section is performed, merged 5-digit scheme sacks, 5-digit scheme carrier routes sacks, and merged 5-digit sacks must be prepared for all possible 5-digit schemes or 5-digit ZIP Codes as applicable, using L001 (merged 5-digit scheme and 5-digit scheme carrier routes sort only) and the Carrier Route Indicators field in the City State Product when there is enough volume for the 5-digit scheme or 5-digit ZIP Code to prepare such sacks under 1.5. Mailers must label sacks according to the Line 1 and Line 2 information listed below and under M032. If, due to the physical size of the mailpieces, the automation rate pieces are considered flat-size under C820 and the carrier route sorted pieces and Presorted rate pieces are considered irregular parcels under C050, ''FLTS'' must be shown as the processing category shown on the sack label. If a mailing job does not contain an automation rate mailing and the carrier route mailing and the Presorted rate mailing are irregular parcel shaped, use ''IRREG'' for the processing category on the contents line of the label.

a. Carrier Route. Required. May only contain carrier route packages. Must be prepared when there are 24 or more pieces for the same carrier route. Smaller volume not permitted.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR'' for basic rate, ''WSH'' for high density rate, or ''WSS'' for saturation

rate, followed by the route type and number.

b. Merged 5-Digit Scheme. Required and permitted only when there is at least one 5-digit ZIP Code in the scheme for which the City State Product indicates carrier route packages may be co-containerized with 5-digit packages. May contain carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as automation rate 5-digit packages and Presorted rate 5-digit packages for those 5-digit ZIP Codes in the scheme that are also identified in the City State Product as eligible for co-containerization of carrier route packages and 5-digit packages. When preparation of this sack level is permitted, a sack must be prepared if there are any carrier route package(s) for the scheme. If there is not at least one carrier route package for any 5-digit destination in the scheme, preparation of this sack is required at 24 pieces in 5-digit packages for any of the 5-digit ZIP Codes in the scheme that are identified in the City State Product as eligible for co-containerization of carrier route packages and 5-digit packages, and is optional with one six-piece 5-digit package or at least one 5-digit package of fewer pieces for the scheme in L001 under 1.3 (for any ZIP Codes that are identified in the City State Product as eligible for co-containerization of carrier route packages and 5-digit packages). For a 5-digit ZIP Code(s) in a scheme for which the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages, prepare a 5-digit sack(s) for the automation rate and Presorted rate packages under 1.5f. For 5-digit ZIP Codes not included in a scheme, prepare sacks under 1.5d through g.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR/5D SCH.''

c. 5-Digit Scheme Carrier Routes. Required. May contain only carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 when the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages for any of the 5-digit ZIP Codes in the scheme. Must be prepared if there are any carrier route package(s) for the scheme.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR–RTS SCH.''

d. Merged 5-Digit. Required. Must be prepared only for those 5-digit ZIP Codes that are not part of a scheme and that have an indicator in the City State Product that allows carrier route packages to be co-containerized with 5-digit packages. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. Must be prepared if there are any carrier route packages for the 5-digit. If there is not at least one carrier route package for the 5-digit destination, preparation of this sack is required at 24 pieces in 5-digit packages for the same 5-digit destination, and is optional with one six piece package or at least one package of fewer pieces under 1.3.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR/5D.''

e. 5-Digit Carrier Routes. Required. Sack only carrier route packages for a 5-digit ZIP Code remaining after preparing sacks under 1.5a through d to this level. May contain only carrier route packages for any 5-digit ZIP Code that is not part of a scheme listed in L001 and the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages for the 5-digit ZIP Code. No sack minimum.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR–RTS.''

f. 5-Digit. Required. May only contain automation rate 5-digit packages and Presorted rate 5-digit packages for any 5-digit ZIP Code when the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages for the 5-digit ZIP Code. Must be prepared at 24 or more pieces, optional with one six-piece package or at least one package of fewer pieces under 1.3.

(1) Line 1 labeling: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS 5D BC/NBC'', except if there are no automation rate packages in the mailing job, label under M200.3.2f.

g. Three-digit through mixed ADC sacks. Any 5-digit packages remaining after preparing sacks under 1.5a through f, and all 3-digit, ADC, and Mixed ADC packages, must be sacked and labeled according to the applicable requirements under M710.2.0 for co-sacking of automation rate and Presorted rate packages, except if there are no automation rate packages in the mailing job, sack and label under M200.3.0.

* * * * *

[Amend proposed 1.7 to read as follows:]

1.7 Optional Pallet Preparation and Labeling With Scheme (L001) Sort

When mailers choose to prepare mail under this option they must prepare pallets of packages and/or bundles in the manner and sequence listed below and under M041. When sortation under this option is performed, mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and/or the City State Product as applicable. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031. If, due to the physical size of the mailpieces, the automation rate pieces are considered flat-size under C820 and the carrier route sorted pieces and Presorted rate pieces are considered irregular parcels under C050, ''FLTS'' must be shown as the processing category shown on the sack label. If a mailing contains no automation rate pieces and the carrier route mailing and the Presorted rate mailing are irregular parcel shaped, use ''IRREG'' for the processing category on the contents line of the label.

a. Merged 5-Digit Scheme. Required and permitted only when there is at least one 5-digit ZIP Code in the scheme for which the City State Product indicates carrier route packages may be co-containerized with 5-digit packages. May contain carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as automation rate 5-digit packages and Presorted rate 5-digit packages for those 5-digit ZIP Codes in the scheme that are also identified in the City State Product as eligible for co-containerization of carrier route packages and 5-digit packages.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR/5D SCHEME.''

b. 5-Digit Scheme Carrier Routes. Required. May contain only carrier route packages and bundles for all carrier routes in an L001 scheme when the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages for any of the 5-digit ZIP Codes in the scheme.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CR–RTS SCHEME.''

c. 5-Digit Scheme. Required. May contain only 5-digit packages and bundles of automation rate and Presorted rate mail for the same 5-digit scheme under L001 for ZIP Codes in the scheme that have an indicator in the City State Product that does not allow carrier route packages to be co-containerized with 5-digit packages.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''5D,'' followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail, followed by ''SCHEME'' or ''SCH.''

d. Merged 5-Digit. Required. May contain carrier route packages and bundles, automation rate 5-digit packages and bundles, and Presorted rate 5-digit packages and bundles for those 5-digit ZIP Codes that are not part of a scheme and that have an indicator in the City State Product that allows co-containerization of carrier route packages and 5-digit packages.

(1) Line 1: use city, state abbreviation, and 5 -digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or IRREG'' as applicable, followed by ''CR/5D.''

e. 5-Digit Carrier Routes. Required. May contain only carrier route rate packages and bundles for the same 5-digit ZIP Code that is not part of a scheme and that has an indicator in the City State Product that does not allow co-containerization of carrier route packages and 5-digit packages.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''CARRIER ROUTES'' or ''CR–RTS.''

f. 5-Digit. Required. May contain only automation rate 5-digit packages and bundles and Presorted rate 5-digit packages and bundles for the same 5-digit ZIP Code that is not part of a scheme and that has an indicator in the City State Product that does not allow co-containerization of carrier route packages and 5-digit packages.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''5D,'' followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. 3-Digit. Optional. May contain carrier route rate, automation rate, and Presorted rate packages and bundles.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''3D,'' followed by ''DDU'' if DDU rates are claimed, followed by ''DSCF'' if SCF rates are claimed, followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. SCF. Required. May contain carrier route rate, automation rate, and Presorted rate packages and bundles.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''SCF,'' followed by ''DDU'' if DDU rates are claimed, followed by ''DSCF'' if SCF rates are claimed, followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. ADC. Required. May contain carrier route rate, automation rate, and Presorted rate packages and bundles.

(1) Line 1: use L004.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable, followed by ''ADC,'' followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

2.0 STANDARD MAIL (A)

* * * * *

[Amend proposed 2.5 to read as follows:]

2.5 Optional Sack Preparation and Labeling With Scheme Sort

When mailers choose to prepare mail under this option they must prepare sacks containing the individual carrier route and 5-digit packages from the carrier route rate, automation rate, and Presorted rate mailings in the mailing job in the following manner and sequence. All carrier route packages must be placed in sacks under 2.5a through e as described below. When sortation under this section is performed, merged 5-digit scheme sacks, 5-digit scheme carrier routes sacks, and merged 5-digit sacks must be prepared for all possible 5-digit schemes or 5-digit ZIP Codes as applicable, using L001 (merged 5-digit scheme and 5-digit scheme carrier routes sort only) and the Carrier Route Indicators field in the City State Product when there is enough volume for the 5-digit scheme or 5-digit ZIP Code to prepare such sacks under 2.5. Mailers must label sacks according to the Line 1 and Line 2 information listed below and under M032.

a. Carrier Route. Required. May only contain carrier route packages. Must be prepared when there are 125 pieces or 15 pounds of pieces for the same carrier route. Smaller volume not permitted.

(1) Line 1 labeling: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2 labeling: ''STD FLTS'' followed by ''ECRLOT,'' ''ECRWSH'' or ''ECRWSS'' as applicable for basic, high density, and saturation rate mail, followed by the route type and number.

b. Merged 5-Digit Scheme. Required and permitted only when there is at least one 5-digit ZIP Code in the scheme for which the City State Product indicates carrier route packages may be co-containerized with 5-digit packages. May contain carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as automation rate 5-digit packages and Presorted rate 5-digit packages for those 5-digit ZIP Codes in the scheme that are also identified in the City State Product as eligible for co-containerization of carrier route packages and 5-digit packages. When preparation of this sack level is permitted, a sack must be prepared if there are any carrier route package(s) for the scheme. If there is not at least one carrier route package for any 5-digit destination in the scheme, preparation of this sack is required when there are at least 125 pieces or 15 pounds of pieces in 5-digit packages for any of the 5-digit ZIP Codes in the scheme that are identified in the City State Product as eligible for co-containerization of carrier route packages and 5-digit packages (smaller volume not permitted). For a 5-digit ZIP Code(s) in a scheme for which the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages, prepare a 5-digit sack(s) for the automation rate and Presorted rate packages under 2.5f. For 5-digit ZIP Codes not included in a scheme, prepare sacks under 2.5d through g.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR–RTS SCH.''

c. 5-Digit Scheme Carrier Routes. 5–Digit Scheme Carrier Routes. Required. May contain only carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 when the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages for any of the 5-digit ZIP Codes in the scheme. Must be prepared if there are any carrier route package(s) for the scheme.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR–RTS SCH.''

d. Merged 5-Digit. Required. Must be prepared only for those 5-digit ZIP Codes that are not part of a scheme and that have an indicator in the City State Product that allows carrier route packages to be co-containerized with 5-digit packages. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. Must be prepared if there are any carrier route packages for the 5-digit. If there is not at least one carrier route package for the 5-digit destination, must be prepared when there are at least 125 pieces or 15 pounds of pieces in 5-digit packages for the same 5-digit destination (smaller volume not permitted).

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS CR–5D.''

e. 5-Digit Carrier Routes. Required. Sack only carrier route packages for a 5-digit ZIP Code remaining after preparing sacks under 2.5a through d to this level. May contain only carrier route packages for any 5-digit ZIP Code that is not part of a scheme listed in L001 and the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages for the 5-digit ZIP Code. No sack minimum.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS CR–RTS.''

f. 5-Digit. Required. May only contain automation rate 5-digit packages and Presorted rate 5-digit packages for any 5-digit ZIP Code when the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages for the 5-digit ZIP Code. Must be prepared when there are at least 125 pieces or 15 pounds of pieces for the 5-digit ZIP Code. Smaller volume not permitted.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS 5D BC/NBC,'' except if there are no automation rate packages in the mailing job use ''STD FLTS 5D NON BC.''

g. Three-digit through Mixed AADC Sacks. Any 5-digit packages remaining after preparing sacks under 2.5 a through f, and all 3-digit, ADC, and Mixed ADC packages, must be sacked and labeled according to the applicable requirements under M710.3.0 for co-sacking of automation rate and Presorted rate packages, except if there are no automation rate packages in the mailing job, sack and label under M610.

* * * * *

[Amend proposed 2.7 to read as follows:]

2.7 Optional Pallet Preparation and Labeling With Scheme (L002) Sort

When mailers choose to prepare mail under this option they must prepare pallets of packages and/or bundles in the manner and sequence listed below and under M041. When sortation under this option is performed, mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and/or the City State Product as applicable. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. Merged 5-Digit Scheme. Required and permitted only when there is at least one 5-digit ZIP Code in the scheme for which the City State Product indicates carrier route packages may be co-containerized with 5-digit packages. May contain carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as automation rate 5-digit packages and Presorted rate 5-digit packages for those 5-digit ZIP Codes in the scheme that are also identified in the City State Product as eligible for co-containerization of carrier route packages and 5-digit packages. When preparation of this sack level is permitted, a sack must be prepared if there are any carrier route package(s) for the scheme. For 5-digit ZIP Codes in a scheme for which the indicator in the Carrier Route Indicators field does not allow co-containerization of carrier route and 5-digit packages, begin preparing pallets under 2.7c (5-digit scheme pallet). For 5-digit ZIP Codes not included in a scheme, begin preparing pallets under 2.7d (merged 5-digit pallet).

(1) Line 1: labeling: use L001, Column B.

(2) Line 2: ''STD FLTS CR–5D SCHEME.''

b. 5-Digit Scheme Carrier Routes. Required. May contain only carrier route packages and bundles for all carrier routes in an L001 scheme when the indicator in the City State Product does not allow co-containerization of carrier route packages and 5-digit packages for any of the 5-digit ZIP Codes in the scheme.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR–RTS SCHEME.''

c. 5-Digit Scheme. Required. May contain 5-digit packages and bundles of automation rate and 5-digit Presorted rate mail for the same 5-digit scheme under L001 for ZIP Codes in the scheme that do not have an indicator in the City State Product that allows co-containerization of carrier route packages and 5-digit packages.

(1) Line 1: use L001, Column B.

(2) Line 2: STD FLTS 5D,'' followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail, followed by ''SCHEME'' or ''SCH.''

d. Merged 5-Digit. Required. May contain carrier route rate packages and bundles, automation rate 5-digit packages and bundles, and Presorted rate 5-digit packages and bundles for those 5-digit ZIP Codes that are not part of a scheme and that have an indicator in the City State Product that allows co-containerization of carrier route packages and 5-digit packages.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS CR/5D.''

e. 5-Digit Carrier Routes. Required. May contain only carrier route rate packages and bundles for the same 5-digit ZIP Code for those 5-digit ZIP Codes that are not part of a scheme and that have an indicator in the City State Product that does not allow co-containerization of carrier route packages and 5-digit packages.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS.''

f. 5-Digit. Required. May contain automation rate 5-digit packages and bundles and Presorted rate 5-digit packages and bundles for the same 5-digit ZIP Code for those 5-digit ZIP Codes that are not part of a scheme and that have an indicator in the City State Product that does not allow co-containerization of carrier route packages and 5-digit packages.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D,'' followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and

followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. 3–Digit. Optional. May contain carrier route rate, automation rate, and Presorted rate packages and bundles.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D,'' followed by ''DDU'' if DDU rates are claimed, followed by ''DSCF'' if DSCF rates are claimed, followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. SCF: Required. May contain carrier route rate, automation rate, and Presorted rate packages and bundles.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF;'' followed by ''DDU'' if DDU rates are claimed, followed by ''DSCF'' if DSCF rates are claimed; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. If DBMC rates are not claimed: Destination BMC. Required. May contain carrier route rate, automation rate, and Presorted rate packages and bundles. Sort ADC packages and bundles to BMC pallets based on the ''label to'' ZIP Code shown for the ADC of the package or bundle in L004.

(1) Line 1: use L601.

(2) Line 2: ''STD FLTS BMC,'' followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

j. If DBMC rates are claimed: Destination ASF/BMC. May contain carrier route rate, automation rate, and Presorted rate packages and bundles. Destination ASF sortation allowed and required only if DBMC rate is claimed for mail deposited at an ASF, otherwise sort to Destination BMC. Sort ADC packages and bundles to ASF/BMC pallets based on the ''label to'' ZIP Code shown for the ADC of the package or bundle in L004.

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS,'' followed by ''ASF'' or ''BMC'' as applicable; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–7838 Filed 3–29–00; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–225–0230; FRL–6567–3]

Proposed Approval and Promulgation of State Implementation Plans; California—Santa Barbara Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Santa Barbara's 1998 Clean Air Plan (CAP), submitted by the California Air Resources Board (CARB). The Santa Barbara County Air Pollution Control District (SBCAPCD) adopted the plan to meet the Clean Air Act (CAA) requirements for ozone areas classified as serious. EPA is proposing to approve this revision to the California State Implementation Plan (SIP) under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: We must receive your written comments on this proposal by May 1, 2000.

ADDRESSES: Please address your comments to the EPA contact below. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours. We may charge you a reasonable fee for copying parts of the docket.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901,

Copies of the SIP materials are also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, Sacramento, CA 92123–1095.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117.

Santa Barbara's 1998 Clean Air Plan is available electronically at: http://www3.sbcapcd.org/capes.htm

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (415) 744–1288. E-mail: *jesson.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What Action Are We Proposing?

This Santa Barbara SIP revision addresses applicable CAA requirements for serious ozone nonattainment areas, including a demonstration of attainment by the statutory deadline of November 15, 1999.[1] We are proposing to approve the Santa Barbara ozone SIP with respect to its emissions inventories, control measures, 1999 rate-of-progress (ROP) plan, attainment plan, and transportation budgets. As discussed in section III.H., the 1998 CAP supersedes most portions of the 1994 ozone SIP for Santa Barbara, which we approved on January 8, 1997 (62 FR 1187–1190).

II. What Clean Air Act Provisions Apply to This Plan?

A. What Is the Ozone NAAQS?

Under section 109 of the CAA, we established NAAQS for ozone in 1979. 44 FR 8220 (February 8, 1979). The 1-hour NAAQS for ozone is 0.12 parts per million (ppm). Ground-level ozone is formed when nitrogen oxides (NO_X) and volatile organic compounds (VOCs) react in the presence of sunlight, generally at elevated temperatures.[2] Strategies for reducing smog typically require reductions in both VOC and NO_X emissions.

Ozone causes serious health problems, particularly in children, by damaging lung tissue and sensitizing the lungs to other irritants. Even at very low levels, ozone can cause acute respiratory problems; aggravate asthma; cause temporary decreases in lung capacity of 15 to 20 percent in healthy adults, cause inflammation of lung tissue; lead to hospital admissions and emergency room visits; and impair the body's immune system defenses, making people more susceptible to respiratory illnesses, including bronchitis and pneumonia. Children are most at risk from exposure to ozone because they breathe more air per pound of body weight than adults, their respiratory systems are still developing and thus are more susceptible to environmental threats, and children exercise outdoors more than adults.

B. What Requirements Apply to This SIP Revision?

The most fundamental of the CAA provisions for ozone nonattainment areas is the requirement that the State submit a SIP demonstrating attainment of the NAAQS as expeditiously as practicable but no later than the

[1] Santa Barbara County was originally classified as a moderate area, but failed to attain the ozone NAAQS by the November 15, 1996, statutory deadline, and was reclassified as serious on December 10, 1997 (62 FR 65025–65030).

[2] The 1998 CAP generally substitutes the terms reactive organic gases (ROG) for VOC. These terms are essentially synonymous and are used interchangeably throughout this document.

applicable CAA deadline. Such a demonstration must provide enforceable measures to achieve emission reductions each year leading to emissions at or below the level predicted to result in attainment of the NAAQS throughout the nonattainment area.

We have issued a ''General Preamble'' describing the Agency's preliminary views on how we intend to act on SIPs submitted under Title I of the Act. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). You should refer to the General Preamble for a more detailed discussion of our preliminary interpretations of Title I requirements. In this action, we are applying these policies to the Santa Barbara ozone SIP submittal, taking into consideration the specific factual issues presented.

III. Does This SIP Submittal Meet CAA Requirements?

A. Does the 1998 CAP Satisfy the Procedural Requirements?

On December 29, 1998, the SBCAPCD adopted the 1998 CAP, after providing public notice and opportunity to comment. CARB approved the 1998 CAP (Executive Order 99–2a) and, on March 19, 1999, submitted the plan as a revision to the California SIP (letter from Michael P. Kenny, Executive Officer, to Felicia Marcus, EPA Regional Administrator). The SIP submittal includes proof of publication for the notice of SBCAPCD public hearing, as evidence that the hearing was properly noticed. We found this submittal to be complete on April 28, 1999.[3] We believe that the public process associated with the 1998 CAP meets the procedural requirements of CAA sections 110(a) and (l) and 40 CFR 51.102.

B. Are the Emissions Inventories in the Plan Approvable?

Chapter 3, Chapter 6, and Appendix A of the 1998 CAP include updated historic and projected emission inventories for the years 1990, 1996, and 1999. The inventories summarize emissions from all stationary and mobile source categories both onshore and in the Outer Continental Shelf (OCS), where there are significant emissions from petroleum production and marine vessels. The inventories include estimated emissions from anthropogenic activities, biogenic and geogenic sources, and wildfires. Appendix A of the 1998 CAP includes estimates of ozone precursor emissions—ROG, NO_X, and carbon monoxide (CO)— for the following: (1) 1990 base year annual emissions (Table A–3); (2) 1996 ozone season emissions (Tables A–7 and A–10); (3) 1996 annual emissions (Tables A–1 and A–2); and (4) 1999 ozone season emissions (Tables A–8 and A–11).[4] As part of the ROP plan, the 1998 CAP presents 1990 base year ozone season emissions in Table 9–1. For informational purposes only, the 1998 CAP also includes projected ozone season emissions for 2005.

The motor vehicle emissions in the 1998 CAP were generated using a group of models developed by CARB known as the Motor Vehicle Emission Inventory 7G1.0 corrected (MVEI7G1.0c). The Santa Barbara County Association of Governments (SBCAG) transportation model generated the area-specific data on motor vehicle population and usage. SBCAG also provided projections of population, employment, and housing, and the 1998 CAP identifies the source of other activity factors.

For 1999, SBCAG projected 9,459,848 vehicle miles traveled, 1,327,665 trips, and 2,213,431 starts, assuming State and local controls (1998 CAP, Appendix C, page C–29). The 1998 CAP (pages 5–4 and 5–5) also shows the motor vehicle emissions estimates for 1996 and 1999.

The revised and updated emissions inventories are comprehensive, accurate, and current estimates of actual emissions, as required by the CAA. The methodologies used to prepare the base and projected inventories conform to EPA guidance documents.[5] Our guidance allows approval of California's motor vehicle emissions factors in place of the corresponding federal emissions factors. Therefore, we propose to approve the 1998 CAP emissions inventories for 1990, 1996, and 1999, under CAA sections 172(c)(3) and 182(a)(1). We are not acting on the emissions inventories for 2005, which the CAA does not require.

C. Are the Control Measures Approvable?

CAA sections 110(a)(2)(A) and 172(c)(6) require that all measures and other elements in the SIP be enforceable. We have interpreted these provisions to allow for approval of attainment demonstrations that rely, in part, on commitments to adopt and implement rules in the future, so long as the commitments are specific and enforceable (see 57 FR 13556 and 13568, April 16, 1992; and 62 FR 1155–1157, January 8, 1997).

The attainment demonstration in the 1998 CAP rests primarily on emission reductions derived from adopted State and SBCAPCD measures, which the 1998 CAP describes in Chapter 4 (stationary sources) and Chapter 5 (transportation sources).

The transportation control measure (TCM) package for Santa Barbara County is summarized in Tables 5–1, 5–2, and 5–3. Table 5–1 summarizes each type of TCM, the adopting agency, the implementing agency, the commitments, and the monitoring mechanisms. Table 5–2 presents the specific projects, sponsors, and implementation status of all TCMs implemented as part of the 1994 Clean Air Plan while Table 5–3 summarizes all new projects, sponsors, and funding mechanisms as part of the 1998 Clean Air Plan. The information contained in these three tables adequately summarizes all TCMs applicable to Santa Barbara County.

To a small extent, both the ROP plan and attainment plan rely on reductions from 2 rules and 2 TCMs which SBCAPCD committed to adopt and implement in 1999. The 1998 CAP includes these 4 new control measures and 3 contingency measures, which are summarized in Table 1, entitled ''Santa Barbara Measures.''

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

[4] In Santa Barbara County, the ozone season covers the months of May through October.

[5] See, for example, Procedures for the Preparation of Emission Inventories for Carbon Monoxide and Precursors of Ozone, Volume I: General Guidance for Stationary Sources, EPA—450/4–91–016; Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources, EPA—450/5–9–026d Revised.

TABLE 1.—SANTA BARBARA MEASURES

Control Measures	Emission reductions (tons/avg. summer weekday)		Schedule		
	ROG	NO_X	Adoption	Implementation	Status as of 2/00
352—Residential & Commercial Space and Water Heaters	0	0.0047 (1999)	4/99	6/99	Adopted 9/16/99.
353—Control of ROG from Adhesives and Sealants	0.4228 (1999)	0	4/99	6/99	Adopted 8/19/99.
T13 Accelerated Retirement of Vehicles	0.06 (1999)	0.02 (1999)	(1)	99–01	Currently in force
T18 Alternative Fuels	0.0003 (1999)	0.002 (1999)			In Progress.
333—Control of Emissions from Reciprocating Internal Combustion Engines.	0	1.3656 (2005)	4/99	4/01	Contingency Measure.
T21—Enhanced Inspection & Maintenance	4.29 (2005)	3.07 (2005)			Contingency Measure.
T22—County-Wide Implementation of Tier III TDM Program.	30,840 VMT reduction				Contingency Measure.

[1] Adopted.

The measures 352, 353, T13, and T18 are relied upon in meeting the 1999 ROP and attainment demonstration requirements of the Act, while measures 333, T21, and T22 serve as contingency measures. Accordingly, and because the measures strengthen the SIP, we propose to approve all of the measures in Table 1 under CAA sections 110(k)(3) and 301(a).

D. Is the Rate-of-Progress Plan Approvable?

For ozone areas classified as serious or above, section 182(c)(2) requires that the SIP must provide for reductions in ozone-season, weekday VOC emissions of at least 3 percent per year net of growth averaged over each consecutive 3-year period beginning in 1996 until the attainment date. This is in addition to the 15 percent reduction over the first 6-year period required by CAA section 182(b)(1) for areas classified as moderate and above.

Chapter 9 of the 1998 CAP presents the 1999 ROP plan. As required by CAA sections 182(b)(1) and 182(c)(2)(B), the plan includes an adjusted 1990 base year ROG emission inventory and computes creditable 1999 emission reductions. The ROP plan must show that creditable reductions bring emissions below the required target level: a 24 percent reduction from 1990 emissions.[6]

Table 2 entitled ''1999 ROP Demonstration'' presents these calculations, demonstrating that creditable ROG reductions are achieved without the need for substituting NO_X reductions, as allowed by the CAA section 182(c)(2)(C). Consistent with CAA section 182(b)(1)(D), the ROP demonstration factors out reductions that would have been achieved by the Federal Motor Vehicle Control Program and Federal gasoline Reid Vapor Pressure regulations that were promulgated by November 15, 1990, or were required by CAA section 211(h).

TABLE 2.—1999 ROP DEMONSTRATION

	ROG emissions (tpd)
1990 ROP Base Year ROG Inventory	79.32
1990 Adjusted Base Year Inventory	56.72
24% ROP Adjusted Base Year	13.61
Federal Motor Vehicle Control Program and Reid Vapor Pressure Requirement	22.60
1999 ROP Target	43.11
1999 Inventory with Controls	38.93

Because the Santa Barbara ROP demonstration satisfies applicable requirements as discussed above, we propose to approve the 1998 CAP as meeting the progress requirements of CAA section 182(c)(2).

E. Is the Attainment Demonstration Approvable?

CAA section 181(a) requires serious ozone areas, including Santa Barbara, to demonstrate attainment as expeditiously as practicable but no later than November 15, 1999. The demonstration must show that VOC and NOx emissions will be (or have been) reduced to levels at which the ozone NAAQS will not be exceeded. Thus, the SIP must show that the projected design value will be less than or equal to 0.12 ppm at all locations within the nonattainment area.[7]

The measured design value concentration at the peak monitoring station in Santa Barbara was 0.13 ppm

[6] The assessment of whether an area has met the reasonable further progress requirement in the milestone year is based on whether the area is at or below the milestone year target level of emissions and not on whether the area has achieved a certain actual emissions reduction under the SIP control strategy. See General Preamble. 57 FR 13516.

[7] The design value is the fourth highest concentration at any monitor within the nonattainment area, over a 3-year period. You may find more details on the interpretation of the 1-hour ozone NAAQS at 40 CFR 50, Appendix H. If you wish to find out more about ozone modeling, attainment demonstrations, and applicable EPA guidance, please see 61 FR 10939–13940 (March 18, 1996) and 40 CFR 51, Appendix W.

for the period 1994–1996. The SIP must show that sufficient emission reductions will occur by 1999 to reduce this level by at least 4 percent in order to achieve the NAAQS, since the rounding convention treats values up to 0.1249 ppm as not exceeding the 0.12 ppm standard.

Appendix D of the CAP discusses the attainment demonstration, which CARB prepared for the Santa Barbara area. The State employed the Urban Airshed Model, using the September 5–7, 1984 episode, with eastern boundary conditions based on measured concentrations during the 1984 field study. Base case simulations for September 6 and 7 met our performance guidelines with one exception: the normalized bias for September 6 was very slightly above EPA's guideline.

CARB determined 1999 ozone concentrations by scaling the design value (0.13 ppm) by the relative change in peak ozone concentrations between 1996 and 1999. Based on the simulation results, the projected design value for 1999 was .1247 ppm.

We propose to approve the attainment demonstration portion of the plan as meeting the requirements of CAA section 182(c)(2)(A), since it demonstrates that the area will attain the NAAQS before the applicable deadline of November 15, 1999. In fact, the Santa Barbara area did reach attainment in 1999, having recorded no more than 3 exceedances at any monitor during the period 1997–1999, as shown in Table 3 below labeled ''Exceedances of the 1-Hour Ozone NAAQS in Santa Barbara County, 1997–1999.''

TABLE 3.—EXCEEDANCES OF THE 1-HOUR OZONE NAAQS IN SANTA BARBARA COUNTY, 1997–1999

[1999 values are preliminary data from EPA's Aerometric Data System (AIRS)]

Monitoring station	1997	1998	1999	Total
Carpinteria	0	0	0	0
El Capitan*	0	0	0	0
Goleta*	0	0	0	0
Las Flores Canyon	1	1	1	3
Lompoc H S and P	0	0	0	0
Lompoc H Street*	0	0	0	0
Nojoqui Summit	0	0	0	0
Paradise Road	0	1	0	1
Santa Barbara*	0	0	0	0
Santa Maria*	0	0	0	0
Santa Rosa Island*	0	0	0	0
Santa Ynez*	0	0	0	0
Vandenberg Air Force Base	0	0	0	0

*Denotes part of the State and Local Air Monitoring System (SLAMS). Other stations are operated by industry, at the direction of the SBCAPCD, as a condition to permits issued under the Prevention of Significant Deterioration (PSD) program.

F. Are the Motor Vehicle Emissions Budgets Approvable?

Attainment demonstration submittals must specify the maximum motor vehicle emissions allowed in the attainment year and demonstrate that this emissions level, when considered with emissions from all other sources, is consistent with attainment. In order for us to find the budget adequate and approvable, the submittal must meet the conformity adequacy requirements of 40 CFR 93.118(e)(4) and be approvable under all pertinent SIP requirements.

The motor vehicle emissions caps defined by this and other plans when they are approved into the SIP are used to determine the conformity of transportation plans, programs, and projects to the SIP, as described by CAA section 176(c)(2)(A). For more detail on this part of the conformity requirements see 40 CFR 93.118. For transportation conformity purposes, the cap on motor vehicle emissions is known as the motor vehicle emissions budget. The budget must reflect all of the motor vehicle control measures contained in the attainment demonstration (40 CFR 93.118(e)(4)(v)).

The motor vehicle emissions budgets in the 1998 CAP for 1999 are 17.42 tpd VOC and 22.07 tpd NO_X, as shown below in Table 4 labeled ''Santa Barbara Motor Vehicle Emissions Budgets.''

TABLE 4.—SANTA BARBARA MOTOR VEHICLE EMISSIONS BUDGETS

[1999 Emissions in Tons per Day, Using EMFAC7G]

	Voc	NO_X
Emissions without TCMs	17.52	22.16
Emission Reductions from TCMs	0.10	0.09
Emissions Budget	17.42	22.07

These budgets were developed using the State's MVEI7G1.0c motor vehicle emissions factors. We have already determined that these budgets are adequate (see 64 FR 73549, December 30, 1999), and we now propose to approve the budgets as consistent with all of the adequacy criteria of 40 CFR 93.118(e)(4), including consistency with the 1999 baseline emissions inventory, the motor vehicle control measure emission reductions used in the attainment demonstration, and the reductions needed for attainment.

CARB is expected to issue refinements to the emissions factors for use in developing onroad mobile source emission inventories and for making transportation conformity determinations. The refinements would more accurately reflect emission reductions associated with the State's motor vehicle inspection and maintenance (I/M) program and other motor vehicle controls.[8] These refinements must be used in conformity determinations, in accordance with our transportation conformity regulations, which require use of the most current and accurate information (40 CFR 93.110(e), 122(a)(2)). Subsequent budgets will reflect these changes and any new or modified control measures adopted to ensure maintenance of the NAAQS.

[8] The updated emission reductions which, among other things, would reflect more accurately the I/M program as compared to the 1994 submittal, are necessary in the case of I/M to account for legislative change to the program in 1997. The Santa Barbara area is subject to the ''basic'' I/M requirement of CAA section 182(b)(4) rather than the ''enhanced'' I/M requirement of section 182(c)(3) because the 1980 urbanized area population was less than 200,000. See CAA section 182(c)(3)(A).

G. Has the Area Established an Enhanced Monitoring Program?

As a result of the reclassification of the County to serious, Santa Barbara became subject to the CAA section 182(c)(1) requirement that the area establish and implement a Photochemical Assessment Monitoring Station (PAMS) network. To support the implementation of this regulatory requirement, EPA provided in excess of $435,000 to SBCAPCD through the Section 105 Grant, from FY1998 through FY2000.

The District worked diligently to expedite the implementation of a PAMS network, consisting of a split-Type II maximum ozone precursor station. VOC and carbonyl concentrations are collected at SBCAPCD's office, and additional data, including ozone, NO_X, and meteorological parameters, are collected at SBCAPCD's SLAMS Goleta site. Upper air information is collected at the Santa Barbara Airport location. It was agreed that if Santa Barbara County remained in nonattainment status, the District would relocate all PAMS sampling to an optimum location in the foothills of Santa Barbara.

H. What Are the Implications of EPA's Proposed Plan Approval?

If we finalize the proposed approval of the 1998 CAP, this plan would replace and supersede the 1994 ozone SIP with the exception of the approved State control measures, the local control measures that are not amended by the 1998 CAP, and the local transportation control measures for which the 1998 CAP augments the TCM measures and projects included in the 1994 CAP. Our final approval would also make enforceable the SBCAPCD commitments to adopt and implement the control measures and contingency measures (if applicable) listed above in Table 1, to achieve the specified emissions reductions.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

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

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State

relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this proposed action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 20, 2000.

David P. Howekamp,

Acting Regional Administrator, Region IX.

[FR Doc. 00–7736 Filed 3–29–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF86

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for Ambrosia Pumila (San Diego Ambrosia)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We, the Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), reopen the comment period on the proposal to list *Ambrosia pumila* (San Diego ambrosia) as an endangered species. The comment period is reopened in response to a request from the public for additional time to obtain biological information regarding the plant and formulate comments on the proposed rule. In addition, reopening of the comment period will allow further opportunity for all interested parties to submit comments on the proposal, which is available (see **ADDRESSES** section). We are seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The reopened comment period closes May 30, 2000.

ADDRESSES: Comments and materials concerning this proposed rule should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, California, 92008. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Gary Wallace, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section) at (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1999, the Service published a rule proposing endangered status for *Ambrosia pumila* (San Diego ambrosia) in the **Federal Register** (64 FR 72993). The original comment period closed on February 28, 2000. The comment period now closes on May 30, 2000. Written comments should be submitted to the Service (see **ADDRESSES** section).

Ambrosia pumila is a herbaceous perennial plant with underground rhizome-like roots. This wind pollinated species is restricted to San Diego and western Riverside counties and from Colonet to Lake Chapala, in Baja California, Mexico. The species is currently known from 13 extant native occurrences in the U.S. *Ambrosia pumila* is threatened by the following; destruction, fragmentation, and degradation of habitat by recreational and commercial development; highway construction and maintenance; construction and maintenance activities associated with utility easements; competition from non-native plants; trampling by horses and humans; off-road vehicle (ORV) use; and inadequate regulatory mechanisms. Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location and condition of any additional occurrences of this species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Aditional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impacts on *Ambrosia pumila* or its habitat;

Author

The primary author of this notice is Gary D. Wallace, Ph.D. (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: March 22, 2000.

Elizabeth H. Stevens,

Acting Manager, California/Nevada Operations Office.

[FR Doc. 00–7800 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 65, No. 62

Thursday, March 30, 2000

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

Agricultural Marketing Service

[Docket No. FV00–929–1NC]

Notice of Request for Information Collection

AGENCY: Agricultural Marketing Service, USDA

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval of a new information collection for Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, Marketing Order No. 929.

DATES: Comments on this notice must be received by May 30, 2000.

ADDITIONAL INFORMATION OR COMMENTS: Contact Caroline C. Thorpe, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S., Post Office Box 96456, Washington, DC 20090–6456; Tel: (202) 720–8139, Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov.

SUPPLEMENTARY INFORMATION: *Title*: Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, Marketing Order No. 929.

OMB Number: 0581–0103.

Expiration Date of Approval: September 30, 2002.

Type of Request: Revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674) industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the program, which has operated since 1962.

The cranberry marketing order regulates the handling of cranberries grown in the states of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, hereinafter referred to as the ''order.'' The order authorizes the issuance of allotment provisions for producers and regulates the quantities of cranberries handled. The order also has research and development authority.

The order, and rules and regulations issued thereunder, authorize the Cranberry Marketing Committee (Committee), the agency responsible for local administration of the order, to require handlers and producers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions.

Forms are developed as a means for persons to file required information with the Committee relating to cranberry supplies, shipments, dispositions, and other information needed to effectively carry out the purpose of the AMAA and order. The order permits the Committee to determine whether to use allotment percentage authority, in which producers are limited to a specified percentage of their cranberries that handlers may handle(purchase and/or sell) on their behalf. Individual producer allotments are based on their sales history, defined as the best four of the preceding six years total commercial sales of cranberries from their acreage. Use of these forms will ensure better administration of the order and grower compliance with the order, should allotment provisions of the order be implemented.

This notice announces the request for approval by OMB of two forms. The first form, ''Growers Notice of Intent to Produce and Qualifying for Annual Allotment Form'' (CMC—AL 1), is authorized under § 929.49 of the order. This form would be completed by growers in the event volume regulation is implemented. The Committee would require all growers to qualify for that allotment by filing with the Committee, on or before April 15 of each year. This form requires growers to provide certain information including: (1) The location of their cranberry producing acreage from which their annual allotment will be produced; (2) the amount of existing or new acreage which will be harvested; and (3) other information including: total acreage to be harvested during the crop year; crop harvested during previous year; and name(s) of handler(s) through which a grower has sold his or her crop. Authority for this collection is specified under § 929.49. This form helps ensure compliance of allotment regulations by growers.

The second form, the ''Allotment Transfer and Disposition Agreement'' form (CMC—T7), is authorized under § 929.151(c). Growers who complete this form may enter into an agreement with a handler or handlers as to the disposition of the grower's annual allotment. The terms of the agreement are required to be contained in this form and must include: the quantity of the allotment available to the handler for transfer; the effective date of the agreement; and the signature of the grower and the handler or their authorized representatives.

These forms are needed to ensure efficient administration of the order and permit all industry members the opportunity to plan transfers and dispositions of their cranberries.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to

fulfill the intent of the AMAA as expressed in the order, and the rules and regulations issued under the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarter's staff, and authorized employees of the Committee. Authorized Committee employees and the industry are the primary users of the information, and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .33 hours per response.

Respondents: Cranberry growers and handlers in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York.

Estimated Number of Respondents: 1,285.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 848 hours.

Comments: Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0103 and the Cranberry Marketing Order No. 929, and be mailed to Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456; Fax (202) 720–5698; or E-mail: moab.docketclerk&usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Ave., S.W., Washington, D.C., room 2525–S.

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: March 24, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–7853 Filed 3–29–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Yellowstone Pipeline Missoula to Thompson Falls Reroute, Lolo and Idaho Panhandle National Forests; Mineral, Missoula, and Sanders Counties, Montana, and Shoshone County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice; revision of notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service is revising previous notices of intent to prepare an environmental impact statement (EIS) regarding Yellowstone Pipe Line Company's proposals for a new petroleum products pipeline between Missoula and Thompson Falls, Montana, and to renew a special-use permit for an existing pipeline. The company has withdrawn its request for a new pipeline and now only seeks renewal of its special-use permit for its existing pipeline. In response, we have changed the schedule, scope, responsible official, and cooperating agencies for this EIS.

DATES: The final EIS should be released by July 2000.

ADDRESSES: Mail comments or inquiries regarding this notice to Terry Egenhoff, Environmental Coordinator, Lolo National Forest, Bldg. 24 Fort Missoula, MT 59804 7297.

FOR FURTHER INFORMATION CONTACT: Terry Egenhoff, (406) 329 3833.

SUPPLEMENTARY INFORMATION: This notice revises the Yellowstone Pipeline EIS notice published in the **Federal Register** on Friday, December 20, 1996 (61 FR 67302–67303), and revised in a notice published in the **Federal Register** on Thursday, May 20, 1999 (64 FR 27504–27505). The changes involve schedule, scope, responsible official, and cooperating agencies.

Background

The Draft EIS for this proposal was released on September 17, 1999. Since then, the Yellowstone Pipeline Company (YPL) has submitted two key changes affecting this EIS: (1) On November 9, 1999 YPL proposed to relocate five more miles of its existing line away from Prospect Creek and the North Fork Coeur d'Alene River, increasing the total proposed for relocation away from streams from the 3.5 miles YPL proposed in the Draft EIS to 9.8 miles; and (2) on February 15, 2000 YPL withdrew its application for a new pipeline route between Missoula and Thompson Falls. In January 2000 YPL requested that the Forest Service stop all work on the pending EIS. In February 2000 YPL requested that the Forest Service resume work to complete the EIS, but only for renewing the existing pipeline permit.

The Lolo National Forest will complete a Final EIS to renew the existing pipeline permit for National Forest System lands between Thompson Falls, Montana and Coeur d'Alene, Idaho. The Final EIS will focus on changes to the existing pipeline between Thompson Falls and Kingston, Idaho. All alternatives studied in detail in the Final EIS will assume that the current rail transportation of petroleum products between Missoula and Thompson Falls will continue.

Several alternatives in the Draft EIS released last September will be eliminated from detailed study in the Final EIS. Those are all the new-construction alternatives between Missoula and Thompson Falls and between Missoula and Kingston.

Schedule changes: The final EIS should be released by July 2000.

Scope changes: The scope of the final EIS will be limited to cover only modifications proposed to 60 miles of YPL's existing pipeline between Thompson Falls and Kingston, Idaho. The primary modification proposed is local relocation away from streams of about 10 miles of pipe in several separate locations. This reduced scope will involve only two counties: Sanders County, Montana and Shoshone County, Idaho. The only Federal lands involved in the new scope are National Forest System lands.

Responsible official changes: The responsible official for the decision resulting from this EIS is: Dale N. Bosworth, Regional Forester, USDA Forest Service, Northern Region, P.O. Box 7669, Missoula, MT 59807. No other Federal land management agencies are involved in the reduced scope. Therefore, the Bureau of Land Management no longer has any potential decision-making role.

Cooperating Agency changes: Formal EIS cooperating agencies (40 CFR 1501.6) include the Corps of Engineers, and the Montana Department of Environmental Quality (as lead agency for all Montana agencies). Other agencies with permitting or consulting roles that are involved in the

preparation of this EIS include: USDOT Office of Pipeline Safety; USEPA, USFWS; FHWA; Montana DRNC; Montana DOT; Montana Fish, Wildlife, and Parks; Montana SHPO; Idaho DEQ; Idaho Dept. of Water Resources; Idaho Fish and Game, Idaho SHPO; Confederated Salish and Kootenai Tribes of the Flathead Nation; Sanders and Shoshone counties; and the Green Mountain Conservation District. The Bureau of Land Management and local agencies in Missoula and Mineral counties are no longer cooperating agencies since the current scope does not include their jurisdictions.

Authority: 40 CFR 1501.7; Forest Service Handbook 1909.15, sec. 21.2.

Dated: March 10, 2000.

Deborah L.R. Austin,

Forest Supervisor.

[FR Doc. 00–7896 Filed 3–29–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on April 12 and 13, 2000, in the Agate Beach Room (Mezzanine Floor) in the Jolly Giant Commons (Building 62) at Humboldt State University in Arcata, California. The meeting will be held from 2 until 5 p.m. on Wednesday, April 12, and from 8 a.m. to 3 p.m. on Thursday, April 13. The University is located at 355 Granite Ave. in Arcata. Agenda items to be covered include: (1) PAC/PIEC effectiveness and issues criteria/process; (2) Regional Ecosystem Office (REO) update; (3) Aquatic/Riparian Effectiveness Monitoring Draft Plan presentation; (4) Megram Fire update; (5) Forest Service proposed road management policy presentation; (6) Recreation Fee Demonstration program presentation; and (7) Open public comment. All California Coast Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Daniel Chisholm, Forest Supervisor, or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934–3316.

Dated: March 21, 2000.

Daniel K. Chisholm,

Forest Supervisor.

[FR Doc. 00–7895 Filed 3–29–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

South Darlington Watershed, Darlington County, SC

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant of Section 102(2)(c) of the National Environmental Policy Act of 1969, the Council of Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice than an environmental impact statement is not being prepared for the South Darlington Watershed, Darlington County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Walter W. Douglas, Acting State Conservationist, Natural Resources Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, (803) 765–5681.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Walter W. Douglas, acting state conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are to reduce flooding and improve flow conditions on 6.7 miles of previously modified and/or new channels to facilitate the removal of stormwater in the South Darlington Watershed area.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Luke Nance.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Walter W. Douglas,

Acting State Conservationist.

[FR Doc. 00–7897 Filed 3–29–00; 8:45 am]

BILLING CODE 3410–16–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

The United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 10 a.m. local time on April 6, 2000, at the Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Washington, DC, Third Floor. Topics to be discussed at the meeting are:

1. CSB Investigations update of the Morton, Tosco, and Sonat I cases
2. Review of CSB recommendations
3. Chemical incident selection criteria update
4. Hiring plan update
5. Review of contracting matters
6. Data base study update
7. Board member update
8. Future activities (Senate hearing, strategic planning, public meeting on the Morton case, future Board meeting dates)

The meeting will be open to the public. The Defense Nuclear Facilities Safety Board is a secure federal building and photo identification may be required for public admission. For more information, please contact the Chemical Safety and Hazard Investigation Board's Office of External Relations, (202) 261–7600, or visit our website at: *www.csb.gov.*

Christopher W. Warner,

General Counsel.

[FR Doc. 00–7942 Filed 3–27–00; 4:33 pm]

BILLING CODE 6350–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and

regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 11:30 a.m. and adjourn at 3:30 p.m. on Thursday, May 11, 2000, at the Wellshire Inn, 3333 South Colorado Boulevard, Denver, Colorado 80222 (303–759–3333). The purpose of the meeting is to discuss follow-up to community forums in northern and southern Colorado and plan forum in western Colorado; roundtable discussion on civil rights issues in Colorado.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson or John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 22, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–7902 Filed 3–29–00; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 2:00 p.m. and adjourn at 8:00 p.m. on April 18, 2000, at the Providence Marriott, One Orms Street, Providence, Rhode Island 02904. The Committee will be briefed on police-community relations issues in Providence by invited civil rights advocates in preparation of its next proposed project, Police-Community Relations in Rhode Island. The Committee will also discuss and plan for the release of the report, *The Impact of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on Legal Immigrants in Rhode Island.*

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Olga Noguera, 401–464–1876, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 20, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–7898 Filed 3–29–00; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Washington State Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Washington State Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 12:00 p.m. on April 19, 2000, at the Westin Seattle, 1900 Fifth Avenue, Seattle, Washington 98101. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 22, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–7901 Filed 3–29–00; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 12:00 p.m. and adjourn at 7:00 p.m. on April 20, 2000, at the Embassy Suites Hotel, Salons A/B, 300 Court Street, Charleston, WV 25301. The Committee will hold a community forum with government and civic leaders on police-community relations and civil rights issues in Kanawha County from 12:00 p.m. to 5:45 p.m., followed by a planning session from 5:45 p.m. to 7:00 p.m.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gregory T. Hinton, 304–367–4244, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 20, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–7899 Filed 3–29–00; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (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: National Institute of Standards and Technology (NIST).

Title: Evaluation of the Common Industry Format for Reporting the Results of Usability Tests.

Agency Form Numbers(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden Hours: 120.

Number of Respondents: 30.

Average Hours Per Response: 4.

Needs and Uses: The Industry Usability Reporting project sponsored by NIST has developed the Common Industry Format (CIF) to facilitate the exchange of usability testing data. The proposed format needs to be tested for utility and validity. The goal of this research project is to determine which types of metrics are best able to measure the effect of using the CIF to report usability data. Computer applications and websites are suitable targets for

evaluation. The results will be evaluated by NIST researchers in to determine the degree of consistency among reports that target a common application or website and develop a set of metrics that can be used to predict utility for a software vendor company and/or software consumer company.

Frequency: Once.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

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 *Lengelmeier@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: March 24, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–7810 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department of Commerce also received a request to revoke one antidumping duty order in part.

EFFECTIVE DATE: March 30, 2000.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(1997), for administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. The Department also received timely requests to revoke in part the antidumping duty order on heavy forged hand tools (bars/wedges, hammers/sledges, and picks/mattocks) from the People's Republic of China.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than February 28, 2001.

	Period to be reviewed
Antidumping Duty Proceedings	
India:	
Certain Preserved Mushrooms, A–533–813	8/5/98–1/31/00
Agro Dutch Foods, Ltd.	
Alpine Biotech, Ltd.	
Mandeep Mushrooms, Ltd.	
Hindustan Lever Limited (formerly Ponds India, Ltd.)	
Saptarishi Agro Industries, Ltd.	
Techtran Agro Industries, Ltd.	
Transchem, Ltd.	
Premier Mushroom Farms	
Flex Foods, Ltd.	
Weikfield Agro Products, Ltd.	
Dinesh Agro Products, Ltd.	
Himalaya International, Ltd.	
Forged Stainless Steel Flanges, A–533–809	2/1/99–1/31/00
Echjay Forgings Limited	
Isibars, Ltd.	
Panchmahal Steel, Ltd.	
Patheja Forgings and Auto Parts, Ltd.	
Pushpaman Exports	
Viraj Forgings, Ltd.	
Stainless Steel Bar, A–533–810	2/1/99–1/31/00
Chandan Steel Ltd.	
Isibars Limited	
Panchmahal Steel Limited	
Viraj Impoexpo Ltd.	
Indonesia: Certain Preserved Mushrooms, A–560–802	8/5/98–1/31/00
PT Dieng Djaya	
PT Surya Jaya Abadi Perkasa	
PT Indo Evergreen Agro Business Corp.	
PT Zeta Agro Corporation	
Japan: Mechanical Transfer, Presses, A–588–810	2/1/99–1/31/00
Komatsu, Ltd.	
People's Republic of China:	

	Period to be reviewed
Axes/adzes, *A–570–803	2/1/99–1/31/00
Shandong Machinery Import & Export Corp.	
Fujian Machinery & Equipment Import & Export Corp.	
Tianjin Machinery Import & Export Corp.	
Liaoning Machinery Import & Export Corp.	
Shandong Huarong General Group Corp.	
Bars/wedges, *A–570–803	2/1/99–1/31/00
Shandong Machinery Import & Export Corp.	
Fujian Machinery & Equipment Import & Export Corp.	
Tianjin Machinery Import & Export Corp.	
Liaoning Machinery Import & Export Corp.	
Shandong Huarong General Group Corp.	
Hammers/sledges, * A–570–803	2/1/99–1/31/00
Shandong Machinery Import & Export Corp.	
Fujian Machinery & Equipment Import & Export Corp.	
Tianjin Machinery Import & Export Corp.	
Liaoning Machinery Import & Export Corp.	
Shandong Huarong General Group Corp.	
Picks/mattocks,* A–570–803	2/1/99–1/31/00
Shandong Machinery Import & Export Corp.	
Fujian Machinery & Equipment Import & Export Corp.	
Tianjin Machinery Import & Export Corp.	
Liaoning Machinery Import & Export Corp.	
Shandong Huarong General Group Corp.	
* If one of the above named companies does not qualify for a separate rate, all other exporters of certain heavy forged hand tools from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of a single PRC entity of which the named exporters are a part.	
Certain Preserved Mushrooms, * A–570–851	8/5/98–1/31/00
China Processed Food Import & Export Co.	
Gerber Food (Yunnan) Co., Ltd.	
Mei Wei Food Industry Co., Ltd. **	5/7/98–1/31/00
Tak Fat Trading Co. **	5/7/98–1/31/00
* If one of the above named companies does not qualify for a separate rate, all other exporters of certain preserved mushrooms from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of a single PRC entity of which the named exporters are a part	
** The review period for Tak Fat and Mei Wei is 5/7/98 through 1/31/00, because there was a critical circumstance finding, and liquidation was suspended 90 days prior to publication of the preliminary LTFV investigation.	
Coumarin, *A–570–830	2/1/99–1/31/00
Jiangsu Native Produce Import & Export Corp.	
* If the above named company does not qualify for a separate rate, all other exporters of coumarin from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporter is a part.	
Manganese Metal, * A–570–840	2/1/99–1/31/00
China National Electronics Import & Export Hunan Co.	
China Metallurgical Import & Export Hunan Corporation and Hunan Non Ferrous Metals Import & Export Assoc. Co.	
Minmetals Precious & Rare Minerals Import & Export Co.	
Shieldalloy Metallurgical Corporation.	
London & Scandinavian Metallurgical Co., Ltd.	
Sumitomo Canada, Ltd.	
* If one of the above named companies does not qualify for a separate rate, all other exporters of managanese metal from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.	
Natural Bristle Paint Brushes, *A–57–0–501	2/1/99–1/31/00
Hunan Provincial Native Produce and Animal By-Products Import and Export Corporation	
Hebei Animal By-Products Import/Export Corp.	
* If one of the above named companies does not qualify for a separate rate, all other exporters of natural bristle paintbrushes from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is

sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: March 24, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II, for Import Administration.

[FR Doc. 00–7927 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–833]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 8, 1999, the Department of Commerce published its preliminary determination of sales at not less than fair value of certain polyester staple fiber from Taiwan. The investigation covers two manufacturers/exporters. The period of investigation is April 1, 1998, through March 31, 1999.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled ''Suspension of Liquidation.''

EFFECTIVE DATE: March 30, 2000.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai or Gregory Campbell, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4087 or 482–2239, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to provisions of the Tariff Act of 1930 (''the Act'') as amended by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations refer to the regulations codified at 19 CFR Part 351 (April 1999).

Case History

Since the preliminary determination of this investigation (see 64 FR 60771 (November 8, 1999) (''Preliminary Determination'')), the following events have occurred:

In December 1999, we received supplemental section D responses from the respondents, Far Eastern Textiles, Ltd. (FETL) and Nan Ya Plastics Corporation (Nan Ya). On January 6, 2000, we received revised U.S. and home market listings from FETL. Subsequently, in February FETL and Nan Ya submitted revised cost of production and constructed value databases.

Verification of the responses to the sales and cost questionnaires took place in January 2000 (see the ''Verification'' section below).

The petitioners [1] and the respondents filed case briefs on February 24, 2000. On February 29, 2000, the petitioners and both respondents filed rebuttal briefs. At the request of interested parties, the Department held a public hearing on March 10, 2000.

Scope of Investigation

For the purposes of this investigation, the product covered is certain polyester staple fiber (''PSF''). Certain polyester staple fiber is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to this investigation may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) classified under the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at subheading 5503.20.00.20 is specifically excluded from this investigation. Also specifically excluded from this investigation are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting).

The merchandise subject to this investigation is classified in the HTSUS at subheadings 5503.20.00.40 and 5503.20.00.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a discussion of scope comments and determinations, see the March 22, 2000, Issues and Decision Memorandum for the Investigation of Certain Polyester Staple Fiber from the Republic of Korea from Susan Kuhbach, Acting Deputy Assistant Secretary, Import Administration, to Richard W. Moreland, Acting Assistant Secretary for Import Administration, Comments 4 and 5, which is on file in the Central Records Unit, Room B–099 of the main Department building (''B–099'') and on the Web at: www.ita.doc.gov/import admin/records/frn.

Period of Investigation

The period of investigation (''POI'') is April 1, 1998 through March 31, 1999. This period corresponds to each respondent's four most recent fiscal quarters prior to the filing of the petition.

Critical Circumstances

No comments were received regarding the Department's preliminary critical circumstances determination, and the Department has not made any changes to that determination.[2] As set forth in our preliminary determination, because imports from FETL and Nan Ya have not been ''massive'' within the meaning of section 733(e)(1) of the Act, the Department continues to find, for the purposes of this final determination, that critical circumstances do not exist for imports of PSF from Taiwan.

Product Comparisons

We compared the products sold by the respondents in the comparison market during the POI to the products sold in the United States during the POI using the methodology described in the *Preliminary Determination,* with the following exception:

At the *Preliminary Determination,* we included product grade as a matching

[1] Arteva Specialties S.a.r.l.,d/b/a KoSa; Wellman, Inc; and Intercontinental Polymers, Inc.

[2] We note that there was a correction to Nan Ya's reported shipment data for one month. See Memorandum to the Case File from Cynthia Thirumalai and Gregory Campbell; Results of sales verification of Nan Ya Plastics Corporation (February 11, 2000) (''Nan Ya's Sales Verification Report''). However, this does not alter the preliminary critical circumstances finding.

criterion for Nan Ya because it specified grade in both the U.S. and comparison markets. Upon further consideration of information provided by FETL, we have determined that it is also appropriate to include grade as a matching criterion for FETL.

Fair Value Comparisons

To determine whether sales of PSF from Taiwan to the United States were made at less than fair value, we compared the export price (''EP'') to comparison market prices or CV, as described in the ''Export Price'' and ''Normal Value'' sections below. Our calculations followed the methodologies described in the *Preliminary Determination,* except as noted below and in the company-specific calculation memoranda dated March 22, 2000, which have been placed in the file in Room B–099.

Export Price

For the price to the United States, we used EP as defined in section 772 of the Act. We calculated EP based on the same methodology described in the *Preliminary Determination,* with the following exceptions:

General Issues

We corrected clerical errors in which we inadvertently double-converted U.S. packing expenses and excluded U.S. credit expenses. See the March 22, 2000, Issues and Decision Memorandum for the Investigation of Certain Polyester Staple Fiber from Taiwan from Susan Kuhbach, Acting Deputy Assistant Secretary, Import Administration, to Richard W. Moreland, Acting Assistant Secretary for Import Administration (''Decision Memorandum''), comment 2, which is on file in B–099 and on the Web at: www.ita.doc.gov/import admin/record/frn/.

FETL

a. We excluded sales of infused antibacterial products from the U.S. sales database. See Decision Memorandum, comment 5.

b. We adjusted the reported amounts for bank charges, ocean freight, domestic inland freight and brokerage expenses by the weighted-average percentage deviation between the reported amounts and the amounts actually incurred on transactions examined during verification. For those transactions examined at verification, we used the actual amounts for the above-referenced expenses. See Decision Memorandum, comment 6.

c. Based on certain errors found at verification, we adjusted U.S. packing costs for all sales. See Memorandum to the Case File from Cynthia Thirumalai and Gregory Campbell; Results of sales verification of FETL (February 11, 2000) (''FETL's Sales Verification Report'').

d. We made revisions to certain product codes correcting for errors identified by FETL in preparation for verification. See Decision Memorandum, comment 3.

Nan Ya

a. We recalculated the date of sale for certain U.S. sales. See Decision Memorandum, comment 17, and Memorandum to Richard Moreland from Case Team; Errors in Nan Ya's Reported Dates of Sale (March 22, 2000).

b. We increased foreign inland freight expense by adding an amount for general and administrative (G&A) expenses. See Decision Memorandum, comment 19.

c. We added an amount for foreign inland freight for two U.S. sales. See Decision Memorandum, comment 20.

d. We added a commission amount to one U.S. sale. See Decision Memorandum, comment 25.

e. We recalculated U.S. credit expense based on a revised short-term interest rate. See Decision Memorandum, comment 26.

f. Based on certain errors found at verification, we added bank fees to one observation that were originally unreported; we corrected the following expenses for certain U.S. sales: Domestic inland freight, ocean freight, bank charges, and brokerage. We excluded three sales from the U.S. database because they either were made outside the POI or were sample sales. See Nan Ya's Sales Verification Report.

Normal Value

We used the same methodology to calculate NV as that described in the *Preliminary Determination,* with the following exceptions:

1. Cost of Production Analysis

General Issues

We used grade to define separate products in the cost test. See Decision Memorandum, comment 2.

FETL

a. We adjusted the G&A ratio applied to the cost of manufacture for purified terephthalic acid (PTA), a major input in the production of PSF, purchased from an affiliate to include certain unreported expenses. We then revised the cost of the PTA purchased from the affiliate to reflect the cost of production of this input in accordance with the major input rule. See Decision Memorandum, comment 10.

b. We revised the cost of manufacture for ethylene glycol (EG), a major input in the production of PSF, purchased from an affiliate to include certain unreported expenses. We then revised the cost of the EG purchased from the affiliate to reflect the cost of production of this input in accordance with the major input rule. See Decision Memorandum, comment 11.

c. We adjusted the total cost of manufacture for each product to account for the difference between the reported value and the book value of FETL's net scrap input costs. See Decision Memorandum, comment 12.

d. We revised the G&A ratio to include certain foreign exchange gains and losses and to exclude packing expenses from the denominator. See Decision Memorandum, comments 13 and 14.

e. We revised the financial expense ratio to include certain exchange gains and losses. In addition, we applied the rate to the total cost of manufacture plus packing. See Decision Memorandum, comment 13 and comment 14.

Nan Ya

a. We have made no adjustment to the reported credit for recovered EG. See Decision Memorandum, comment 28.

b. We revised the G&A ratio to include certain foreign exchange gains and losses. We have excluded other operating costs from the denominator in the G&A ratio calculation and, instead, included these costs in the numerator of that calculation. In addition, we applied the G&A ratio to the total cost of manufacturing plus packing. See Decision Memorandum, comment 29, comment 32, and comment 34.

c. We increased the cost of manufacture for silicon-coated products by applying the highest cost of silicon reported by FETL as adverse facts available. Moreover, we did not allow a difference in merchandise adjustment when a home market silicon coated product was matched to a non-silicon coated product. See Decision Memorandum, comment 31.

d. We adjusted Nan Ya's financial expense ratio to include certain net foreign exchange gains and to exclude long-term interest income. In addition, we applied the financial expense ratio to the total cost of manufacturing plus packing. See Decision Memorandum, comment 33.

e. We increased the total cost of manufacturing to include certain unreported production costs that were incurred by Nan Ya. See Decision Memorandum, comment 35.

f. We adjusted Nan Ya's fiber scrap credit due to over-reporting. See Decision Memorandum, comment 38.

g. We revised the cost of production for PTA to include (i) the quantity and costs from an unreported plant, (ii) certain overhead costs, and (iii) an amount for other expenses. See Decision Memorandum, comment 39.

2. Calculation of NV Based on Comparison Market Prices

We performed price-to-price comparisons where there were sales of comparable merchandise in the comparison market that did not fail the cost test using the same methodology described in the *Preliminary Determination,* with the following exceptions:

FETL

a. We excluded certain sales to an affiliate from the home market database. See Decision Memorandum, comment 7.

b. Based on certain errors found at verification, we revised inland freight and credit days for certain home market sales. In addition, we revised the home market packing expenses for all home market sales. See FETL's Sales Verification Report.

c. We made revisions to certain product codes correcting for errors identified by FETL in preparation for verification. See Decision Memorandum, comment 3.

Nan Ya

We adjusted home market credit expense and inventory carrying costs due to a change in the short-term interest rate. (See Decision Memorandum, comment 27).

3. Calculation of NV Based on Constructed Value

We calculated CV in the same way as in the *Preliminary Determination,* with the following exceptions:

FETL

a. We made the changes identified in the ''Cost of production analysis'' section above.

b. We revised FETL's U.S. indirect selling expenses to reflect changes made during verification. See FETL's Sales Verification Report.

Nan Ya

We made the changes identified in the ''Cost of Production Analysis'' section above.

Level of Trade

We have made the same level of trade determinations described in the *Preliminary Determination.*

Currency Conversions

We made currency conversions in accordance with section 773A of the Act in the same manner as in the *Preliminary Determination.*

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the March 22, 2000, Decision Memorandum, which is hereby adopted. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in Room B–099. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at: www.ita.doc.gov/import—admin/records/frn/. The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 735(c)(1)(A) of the Act, we are directing the U.S. Customs Service (''Customs'') to suspend liquidation of all imports of the subject merchandise from Taiwan, except for subject merchandise produced and exported by Nan Ya (which has a *de minimis* weighted-average margin), that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
FETL	9.51	No.
Nan Ya	0.00	No.
All others	9.51	No.

The rate for all other producers and exporters applies to all entries of the subject merchandise except for entries from exporters that are identified individually above. In accordance with section 735(c)(5)(A) of the Act, we have excluded the *de minimis* margin for Nan Ya from the calculation of the ''all others'' rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 22, 2000.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

APPENDIX

Appendix

List of Comments and Issues in the Decision Memorandum

[FR Doc. 00–7925 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 8, 1999, the Department of Commerce published its preliminary determination of sales at less than fair value of certain polyester staple fiber from the Republic of Korea. The investigation covers three manufacturers/exporters. The period of investigation is April 1, 1998, through March 31, 1999.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled ''Continuation of Suspension of Liquidation.''

EFFECTIVE DATE: March 30, 2000.

FOR FURTHER INFORMATION CONTACT: Craig Matney, Suresh Maniam, or Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–1778, 482–0176,or 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated,all citations to the Department of Commerce's (''the Department's'') regulations refer to the regulations codified at 19 CFR Part 351 (April 1998).

Case History

Since the preliminary determination of this investigation (*see* 64 FR 60776 (November 8, 1999) (''*Preliminary Determination*'')), the following events have occurred:

On November 2 and 5, 1999, we received responses, including a revised U.S. sales listing, to our October 15, 1999, supplemental questionnaire from Samyang Corporation (''Samyang''). We verified Samyang's questionnaire responses in November 1999.

Geum Poong Corporation (''Geum Poong'') submitted a section B response covering sales to third countries on January 5, 2000. On January 11, 2000, we rejected Geum Poong's section B response on the grounds that it contained untimely filed new factual information. Also on January 11, 2000, the Department solicited additional information from respondent Geum Poong and petitioners E.I. DuPont de Nemours, Inc.; Arteva Specialities S.a.r.l.; d/b/a KoSa; Wellman, Inc.; and Intercontinental Polymers, Inc. (hereinafter collectively referred to as ''the petitioners'') regarding the appropriate methodology for calculating Geum Poong's constructed value profit ratio. The petitioners objected to our soliciting additional information regarding this subject on January 31, 2000. Geum Poong submitted information concerning the constructed value profit ratio on February 8, 2000.

Verification of the responses submitted by Geum Poong and Sam Young Synthetics Co. (''Sam Young'') took place in January 2000 (*see* the ''Verification'' section below). (We refer hereinafter to Samyang, Sam Young, and Geum Poong collectively as ''the respondents''.)

On February 18, 2000, we received comments from petitioners objecting to the request of Gates Formed-Fiber Products, Inc., (''Gates'') a U.S. importer, to treat black automotive substrate (''BAS'') as a separate class or kind of merchandise. The petitioners, the respondents and Gates filed case briefs on February 22, 2000. On February 28, 2000, petitioners and respondents filed rebuttal briefs. At the request of interested parties, the Department held a public hearing on March 2, 2000.

Scope of Investigation

For the purposes of this investigation, the product covered is certain polyester staple fiber (''PSF''). Certain polyester staple fiber is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to this investigation may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) classified under the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at subheading 5503.20.00.20 is specifically excluded from this investigation. Also specifically excluded from this investigation are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting).

The merchandise subject to this investigation is classified in the HTSUS at subheadings 5503.20.00.40 and 5503.20.00.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a discussion of scope comments and determinations, *see* the March 22, 2000, memorandum from Susan H. Kuhbach, Acting Deputy Assistant Secretary, Import Administration, to Richard W. Moreland, Acting Assistant Secretary for Import Administration, (''Decision Memorandum''), Comments

4 and 5, which is on file in the Central Records Unit of the main Department building (''B–099'') and on the Web at *www.ita.doc.gov/import admin/ records/frn*.

Period of Investigation

The period of investigation (''POI'') is April 1, 1998 through March 31, 1999.

Critical Circumstances

In the *Preliminary Determination*, we found that critical circumstances within the meaning of section 773(e)(1) of the Act existed for each of the respondents because (1) there was a history of dumping and material injury, and (2) each of the respondents had more than a 15 percent increase in imports during the three-month period following the filing of the petition (as compared to the three-month period prior to the filing of the petition). We also preliminarily determined that critical circumstances did not exist for ''all other'' exporters.

At verification, we examined each company's monthly shipment data for November 1998 through August 1999. Based on a comparison of the five-month periods before and after the filing of the petition, we determine that imports have not been massive over a relatively short period for any respondent or for companies subject to the all other rate. Accordingly, we have reversed our preliminary finding of critical circumstances with regard to Samyang, Sam Young, and Geum Poong, and affirmed our negative preliminary finding for all other exporters. (*See* Decision Memorandum, Comment 1.)

Product Comparisons

We compared the products sold by the respondents in the comparison market during the POI to the products sold in the United States during the POI using the methodology described in the *Preliminary Determination*, with the following exception:

For the final determination we have determined that it is appropriate to include grade as a matching criterion for Sam Young.

Date of Sale

For the final determination, we have concluded that invoice date is the appropriate date of sale for Sam Young and Geum Poong. (*See* Decision Memorandum, Comment 2.)

Fair Value Comparisons

To determine whether sales of PSF from Korea to the United States were made at less than fair value, we compared the export price (''EP'') to comparison market prices or CV, as described in the Export Price and Normal Value sections below. Our calculations followed the methodologies described in the *Preliminary Determination*, except as noted below and in the company-specific calculation memoranda dated March 22, 2000, which have been placed in the file in B–099.

1. Export Price

For the price to the United States, we used EP as defined in section 772 of the Act. We calculated EP based on the same methodology described in the *Preliminary Determination*.

2. Normal Value

We used the same methodology to calculate NV as that described in the *Preliminary Determination*, with the following exceptions:

(a) Cost of Production Analysis

As noted in the *Preliminary Determination*, the Department has investigated whether Samyang's and Sam Young's sales of PSF in their respective comparison markets were made at prices below the cost of production (''COP'') during the POI. In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP for Samyang and Sam Young, by control number, based on the sum of each company's cost of materials, fabrication, general expenses, and packing costs. We have made the following changes to the COP calculations since the preliminary determination:

We have found that Sam Young's fiscal year 1998 COP provides a more accurate measure of its production costs than its POI-based COP. Therefore, we have calculated Sam Young's COP based on its fiscal year data. (*See* Decision Memorandum, Comment 13.)

(b) Calculation of NV Based on Comparison Market Prices

We performed price-to-price comparisons where there were sales of comparable merchandise in the comparison market that did not fail the cost test, using the same methodology described in the *Preliminary Determination*.

(c) Calculation of NV Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison market sales, NV may be based on the constructed value (''CV''). Accordingly, for Samyang and Sam Young, where we could not determine the NV based on comparison market sales, either because (1) there were no sales of a comparable product or (2) all sales of comparison products failed the COP test, we based NV on the CV. In addition, for Geum Poong, which did not have a viable comparison market, we based NV on CV.

We calculated CV as in the *Preliminary Determination*, with the following exceptions:

For Geum Poong, we have changed our methodology for calculating CV profit. (*See* Decision Memorandum, Comment 15.)

Level of Trade

We have made the same level of trade determinations described in the *Preliminary Determination*.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act in the same manner as in the *Preliminary Determination*.

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the March 22, 2000, Decision Memorandum, which is hereby adopted. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in B–099. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at: http://www.ita.doc.gov/import—admin/ records/frn/. The paper copy and electronic version of the Decision Memorandum are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(A) of the Act, we are directing the U.S. Customs Service (''Customs'') to continue to suspend liquidation of all imports of the subject merchandise from Korea, except for subject merchandise produced and exported by Samyang (which has a *de minimis* weighted-average margin), that are entered, or withdrawn from warehouse, for

consumption on or after November 8, 1999, the date of publication of the Preliminary Determination in the **Federal Register**. We will instruct Customs to refund all bonds and cash deposits posted on subject merchandise exported by Samyang. In addition, consistent with our reversal of our preliminary determination of critical circumstances, we will instruct Customs to refund all bonds and cash deposits posted on subject merchandise exported by Sam Young and Geum Poong that was entered, or withdrawn from warehouse, for consumption prior to November 8, 1999.

Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
Samyang Corporation	[1] 0.14	No.
Sam Young Synthetics Co	7.96	No.
Geum Poong Corporation	14.10	No.
All Others	11.38	No.

[1] (*de minimis).*

The rate for all other producers and exporters applies to all entries of the subject merchandise except for entries from exporters that are identified individually above. In accordance with section 735(c)(5)(A) of the Act, we have excluded the *de minimis* margin for Samyang from the calculation of the ''all others'' rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 22, 2000.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

I. General Issues

Comment 1: Critical circumstances
Comment 2: Date of sale methodology
Comment 3: Quarterly averaging periods
Comment 4: Regenerated PSF
Comment 5: Black automotive substrate

II. Issues Specific to Samyang Corporation

Comment 6: Major input value
Comment 7: Home market price changes
Comment 8: G&A and interest expense ratios
Comment 9: ''P'' channel sales
Comment 10: Coding of home market products
Comment 11: Duty drawback

III. Issues Specific to Sam Young Synthetics Co., Ltd.

Comment 12: Duty drawback
Comment 13: Cost of manufacture
Comment 14: Adjustment to production quantities

IV. Issues Specific to Geum Poong Corporation

Comment 15: Constructed value profit ratio
Comment 16: Duty drawback
Comment 17: G&A calculation

[FR Doc. 00–7926 Filed 3–29–00; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032400A]

Submission for OMB Review; Comment Request

The Department of Commerce (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: National Oceanic and Atmospheric Administration (NOAA).

Title: National Marine Sanctuaries - Socioeconomic Impacts of Marine Reserves.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden Hours: 1,330.

Number of Respondents: 665.

Average Hours Per Response: 2 hours.

Needs and Uses: The National Marine Sanctuaries Act Authorizes the designation and management of National Marine Sanctuaries. NOAA has developed a process for establishing ''no take'' areas. The process includes establishing a Sanctuary Advisory Council (SAC) made up of representatives of all the stakeholders of a sanctuary; a working group; and scientists to provide analysis in developing alternatives for a ''no-take area''. However, no-take areas have been called Ecological Reserves, Marine Reserves or Sanctuary Preservation Areas.

Also, to implement the no-take areas, a set of regulations prohibiting certain activities must be created. This proposed data collection is designed to work with each user group to develop the necessary information.

Under this requirement, a person from the agency visits the establishment and uses the survey to guide the data collection effort. The following three (3) surveys will be used in evaluating alternative boundaries for Marine Reserves in the Channel Islands National Marine Sanctuary: (1) Commercial Fishing Operations; (2) Wholesale Processors (of commercial fish); and (3) Recreational for Hire Businesses. The objective is to minimize the socioeconomic impacts of Marine Reserves.

Finally, the Marine Reserves no-take areas are used to protect sanctuary resources and resolve user conflicts. As a result, NOAA would not be able to meet the requirements under the National Environmental Policy Act (NEPA) for evaluating the socioeconomic impacts of no-take regulations if this data collection were not conducted.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

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 David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: March 21, 2000.

Linda Engelmeier,

Department Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–7920 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–08–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032400B]

Submission for OMB Review; Comment Request

The Department of Commerce (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: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Groundfish Tagging Program.

Agency Form Number(s): None.

OMB Approval Number: 0648–0276.

Type of Request: Extension of a currently approved collection.

Burden Hours: 346.

Number of Respondents: 1,200.

Average Hours Per Response: 5 minutes.

Needs and Uses: The National Marine Fisheries Service (NMFS) Groundfish Tagging Program provides scientists with information necessary for effective conservation, management, and scientific understanding of the groundfish fishery resources off Alaska. The data collected from the groundfish tagging program provides essential biological and movement used in groundfish stock assessment.

Scientist use tagging information to analyze the distribution of fish, growth, fishing and natural mortality, and direction of fish movement. Also, the results are used in the population assessment models and to develop allocation systems. Tagging groundfish for tracking and recovery is an important tool for managing fishery resources.

Finally, two forms are used with the tagging program: 1) sablefish form, and 2) groundfish form. Fisherman and processors recovering tagged fish are requested to supply—date of catch, location and tag number. The sablefish information is more valuable as part of a well advertised program. The information gathered provides data on the rates of migration between the west coast, British Columbia, and Alaska.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

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 David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: March 21, 2000.

Linda Engelmeier,

Department Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–7921 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Science Foundation

Docket No. [000127019–0019–01; I.D. No. 011000D]

RIN: [0648–ZA77]

Announcement of Funding Opportunity for research project grants and cooperative agreements

AGENCIES: Center for Sponsored Coastal Ocean Research/Coastal Ocean Program (CSCOR/COP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce; and the National Science Foundation (NSF), Directorate for Geosciences, Division of Ocean Sciences (OCE).

ACTION: Solicitation of research proposals for the Global Ocean Ecosystems Dynamics Project.

SUMMARY: The purpose of this Document is to advise the public that NOAA/NOS/CSCOR/COP and NSF are soliciting 5-year proposals for the Global Ocean Ecosystems Dynamics (GLOBEC) Programs as part of a Federal research partnership.

This notice solicits applications for research projects from eligible non-Federal and Federal applicants. In an effort to maximize the use of limited resources, applications from non-Federal, non-NOAA Federal and NOAA applicants will be competed against each other. Research proposals selected for funding from non-Federal researchers will be funded through a project grant. Research proposals selected for funding from non-NOAA Federal applicants will be funded through an interagency transfer provided legal authority exists for the federal applicant to receive funds from another agency. Research proposals selected for funding from NOAA will be funded through NOAA.

DATES: The deadline for receipt of proposals in the COP office is 3:00 pm local time May 1, 2000. It is anticipated that final recommendations for awards will be made early in FY 2001.

ADDRESSES: Submit the original and 19 copies of your proposal to Coastal Ocean Program Office (GLOBEC 2000), SSMC#3, 9th Floor, Station 9700, 1315 East-West Highway, Silver Spring, MD 20910. NOAA Standard Form Applications with instructions are accessible on the following COP Internet Site: http://www.cop.noaa.gov under the COP Grants Support Section, Part D, Application Forms for Initial Proposal Submission.

FOR FURTHER INFORMATION CONTACT: Technical Information: Elizabeth Turner, GLOBEC 2000 Program Manager, COP Office, 301–713–3338/ext 135, Internet: Elizabeth.Turner@noaa.gov; or Dr. Phillip Taylor, NSF Division of Ocean Sciences, 703–306–1584, Internet: prtaylor@nsf.gov; Business Management Information: Leslie McDonald, COP Grants Administrator, 301–713–3338/ext 137, Internet: Leslie.McDonald@noaa.gov.

Copies of U.S. GLOBEC Reports referenced later in this Document under **SUPPLEMENTARY INFORMATION** are available from the following address or homepage: U.S. GLOBEC Coordinating Office University of Maryland Center for Environmental Science Chesapeake Biological Laboratory, P.O. BOX 38,

Solomons, MD 20688; Phone: 410–326–7289; Fax: 410–326–7318; Internet:fogarty@cbl.umces.edu and http://www.usglobec.org.

Descriptions and points of contact of presently-funded GLOBEC Northeast Pacific (NEP) projects referenced later in this Document under **SUPPLEMENTARY INFORMATION** are available from the following address or homepage: U.S. GLOBEC Northeast Pacific Coordinating Office, Department of Integrative Biology, University of California, Berkeley, CA 94720–3140, Phone: 510–642–7452; Fax: 510–643–1142, Internet: halbatch@socrates.berkeley.edu, http://www.usglobec.berkeley.edu/nep/index.html.

A model format of NSF form 1239, discussed later in this document under Part I, Section (7) Current and Pending Support, is available at http://www.nsf.gov/cgi-bin/getpub?00form1239.

University-National Oceanographic Laboratory System (UNOLS) vessel requirements are identified later in this document under Part I, Section (5) Budget, and are to be separately scheduled via UNOLS at the following web site location: http://www.gso.uri.edu/unols/ship/shiptime.html.

SUPPLEMENTARY INFORMATION:

Background

Program Description

For complete Program Description and Other Requirements criteria for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual notice in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

Global Ocean Ecosystems Dynamics (U.S. GLOBEC) is a component of the U.S. Global Change Research Program, with the goals of understanding and ultimately predicting how populations of marine animal species (holozooplankton, fish and benthic invertebrates) respond to natural and anthropogenic changes in global climate. U.S. GLOBEC is also the U.S. component of the GLOBEC International program, a core project of the International Geosphere-Biosphere Program (IGBP), with co-sponsorship from the Scientific Committee on Oceanic Research and the Intergovernmental Oceanographic Commission.

This document is published under the auspices of the Global Ocean Ecosystems Dynamics (U.S. GLOBEC) program within NSF/OCE and the regional ecosystem studies and U.S. GLOBEC initiatives of NOAA's COP. U.S. GLOBEC has identified the Northeast Pacific (NEP), particularly the California Current System (CCS) and Coastal Gulf of Alaska (CGOA), as priorities for ecosystem studies in the next decade. Previous notices have solicited proposals to support modeling, retrospective studies, and field observations, including Long-Term Observation Programs (LTOPs), three-dimensional mesoscale surveys and process studies in the CCS.

This document solicits proposals to support three field activities in the Coastal Gulf of Alaska ecosystem: (1) process-oriented field studies; (2) mesoscale surveys; and (3) long-term observation projects; and two activities of broader scope: (4) modeling studies in the CCS and CGOA; and (5) retrospective studies in the CCS and CGOA.

To provide for continued long-term coordinated strategic planning of the NEP program, proposals are being solicited now for all future U.S. GLOBEC field research activities in the CGOA. This includes process-study research in the two field phases of the CGOA program. The major field process years will occur in 2001 and 2003, contingent on the availability of funding. In addition to soliciting research proposals for field work in the CGOA of the Northeast Pacific Ocean, this document requests proposals for modeling and retrospective analysis that augment or complement existing NEP efforts in these components. Modeling and retrospective proposals submitted in response to this document need not be CGOA-specific, but those that are peripheral to the core activities in the NEP will have low priority for funding. Research proposals that do not address these five specific activities will not be considered for funding.

U.S. GLOBEC's NEP program emphasizes studies on the biology and ecology of juvenile salmon, the dominant euphausiids, several large copepods, and forage fish (salmon prey) in coastal regions of the North Pacific; and how these populations are controlled by climatically variable physical forcing, especially at large-to meso-scales. The U.S. GLOBEC Northeast Pacific Implementation Plan (U.S. GLOBEC Report No. 17) was developed following several community-wide meetings at which U.S. scientists from the oceanographic and fisheries communities identified key scientific issues and research for the Northeast Pacific region.

Background information pertinent to the Northeast Pacific is found in U.S. GLOBEC Report Nos. 7, 11, 15 and 16, with Reports 15 and 16 providing information relevant to the CGOA. This notice provides the most up-to-date guidance about the NEP CGOA program. Investigators who plan to submit proposals in response to this Announcement should refer primarily to this GLOBEC notification, and secondarily to the Northeast Pacific Implementation Plan (U.S. GLOBEC Report No. 17). Note especially that the time line for NEP studies has changed from that shown in Report 17; there are now only 2 years of process studies planned for the California Current System (CCS)—not the three shown. Copies of these Documents are available under the address/homepage addresses listed earlier in this notice under **FURTHER INFORMATION**. The U.S. GLOBEC Northeast Pacific Implementation Plan (U.S. GLOBEC Report No. 17) presents a rationale for a coordinated study in the Northeast Pacific in two regions: the coastal Gulf of Alaska (CGOA) and the CCS ranging from Washington to Central California. Critical to that rationale is the observation that the salmon production domains in the CGOA and CCS covary, but are out of phase. U.S. GLOBEC proposes to investigate this coupling, and the biophysical mechanisms through which zooplankton and salmon populations respond to physical forcing and biological interactions in the coastal regions of the two gyres.

The Northeast Pacific CGOA study focuses on the continental shelf, but, where appropriate, also encompasses the processes and phenomena of the larger oceanic boundary region that affect the CGOA. Process studies in 2001 and 2003 will focus on the effects of near shore transports and cross-shelf exchange on the population dynamics of the target organisms in the northern Gulf of Alaska. Emphasis is on understanding the conditions that favor rapid growth and survival of juvenile pink salmon, so it will involve examining both bottom-up (productivity) and top-down (predation) processes.

Ultimately, the U.S. GLOBEC effort in the Northeast Pacific has an overall goal of improving predictability and management of living marine resources of the region through improved understanding of ecosystem interactions and the coupling between the physical environment and the living resources.

Program Goals

The over-arching goals of the Northeast Pacific studies are:

(1) To determine how biological processes and characteristics of zooplanktonic populations are affected

by mesoscale features and dynamics in the Northeast Pacific; and

(2) To quantify the biological and physical processes that determine growth and survival of juvenile salmon in the coastal zone.

Within the overall goals outlined here, the Northeast Pacific/CGOA process-oriented field program has four general goals:

(1) To determine how changing climate, especially its impacts on local wind forcing, freshwater runoff, mixed layer depth, and basin-scale currents, affect spatial and temporal variability in mesoscale circulation and vertical stratification;

(2) To quantify how physical features in the CGOA impact zooplankton biomass, production, distribution, and the retention and exchange of zooplankton between coastal regions and oceanic waters, with particular emphasis on the targeted euphausiid and copepoda species. In turn, how do the zooplankton distributions influence the distributions of higher trophic level organisms (fish, seabirds, marine mammals);

(3) To quantify the importance of (a) local primary and secondary production, and (b) imported secondary production (e.g., cross-shelf import of large-bodied zooplankton [copepods and euphausiids] from deeper offshore waters in spring) for providing rapid growth and/or high survival of juvenile pink salmon in coastal waters of the Gulf of Alaska; and

(4) To determine the extent to which high and variable predation mortality on juvenile pink salmon in the coastal region of the Gulf of Alaska is responsible for large interannual variation in adult pink salmon populations, and the factors responsible for the variable predation intensity.

The geographic domain of the study is centered on the coastal shelf region southwest of Prince William Sound (off Seward, AK), but generally extends from approximately Shelikof Strait (in the west) to Yakutat Bay (in the east; approx. 143°–155°W). This is a major corridor for juvenile salmon migrations in the CGOA, both for pink salmon exiting from Prince William Sound, and for pink, sockeye, and chum salmon from SE Alaska stocks. Three-dimensional mesoscale surveys (via ship, drifter, mooring and satellite observations) and process studies will be conducted over a 7-month period (ca. April - October) in each of the two intensive, process-study years.

Mesoscale surveys of physical conditions and biological distributions in spring and fall will augment the less spatially-extensive LTOP observations, which will occur during all years (2001–2005) of the study. The surveys will provide the short-term spatial context for the focused process studies, and will provide three-dimensional data to supplement the predominantly two-dimensional LTOP data.

Key target species for U.S. GLOBEC process-oriented field studies in the CGOA are *euphausiids*, *calanoid copepods Neocalanus*, *Calanus*), and juvenile pink salmon. The most abundant *euphausiids* on the shelf in the Gulf of Alaska are *Euphausia pacifica*, *Thysanoessa spinifera*, *T. inermis*, and *T. raschii*. Of these, *T. inermis* is the most abundant in spring and summer, while *T. raschii* is distributed more inshore. *Euphausia pacifica* and *T. spinifera* are also common species in the CCS studies of the NEP, and are important subjects of study for developing comparisons between the two regions.

U.S. GLOBEC research in the NEP began in 1997, with integrated, multi-investigator, inter-disciplinary programs of modeling, retrospective analysis, and pilot-scale monitoring (henceforth referred to as the Long-Term Observation Program or LTOP). California Current field programs were funded in response to an AO released in early 1999. Proposers are advised to refer to descriptions of and preliminary results from these programs, and to consider already funded efforts underway in the CCS and CGOA prior to preparation of new proposals. Synthesis and new understanding of the large-scale and meso-scale forcing and responses in the NEP ecosystem will require integration of observations, models, and field experiments from the CCS and CGOA. Potential investigators should design observational programs, experiments and process-studies that will enable such comparisons between these two ecosystems of the NEP.

Specific information about the Northeast Pacific Study, including descriptions and points of contact of presently funded GLOBEC NEP projects, can be obtained from the address/homepage addresses listed earlier in this Document under **FURTHER INFORMATION.**

Structure of the CGOA Research Program

The NE Pacific Study will comprise five major components: (1) long-term observation programs (LTOP),

(2) mesoscale surveys,

(3) process-oriented field studies,

(4) modeling investigations, and

(5) retrospective/comparative analysis.

The large range of spatial and temporal scales of important forcing processes and responses in the NEP requires a nested sampling approach (and some associated tradeoffs), which is reflected in the descriptions of the LTOP, mesoscale surveys, and process-studies below.

Long-Term Observation Programs

Long-Term Observation Programs have been established by U.S. GLOBEC at two NEP sites: one along the Gulf of Alaska (GAK) transect extending offshore from Seward, AK, and the second encompassing several offshore extending transects off Newport and Coos Bay, OR, and off Northern California. In both regions, the programs are sampling ocean physics, nutrients, and biology at approximately bimonthly intervals (LTOP projects are described on the NEP web site).

Although GLOBEC focuses on zooplankton and juvenile salmon in the NEP, we encourage sampling of phytoplankton, nutrients, microzooplankton, and higher trophic levels. The LTOPs provide the fundamental seasonal description of the physical, chemical and biological environment that is required to complement the mesoscale surveys and process studies. Moreover, U.S. GLOBEC LTOPs will Document the low-frequency, large amplitude signals (e.g., regime shifts, El Ninos) that occur at the largest spatial scales in the Pacific.

LTOP projects may make use of multi-disciplinary moorings, long-term drifter deployments, and analysis of satellite data, in addition to seasonal ship observations. There is a continuing need for long-term mooring- and drifter-based observations and interpretation of regional satellite data, which provide the broadest temporal (moorings, drifters) and spatial (satellites) resolution and coverage.

This Document solicits proposals to continue, and perhaps augment, core LTOP observations along the GAK transect near Seward, AK. LTOP activities in other regions of the CGOA (e.g., Shelikof Strait or SE Alaska) might be considered if the observations are deemed critical to understanding the connection between large-scale atmospheric and ocean forcing and ecosystem responses, particularly of the target organisms. However, projects proposing LTOP activities beyond the core geographic region described earlier will have lower priority than activities within the core region.

Projects proposing to conduct LTOP observations should consider existing LTOP programs in place, both in the CGOA and elsewhere in the NEP. Present and prospective U.S. GLOBEC LTOP programs should consider (1) how

they meet future U.S. GLOBEC needs, particularly for process studies, and (2) how they mesh into the larger framework of a coast wide network of programs undertaking repeated observations of ocean physics and biology at all trophic levels. Moreover, potential LTOP projects should contact the principals of existing LTOP projects to ensure that methodologies are comparable (see the NEP web site) among all of the LTOP sites.

Three-Dimensional Mesoscale Surveys

Ship surveys are needed to determine the distribution and abundance of the target species in relation to their physical and biological environment during the period of euphausiid recruitment and juvenile salmon entry into the ocean, and during the period of possible onshore transport of large, oceanic copepods (March to September). Surveys would be desirable in April (period when large calanoid copepods are advected onshore), July, and September-October. The latter two periods correspond with the anticipated times of juvenile salmon trawling (see following paragraphs). The ship-based mesoscale sampling should encompass the near shore Alaska Coastal Current region (driven primarily by freshwater input distributed along the coast, along with down welling-favorable winds), and extend offshore beyond the shelf-edge break, to investigate potential exchanges of shelf and deep ocean waters. High priority will be given to proposals that would survey a region extending from approximately Kodiak Island to Yakutat Bay, i.e., about 500–600 km alongshore, and extending from near shore to 200–250 km offshore. The fundamental importance of the mesoscale studies is to provide the basis for comparisons of population processes and their coupling to the physical structure and variability of the environment.

The mesoscale studies will provide a regional context for the in situ, process studies described here and provide data for evaluating the environment for juvenile salmon. Mesoscale surveys will provide the spatially-resolved three-dimensional data required to evaluate how well local LTOP data generalize to a broader region. Data from the mesoscale surveys will be used to bridge the gap between the low spatial (2–dimensional), but annual and long-term coverage of the LTOPs, and the intensive, but spatially-limited process-studies.

Surveys will also provide data required to evaluate coupled circulation-ecosystem models being developed for the NEP study sites, and for assimilation of data into these models. It is anticipated that the mesoscale surveys will be conducted at a given site only in years of process-studies and that three mesoscale surveys per year focused on critical periods in the life history of the target species (April, July, Sept.-Oct.) will be done.

Salmon Sampling

Trawling and gillnet sampling of juvenile salmon and multi- frequency hydro acoustic assessment of both salmon and zooplankton has been conducted in the summers of the past 3 years as part of a pilot LTOP program on the GAK line.

Trawling of juvenile salmon in the broader region described here is a critical addition to the CGOA component of the NEP program, since it will help to identify potentially critical regions supporting the rapid growth and/or high survival of salmon in the coastal corridor. Trawl spatial surveys will document habitat utilization by juvenile salmon, and their competitors and predators, in relation to physical dynamics and structures, and provide samples for dietary and genetic studies.

Proposals are solicited that will provide spatial descriptions of juvenile pink salmon, and their forage prey in this region. Sampling is desired at the time of ocean entry of pink salmon from Prince William Sound (July) and at the end of the first summer in the ocean (approx. September-October).

These cruises would also collect salmon from other source regions that are transported through the coastal corridor, and will be useful for examining (1) trophic relationships in the near shore ecosystem, and (2) genetic structure/stock identity of the salmonids. Highest priority will be given to salmon sampling in the field during process-study years, but contingent on the availability of funding and perceived program needs, salmon sampling in ''off'' years might be supported as well. Investigators proposing to sample juvenile salmon in the CGOA should coordinate sampling plans/gear with existing CCS and CGOA salmon sampling efforts in the NEP and with other juvenile salmon trawling efforts on the west coast (e.g., National Marine Fisheries Service research).

Process Studies

The physical and biological processes that control the population dynamics of the target species will be examined in process studies. Detailed investigations of mechanisms linking biological response to physical forcing at the meso- and other scales is the goal of process-study cruises. Process studies will occur during the spring-setup and productive summer seasons (March-October), preferably in conjunction with other program activities (mesoscale surveys, fish trawling).

The continental shelf outside Prince William Sound is identified for detailed process studies because it is a region that has a large influx of hatchery released juvenile pink salmon. The thermal marks carried by these salmon provide advantages in tracking mortality of the juveniles in their first summer near shore. It is strongly suspected, but not certain, that most of the ''surviving'' juvenile salmon entering the coastal ocean are swept westward in the general transport of the Alaska Coastal Current. A large fraction of the juvenile salmon do not survive, but the exact agent of their mortality is not known. A goal of the CGOA process studies will be to track the progression of an entering cohort in the western flow, and identify the agents of mortality (starvation, vagrancy, predation by birds, mammals, other fish, etc.).

The exchange of physical and biological properties across the frontal zones associated with the coastal buoyancy flows, and down welling-favorable winds, can influence the supply of nutrients for primary production, the retention (loss) of the target species and their prey in (from) the coastal zone, and interactions between the target species, their prey, and their predators; this will be studied in process-oriented cruises. Fine-scale description of the physical and biological fields comprising fronts may reveal aggregations of phytoplankton and zooplankton associated with specific physical (e.g., density, temperature) structures. Determination of the population structure of target organisms within the study area is further identified as an area of critical research.

Because of the movement and migratory patterns of juvenile salmon, process studies of pink salmon may require work outside the domain highlighted earlier, perhaps to regions extending further to the west (beyond Kodiak Island) to ensure success. Proposals that focus in geographical locations outside the principal study area should closely consider the availability of complementary sampling programs to provide a broader geographical context for their studies. Proposers should recognize that process studies that address relevant issues within the specific region described will have higher funding priority than projects aimed at peripheral goals or targeted at other geographic regions. Proposers seeking additional

information concerning related NEP programs should contact the U.S. GLOBEC Northeast Pacific Coordinating Office at the address given earlier in this Document under **FURTHER INFORMATION.**

Questions to be addressed by process studies in the CGOA include:

(1) What is the time-dependent three-dimensional circulation associated with the buoyancy-driven coastal current, and the fronts associated with this feature in the CGOA?

(2) How do mesoscale transport processes affect the recruitment, vital rates, and other measures of population dynamics of the target species?

(3) What are the exchange rates, due to frontal processes, of water properties and the target species between the coastal corridor and offshore waters? What are the consequences for individual and population growth rates of these exchanges?

(4) How do biological and physical processes interact to control cross-shelf exchange of target organisms?

(5) Does strong seasonal variation in freshwater input and buoyancy-driven near shore flow cause frontal movement, and what are the effects on the exchange of water and organisms across the fronts?

(6) How does distribution, growth and survival of juvenile pink salmon (assessed using otolith marked fish) depend on the timing and intensity of cross-shelf import of large zooplankton (e.g., copepods and euphausiids), either directly (as salmon prey) or indirectly (as alternative prey for juvenile salmon predators)?

(7) How are salmon distributed in relation to mesoscale physical features, and what are the mechanisms responsible for the observed patterns?

(8) What are the dominant predators, how are they distributed, and what are their feeding rates and impacts on juvenile salmon during the period they transit the coastal zone of the CGOA?

Modeling

The research conducted during the CGOA study will result in a significant archive of data concerning abundance and distribution of the target species, source regions, vital rates, and trophic interrelationships. Inverse modeling will provide specific estimates of population vital rates. These archives and tools will provide significant opportunities for hypothesis testing concerning biophysical processes.

The program is expected to progress toward a data-assimilative capability, wherein LTOP and mesoscale survey data are incorporated into coupled biophysical models. In addition, process-oriented model studies are encouraged. The field research supported by U.S. GLOBEC on euphausiids, copepods, and salmon in the CGOA, together with already funded research in the CCS, provide opportunities for larger (basin) scale modeling of coupled biological/physical dynamics.

This announcement is soliciting additional modeling proposals that complement existing projects (described on the GLOBEC NEP web site), that provide additional breadth to the program by examining responses at additional trophic levels, and that explore processes in other targeted regions of the northeast Pacific. Proposals responding to this request for additional modeling activities in the NEP may deal with either the CGOA, the CCS, or both. Priority will be given to projects that complement or significantly augment ongoing modeling efforts—for example, evaluating the impact of other prey (e.g., forage fish) on salmon survival and distribution.

Retrospective/Comparative Analysis

A number of retrospective projects in the NEP were funded by earlier Requests for Proposals (RFPs). (See summaries on the NEP web site). Projects proposing retrospective analysis should Document or address population variability of key species (see U.S. GLOBEC Report No. 17) in NEP ecosystems on several different time and space scales. These studies should also examine linkages between physical and biological processes on these different scales. NEP retrospective analysis should attempt to test the core GLOBEC NEP hypotheses relating to the linkage between climate and ocean variability and population variability.

Previous U.S. GLOBEC reports (see esp. U.S. GLOBEC Report Nos. 11 and 15) review some of the kinds of data sets and research approaches suitable for examining links between climate variability, ocean physics and marine animal populations in the NEP. Other research approaches and examinations of other existing data sets may be appropriate for retrospective examination provided that they address the critical NEP GLOBEC mandates highlighted above.

With the funding of the CGOA field work in this notice, U.S. GLOBEC will have funded ecosystem studies in the Northwest Atlantic (a tidally and event dominated shelf bank), in the California Current (wind-driven up welling and advective system), and the CGOA (a buoyancy-driven down welling system). Comparative studies among these coastal ecosystems and with others (Benguela, North Africa, Bering Sea, California Bight, Southern Ocean) across the globe are feasible and could be undertaken. Moreover, recent studies of *Calanus* in the North Atlantic and of *Euphausia superba* in the Southern Ocean provide opportunities for broader, global-scale comparisons of biophysical/population dynamics among congeners.

Part I: Schedule and Proposal Submission

The provisions for proposal preparation provided here are mandatory. Proposals received after the published deadline or proposals that deviate from the prescribed format will be returned to the sender without further consideration. This announcement and additional background information will be made available on the COP home page.

Full Proposals

Applications submitted to this announcement require an original proposal and 19 proposal copies at time of submission. This includes color or high-resolution graphics, unusually-sized materials (not 8.5'' x 11'' or 21.6 cm x 28 cm), or otherwise unusual materials submitted as part of the proposal. For color graphics, submit either color originals or color copies. The stated requirements for the number of original proposal copies provide for a timely review process because of the large number of technical reviewers. Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

Required Elements

All recipients are to closely follow the instructions and requirements in the preparation of the standard NOAA Application Forms and Kit requirements listed in Part II: Further Supplementary Information, paragraph (10) of this document. Each proposal must also include the following eight elements:

(1) *Signed Summary title page*: The title page should be signed by the Principal Investigator (PI) and the institutional representative. The Summary Title page identifies the project's title starting with the acronym GLOBEC 2000, a short title (<50 characters), and the lead principal investigator's name and affiliation, complete address, phone, FAX, and E-mail information. The requested budget for each fiscal year should be included on the Summary Title page. Multi-institution proposals must include signed Summary Title pages from each institution.

(2) *One-page abstract/project summary*: The Project Summary

(Abstract) Form, which is to be submitted at time of application, shall include an introduction of the problem, rationale, scientific objectives and/or hypotheses to be tested, and a brief summary of work to be completed. The prescribed COP format for the Project Summary Form can be found on the COP Internet site under the COP Grants Support Section.

The summary should appear on a separate page, headed with the proposal title, institution(s), investigator(s), total proposed cost, and budget period. and should be written in the third person. The summary is used to help compare proposals quickly and allows the respondents to summarize these key points in their own words.

(3) *Statement of work/project description*: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goals of the GLOBEC Program, and its scientific priorities. The project description section (including Relevant Results from Prior Support) should not exceed 15 pages.

Project management should be clearly identified with a description of the functions of each PI within a team. It is important to provide a full scientific justification for the research; do not simply reiterate justifications presented in this notice. Both page limits are inclusive of figures and other visual materials, but exclusive of references and milestone chart. This section should also include:

(a) The objective for the period of proposed work and its expected significance;

(b) The relation to the present state of knowledge in the field and relation to previous work and work in progress by the proposing principal investigator(s);

(c) A discussion of how the proposed project lends value to the program goals, and

(d) Potential coordination with other investigators.

NOAA has specific requirements that environmental data be submitted to the National Oceanographic Data Center; participating agencies may have additional requirements or guidelines for sharing of research materials and data.

(e) References cited: Reference information is required. Each reference must include the name(s) of all authors in the same sequence in which they appear in the publications, the article title, volume number, page numbers, and year of publications. While there is no established page limitation, this section should include bibliographic citations only and should not be used to provide parenthetical information outside of the 15–page project description.

(4) *Milestone chart*: Time lines of major tasks covering the 60-month duration of the proposed project.

(5) *Budget*: At time of proposal submission, all applicants shall submit the Standard Form, SF–424 (Rev 7–97), Application for Federal Assistance, to indicate the total amount of funding proposed for the whole project period. In lieu of the Standard Form 424A, Budget Information (Non-Construction), at time of original application, all proposers are required to submit a COP Summary Proposal Budget Form for each fiscal year increment (i.e., 2000, 2001 * * *2003). Multi-institution proposals must include budget forms from each institution.

Use of this budget form will provide for a detailed annual budget and the level of detail required by program staff to evaluate the effort to be invested by investigators and staff on a specific project. The COP budget form is compatible with forms in use by other agencies that participate in joint projects with COP; and can be found on the COP home page under COP Grants Support, Part D; or one may be requested by contacting the COP Grants Administrator listed earlier in this document under **FURTHER INFORMATION**.

All applicants shall include a budget narrative/justification that supports all proposed budget object class categories. The program office will review the proposed budgets to determine the necessity and adequacy of proposed costs for accomplishing the objectives of the proposed grant. The SF–424A, Budget Information (Non-Construction) Form, shall be requested from only those recipients subsequently recommended for award to the NOAA Grants Management Division after the competitive review process has been completed.

NSF requires information on ship requirements in order to schedule time on UNOLS vessels. Ship requirements should be identified in the proposal and separately scheduled via UNOLS at the web site location listed earlier in this Document under **FURTHER INFORMATION**. If no ship time is required, indicate so in the proposal. Information on ship time needs is not used in proposal evaluation, only in scheduling appropriate platform availability.

The investigator is responsible for sending copies to the UNOLS office and ship operators. Paper copies may be requested from UNOLS. The form is included in Appendix A of Instructions for Preparation of Proposals Requesting Support for Oceanographic Facilities,

However, the electronic version is strongly preferred for ease of information exchange and processing. The form has been available electronically since l994 on the web site listed earlier in this Document under **FURTHER INFORMATION**. The NSF guidelines and ship time form were included in the then-existing e-mail based Internet electronic dissemination system operated by NSF - Science and Technology Information System).

(6) *Biographical sketch*: Abbreviated curriculum vitae, two pages per investigator, are sought with each proposal. Include a list of up to five publications most closely related to the proposed project and up to five other significant publications. A list of all persons (including their organizational affiliation), in alphabetical order, who have collaborated on a project, book, article, or paper within the last 48 months should be included. If there are no collaborators, this should be so indicated. Students, post-doctoral associates, and graduate and postgraduate advisors of the PI should also be disclosed. This information is used to help identify potential conflicts of interest or bias in the selection of reviewers.

(7) *Current and pending support*: NSF requires information on current and pending support of all proposers. Describe all current and pending support for all PIs, including subsequent funding in the case of continuing grants. A model format of the NSF form 1239 can be obtained from the address/homepage addresses listed earlier in this document under **FURTHER INFORMATION**. Use of this form is optional. However, the categories of information included on the NSF Form 1239 must be provided.

All current support from whatever source (e.g., Federal, state or local government agencies, private foundations, industrial or other commercial organizations) must be listed. The proposed project and all other projects or activities requiring a portion of time of the PI and other senior personnel should be included, even if they receive no salary support from the project(s). The total award amount for the entire award period covered (including indirect costs) should be shown as well as the number of person-months per year to be devoted to the project, regardless of source of support.

(8) *Proposal format and assembly*: Clamp the proposal in the upper left-hand corner, but leave it unbound. Use one inch (2.5 cm) margins at the top, bottom, left and right of each page. Use

a clear and easily legible type face in standard 12 point size.

Part II: Further Supplementary Information

(1) *Program authorities*: For a list of all program authorities for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual notice in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page. Specific Authority cited for this Announcement is 33 U.S.C. 883(d) for Coastal Ocean Program and the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–75) for NSF.

(2) *Catalog of Federal Domestic Assistance Numbers*: 11.478 for the Coastal Ocean Program and 47.050 for the Directorate for Geosciences, National Science Foundation.

(3) *Program description*: For complete COP program descriptions, see the annual COP General Notice (64 FR 49162, September 10, 1999).

(4) *Funding availability*: Funding is contingent upon receipt of fiscal years 2001–2005 Federal appropriations and upon availability of funds. The anticipated maximum annual funding for NEP GLOBEC activities is $6 to $8 million, which may not occur until 2001; until then the program expects increments from its current level of $2.5 million per year. Of the annual total, approximately half will be devoted to CCS activities (funded in an earlier RFP), and half to CGOA research (present RFP).

If an application is selected for funding, NSF and NOAA have no obligation to provide any additional prospective funding in connection with that award in subsequent years. Renewal of an award to increase funding or extend the period of performance is based on satisfactory performance and is at the total discretion of the funding agencies. Not all proposals selected will receive funding for the entire duration of the CGOA program. Moreover, start dates for some proposals may be delayed, or proposals may be funded for the second of the two field years only. Proposals selected for funding by NSF must comply with NSF grants administration requirements for any additional budget forms required by that agency. NSF grants will be administered in accordance with the terms and conditions of NSF GC–1, ''Grant General Conditions,'' or FDP-III, ''Federal Demonstration Project General Terms and Conditions,'' depending on the grantee organization. More comprehensive information on the administration of NSF grant is contained in the Grant Policy Manual (NSF 95–26), available at http:www.nsf.gov/cgi-bin/getpub?nsf9526.

Publication of this document does not obligate any agency to any specific award or to any part of the entire amount of funds available. Recipients and subrecipients are subject to all Federal laws and agency policies, regulations, and procedures applicable to Federal financial assistance awards.

(5) *Matching requirements*: None.

(6) *Type of funding instrument*: Project Grants for non-Federal applicants; interagency transfer agreements or other appropriate mechanisms other than project grants or cooperative agreements for Federal applicants.

(7) *Eligibility criteria*: For complete eligibility criteria for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page. Proposals deemed acceptable from Federal researchers will be funded through a mechanism other than a grant or cooperative agreement where legal authority allows for such funding. Non-NOAA Federal applicants are required to submit certification or documentation which clearly shows that they can receive funds from the Department of Commerce (DOC) for research (i.e., legal authority exists allowing the transfer of funds from DOC to the non-NOAA Federal applicant's agency).

(8) *Award period*: Full Proposals should cover a project period for 5 years, FY 2001–05, all dependent on continuing appropriations and availability of funds.

(9) *Indirect costs*: If indirect costs are proposed, the following statement applies: The total dollar amount of the indirect costs proposed in an application must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award.

(10) *Application forms*: For complete information on application forms for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual notice in the **Federal Register** (64 FR 49162, September 10, 1999); the COP home page; and the information given earlier in this document under *Required Elements*, paragraph (5) Budget.

(11) *Project funding priorities*: For description of project funding priorities, see COP's General Grant Administration Terms and Conditions annual notice in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page. Those priorities are in addition to the priorities listed in this notice.

(12) *Evaluation criteria*: For complete information on evaluation criteria, see COP's General Grant Administration Terms and Conditions annual notice in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(13) *Selection procedures*: For complete information on selection procedures, see COP's General Grant Administration Terms and Conditions annual notice in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(14) *Other requirements*: For a complete description of other requirements, see COP's General Grant Administration Terms and Conditions annual notice in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(15) Pursuant to Executive Orders 12876, 12900 and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

(16) Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

(17) This notification involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF-LLL have been approved by the Office of Management and Budget (OMB) under control numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046.

The COP Grants Application Package has been approved by OMB under control number 0648–0384 and includes the following information collections: a Summary Proposal Budget Form, a Project Summary Form, standardized formats for the Annual Performance

Report and the Final Report, and the submission of up to twenty copies of proposals. Copies of these forms and formats can be found on the COP Home Page under Grants Support section, Part F.

Proposals to NSF must include a one-page NSF-UNOLS Ship Time Request Form and the NSF Form l239 for Current and Pending Support. Both NSF forms have been approved by OMB as follows: The UNOLS form, also titled NSF Form 831, has OMB clearance through June 2002 under control number OMB No. 3145–0058. The NSF Form l239 for Current and Pending Support is also cleared as part of the NSF Grant Proposal Guide and Proposal Forms Kit under OMB Number. 3145–0058 with an expiration date of June 2002.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: March 23, 2000.

Ted I. Lillestolen,

Deputy Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

Dated: March 15, 2000.

G. Michael Purdy,

Director, Division of Ocean Sciences, National Science Foundation.

[FR Doc. 00–7922 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–JS–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990907250–0062–02; I.D. 063099B]

RIN 0648–ZA70

Community-based Restoration Program Guidelines

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

ACTION: Notification of Program Guidelines.

SUMMARY: NOAA Fisheries began a new Community-based Restoration Program (Program) in 1996 to encourage local efforts to restore fish habitats. Since that time, NOAA has provided funding to 83 small-scale habitat restoration projects around coastal America. The Program is a systematic national effort to encourage partnerships with Federal agencies, states, local governments, non-governmental and non-profit organizations, businesses, industry and schools, to carry out locally important habitat restorations to benefit living marine resources. The Program has developed formal guidelines that will expand the financial instruments available to accomplish furtherance of this mission. This announcement provides program guidelines for the implementation of the Program in FY 2000 and beyond, which incorporates comments by the public and NOAA. This is not a solicitation of project proposals.

DATES: Guidelines are effective March 30, 2000.

ADDRESSES: Send comments to Director, NOAA Restoration Center, National Marine Fisheries Service, 1315 East West Highway (F/HC3), Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: Christopher D. Doley, (301) 713–0174, or by e-mail at Chris.Doley@noaa.gov.

SUPPLEMENTARY INFORMATION: Details concerning the justification for and development of this notification are provided at 64 FR 53339, October 1, 1999, and are repeated here. In that document, comments were sought on modifications to the Program that would allow greater flexibility to support community-based habitat restoration projects.

Comments and Responses

Comments were few, and all commenters supported the proposed modifications to the existing Program. Comments consisted of minor additions of explanatory detail or minor changes of word choices to clarify points. A summary of the comments and description of changes made to the proposed guidelines follows:

The eligibility requirements section was reworded to clarify that Federal agencies may be designated by a project sponsor as recipients of funding for selected projects, but may not apply for funding directly. To protect the Federal investment, projects on private lands will need to provide assurance that the project will remain intact throughout the useful life of the project, instead of the proposed rule's requirement that project proponents demonstrate a minimum 10-year conservation easement. Partnership arrangements will be pursued on a national level, as well as on a broad-based geographic and regional level, to be more inclusive. Text on pre-application format and process and on full proposal cost estimate requirements was deleted, as this information is presented in great detail in the NOAA grants application package available to all applicants and discussed in solicitations. Under ''evaluation criteria'', item number 3, Community Commitment and Partnership Development, the text ''qualified youth conservation or service corps'' has been added as an example of significant community involvement. And finally, to address environmental justice concerns expressed by one commenter and assure that all residents and citizens affected by the project have the opportunity to participate, under ''evaluation criteria,'' text was added to state that proposed projects may be evaluated on their ability to demonstrate that they are incorporated into a regional or community planning process.

Background

Habitat loss and degradation are major, long-term threats to the sustainability of the Nation's fishery resources. Over 75 percent of commercial fisheries and 80 to 90 percent of recreational marine and anadromous fishes depend on estuarine or coastal habitats for all or part of their life-cycles. Protecting existing, undamaged habitat is a priority and should be combined with coastal habitat restoration to enlarge and enhance the functionality of degraded habitat. Restored coastal habitat will help rebuild fisheries stocks and recover threatened or endangered species. Restoring coastal habitats will help ensure that valuable resources will be available to future generations of Americans.

The guidelines that follow reflect modifications to the Program that allow greater flexibility to support community-based habitat restoration projects. The purpose of this document is to provide an outline of the goals, objectives, and structure of the Program for implementation in FY 2000 and beyond. The Program will provide **Federal Register** notifications on the availability of funds and will solicit project proposals once a year, or more. Each solicitation will provide detail on the criteria for project selection and/or on the weighting of the criteria.

Electronic Access

Information on the Program, including partnerships and projects that have been funded to date, can be found on the world wide web at: http://www.nmfs.gov/habitat/restoration.

Goals and Objectives

The Program's objective is to bring together citizen groups, public and non-profit organizations, industry, corporations and businesses, youth conservation corps, students, landowners, and local government, and state and Federal agencies to implement habitat restoration projects to benefit NOAA trust resources. Partnerships are sought at the national and local level to contribute funding, land, technical assistance, workforce support or other in-kind services to allow citizens to take responsibility for the improvement of locally important living marine resources.

The Program recognizes the significant role that communities play in habitat restoration and protection and acknowledges that habitat restoration is often best supported and implemented at a community level. Projects are successful because they have significant community support and depend upon citizens' ''hands-on'' involvement. The role of NMFS in the Program is to strengthen the development and implementation of sound restoration projects. NMFS anticipates maintaining the current focus of the Program by continuing to form strong national and local partnerships to fund grass-roots, bottom-up activities that restore habitat and develop stewardship and a conservation ethic for the Nation's living marine resources.

Eligibility Requirements

Any state, local or tribal government, regional governmental body, public or private agency or organization may sponsor a project for funding consideration. The sponsoring group or organization may be a recipient of the funds or may recommend that a Federal agency receive the funds for implementation. However, in the latter situation, NMFS would enter into a Memorandum of Agreement among NMFS, the sponsor, and the Federal agency. Federal agencies are not eligible to apply for funding; however, they are encouraged to work in partnership with state agencies, municipalities, and community groups. Successful applicants will be those whose projects demonstrate that significant, direct benefits are expected to NOAA trust resources within supportive, involved communities. Proponents who seek funding under the Program are not eligible to seek funding for the same project under other Restoration Center programs. The Program operates under statutory authority that precludes individuals from applying.

Eligible Restoration Activities

NMFS is interested in funding projects that will result in on-the-ground restoration of habitat to benefit living marine resources, including anadromous fish species. Habitat restoration is defined here as activities that directly result in the reestablishment or re-creation of stable, productive marine, estuarine or coastal river biological systems. Restoration may include, but is not limited to, improvement of coastal wetland tidal exchange or reestablishment of historic hydrology; dam or berm removal; fish passageway improvements; natural or artificial reef/substrate/habitat creation; establishment of riparian buffer zones and improvement of freshwater habitat features that support anadromous fishes; planting of native coastal wetland and submerged aquatic vegetation; and improvements of feeding, spawning, and growth areas essential to fisheries.

In general, proposed projects should clearly demonstrate anticipated benefits to such habitats as salt marshes, seagrass beds, coral reefs, mangrove forests and riparian habitat near rivers, streams and creeks used by anadromous fish. To protect the Federal investment, projects on private lands need to provide assurance that the project will be maintained for its intended purpose for the useful life of the project. Projects on permanently protected lands may be given priority consideration.

Projects must involve significant community support through an educational and/or volunteer component tied to the restoration activities. Implementation of on-the-ground habitat restoration projects must involve community outreach and post-restoration monitoring to assess project success and may involve limited pre-implementation activities, such as engineering and design and short-term baseline studies. Proposals emphasizing only research, outreach, monitoring, or coordination are discouraged, as are funding requests primarily for administration, salaries, overhead, and travel.

Although NMFS recognizes that water quality issues may impact habitat restoration efforts, this initiative is intended to fund physical habitat restoration projects rather than direct water quality improvement measures, such as wastewater treatment plant upgrades or combined sewer outfall corrections. Similarly, the following restoration projects will not be eligible for funding: (1) activities that constitute legally required mitigation for the adverse effects of an activity regulated or otherwise governed by state or Federal law; (2) activities that constitute restoration for natural resource damages under Federal or state law; and (3) activities that are required by a separate consent decree, court order, statute or regulation. Funds from this program may be sought to enhance restoration activities beyond the scope legally required by these activities.

Examples of Previously Funded Projects

The following examples are community-based restoration projects that have been funded with assistance from the Restoration Center. These examples are only illustrative and are not intended to limit the scope of future proposals in any way.

Submerged Aquatic Vegetation Restoration

Funding was provided to evaluate the feasibility of using volunteer divers to restore seagrass. A protocol was developed to train volunteers in water quality monitoring and seagrass transplantation techniques.

Fish Ladder Construction

An impediment to fish passage was corrected through the design and construction of a step-pool fish ladder, which now allows native steelhead trout to reach their historic spawning grounds.

Invasive Plant Removal

Funding was provided to a coalition of volunteer groups called ''Pepperbusters'' who worked to remove exotic Brazilian pepper plants and replant native shoreline vegetation.

Salt Marsh Restoration

Tidal flushing was restored to 20 acres of salt marsh by replacing an undersized culvert to increase the mean high water level in the restricted portion of the marsh.

Oyster Reef Restoration

Funding was provided to increase oyster reef habitat by reconstructing historic reefs and seeding them with hatchery-produced seed oysters grown in floating cages by students.

Kelp Forest Restoration

Funding was provided to train community dive groups in kelp reforestation activities, including the preparation, planting and maintenance of kelp sites, documentation of growth patterns, and changes in marine life attracted to the newly planted kelp areas.

Wetland Plant Nursery

Funding was provided to start an innovative wetland nursery program in

local high schools, where science and ecology classes build wetland nurseries on-campus to grow salt marsh grasses for local restoration efforts.

Riparian Habitat Restoration

Funding was provided to train youth corps in the use of biorestoration and stabilization techniques to restore eroding riverbanks and improve habitat for salmon smolt and other fish species.

Anadromous Fish Habitat Restoration

Highly functional salmonid and wildlife habitat was restored with the cooperation of private landowners by opening silted enclosures along a slough to provide refuge for juvenile salmonids during the winter flood flows.

Funding Sources and Dispersal Mechanisms

The Restoration Center envisions funding projects through joint project agreements, cooperative agreements and grants, and intra- and interagency transfers, as appropriate.

The Secretary of Commerce has authority to enter into joint project agreements with non-profit, research, or public organizations on matters of mutual interest, the cost of which is equitably apportioned. The principal purpose of a joint project agreement under this program is to engage in a collaborative and equitably apportioned effort with a qualified organization on matters of mutual interest.

For purposes of this Program, interagency agreements are written documents containing specific provisions of governing authorities, responsibilities, and funding, entered into between NMFS and a reimbursing Federal agency or between another Federal agency and NMFS when NMFS is the funding organization. Such agreements will also require inclusion of a local sponsor of the restoration project.

A cooperative agreement is a legal instrument reflecting a relationship between NMFS and a recipient whenever (1) the principal purpose of the relationship is to provide financial assistance to the recipient and (2) substantial involvement is anticipated between NMFS and the recipient during performance of the contemplated activity. A grant is similar to a cooperative agreement, except that in the case of grants, substantial involvement between NMFS and the recipient is not anticipated during the performance of the contemplated activity. Financial assistance is the transfer of money, property, services or anything of value to a recipient in order to accomplish a public purpose of support or stimulation which is authorized by Federal statute.

The instrument chosen will be based on such factors as degree of direct NOAA involvement with the project beyond the provision of financial assistance, the proportion of funds invested in the project by NOAA and the other organizations, and the efficiency of the different mechanisms to achieve the Program's goals and objectives. NMFS will determine which method is the most appropriate for funding individual projects based on the specific circumstances of each project.

NMFS reserves the right to fund individual projects directly, or through partnership arrangements. The Program will continue to create partnership arrangements at a national or broad-based, geographic or regional level with non-profit and other organizations that have similar goals for improving fisheries habitat. Partnerships are a key element that allows the Restoration Center to significantly leverage the funding available for on-the-ground restoration. Partnerships also encourage the sharing and distribution of technical expertise, often improve relations between diverse organizations with common goals, and allow NOAA to reach larger and more diverse communities that have vested interests in fishery habitat restoration.

The Restoration Center will also function in a clearinghouse capacity to help develop and link high quality proposals for habitat restoration with other potential funding sources whose evaluation criteria contain similar specifications for habitat enhancement. This will provide greater exposure for project ideas that increase the chances for project proponents to secure funding.

Each year, the Restoration Center Director will determine the proportion of the funds available to the Program that will be obligated to national or broad-based, geographic or regional partnerships and the proportion for direct project solicitation. The proportion will be established annually and will depend upon the amount of funds available from partnership organizations for habitat restoration activities that meet the goals and objectives of the Program, including the goal of funding a broad array of projects over a wide geographic distribution.

Funding Ranges

NMFS anticipates that typical project awards will range from $25,000 to $50,000, but NMFS will accept proposals ranging from $5,000 to $200,000. Final awards will be dependent on funding levels appropriated by Congress. Each solicitation issued for the Program will contain suggested ranges for funding requests and any specific criteria, including the weighting of selection criteria that will be used for proposal evaluation. The number of awards to be made in FY 2000 and beyond will depend on the amount of funds appropriated to the Program.

Match and Use of Funds

The focus of the Program is to provide seed money to leverage funds and other contributions from a broad public and private sector to implement locally important habitat restoration to benefit living marine resources. To this end, proposals are required to demonstrate a minimum 1:1 non-Federal match (equitable share, in the case of a joint project) for CRP funds requested to complete the proposed project. The Restoration Center may waive the requirement for 1:1 matching funds if the project meets the following three requirements: (1) The project is judged to be an outstanding match with NMFS and Restoration Center objectives; (2) there is a critical need to carry out the project in a timely fashion in order to benefit NOAA trust resources; and (3) the project sponsor has attempted to obtain matching funds but was unable to come up with the full 1:1 minimum match required. NOAA strongly encourages applicants to leverage as much investment as possible. The degree to which cost-sharing exceeds the minimum level may be taken into account in the final selection of projects to be funded. The match can come from a variety of public and private sources and can include in-kind goods and services. Federal funds may not be considered as matching funds. Applicants are permitted to combine contributions from additional project partners in order to meet the 1:1 required match (equitable share, in the case of a joint project) for the project. Applicants whose proposals are selected for funding will be obligated to account for the amount of cost-share reflected in the proposal and may be asked to provide letters of commitment identifying and precisely specifying match (or equitable share) to confirm stated contributions.

For each proposal accepted for funding, one award will be made. Funds awarded cannot necessarily pay for all the costs which the recipient might incur in the course of carrying out the project. Allowable costs for grants and cooperative agreements are determined by reference to the Office of Management and Budget Circulars A–122, ''Cost Principles for Non-profit

Organizations''; A–21, ''Cost Principles for Education Institutions''; and A–87, ''Cost Principles for State, Local and Indian Tribal Governments.'' Generally, costs that are allowable include salaries, equipment, supplies, and training, as long as these are reasonable, allowable, and allocable. However, in order to encourage on-the-ground restoration, if funding for salaries is requested, at least 75 percent of the total salary request must be used to support staff accomplishing the restoration work. Entertainment costs are an example of unallowable costs. Generally, the Program will make awards only to those projects where requested funding will be used to complete proposed restoration activities, with the exception of post-construction monitoring, within a period of 18 months from the time awards are distributed.

Project Selection Process

NOAA will publish, in the **Federal Register**, notifications soliciting letters of intent and project proposals once a year or more. Letters of intent submitted in response to these solicitation notices, when required, will be screened for eligibility and conformance with the Program guidelines, and guidance will be provided as to the most suitable funding mechanism that project proponents may pursue for further consideration. Applicants providing full proposals for financial assistance will be asked to follow standard NOAA Grants procedures. Full proposals will be screened to determine whether applicants meet the minimum Program requirements, and eligible restoration projects will undergo a technical review, ranking, and selection process. As appropriate during this process, the NOAA Restoration Center will solicit individual technical evaluations of each project and may consult with other NMFS and NOAA offices, the NOAA Grants Management Division, the U.S. Department of Commerce, the Regional Fishery Management Councils, such other Federal and state agencies as state coastal management agencies and state fish and wildlife agencies, and private and public sector subject experts or other interested parties, such as potential partners who have knowledge of a specific project or its subject matter. Reviews will be consolidated, and recommendations on the merits of funding each project and the level of funding NMFS should award will be presented to the Director of the NOAA Restoration Center for approval. Reviewers will assign scores to proposals ranging from 0 (unacceptable) to 100 (excellent) based on the following four evaluation criteria:

(1) Benefit to NOAA Trust Resources

NMFS is interested in funding projects where benefits to living marine resources can be realized. Therefore, NMFS will evaluate proposals based on the potential of the restoration project to restore, protect, conserve, and create habitats and ecosystems vital to self-sustaining populations of living marine resources under NOAA Fisheries stewardship. Locations where restoration projects may have high potential to benefit NOAA trust resources include areas identified as essential fish habitat (EFH) and areas within EFH identified as Habitat Areas of Particular Concern; areas identified as critical habitat for listed marine and anadromous species; areas identified as important habitat for marine mammals; areas located within National Marine Sanctuaries or National Estuarine Research Reserves; watersheds or other areas under conservation management, such as special management areas under state coastal management programs; and other important commercial or recreational marine fish habitat, including degraded areas that formerly were important habitat for living marine resources.

(2) Technical Merit and Adequacy of Implementation Plan

Proposals will be evaluated on the technical feasibility of the project from both biological and engineering perspectives and on the qualifications and past experience of the project leaders and/or partners. Communities and/or organizations developing their first locally driven restoration project may not be able to document past experience, and, therefore, will be evaluated on the basis of the availability of technical expertise to guide the project to a successful completion. Proposals will also be evaluated on their ability to (a) deliver the restoration objective stated in the proposal; (b) provide educational benefits; (c) incorporate post-restoration monitoring and assessment of project success in terms of meeting the proposed objectives; (d) demonstrate that the restoration activity will be sustainable and long-lasting;(e) provide assurance that implementation of the project will meet all Federal and state environmental laws and Federal consistency requirements by obtaining or proceeding to obtain applicable permits and consultations; and (f) provide mid-term and final project reports, including photo-documentation of the project site and restoration activities.

(3) Community Commitment and Partnership Development

Proposals will be evaluated on how well they describe the depth and breadth of the community's support. Projects must incorporate significant community involvement, which may include the following: (a) Hands-on training and restoration activities undertaken by volunteer students, qualified youth conservation or service corps, or other citizens; (b) input from local entities, such as businesses, conservation organizations, and others, either through in-kind goods and services (earth moving, technical expertise, easements) or cash contributions; (c) visibility within the community and demonstrated potential for public outreach and/or outreach products, including, but not limited to, an educational sign/poster at the project site, compilation of protocols into training manuals, guides, brochures, or videos; (d) cooperation with private landowners that set an example within the community for natural resource conservation; (e) support by state and local governments; (f) representation of those within the community who have an interest in or are affected by the project and seek the benefits of the restoration; (g) ability to achieve long-term stewardship for restored resources and generate a community conservation ethic; and/or (h) ability of a project to demonstrate that it is incorporated into a regional or community planning process or otherwise assure that all residents or citizens affected by the project are provided an opportunity to participate.

(4) Cost-effectiveness and Budget Justification

Projects will be evaluated on (a) their ability to demonstrate that a significant benefit will be generated for the most reasonable cost; (b) their importance to living marine resources under NOAA stewardship; (c) the extent of habitat and degree to which it will be restored; and (d) on their demonstration of partnership and collaboration. Projects will also be ranked in terms of their need for funding and the ability of NMFS to act as a catalyst to implement projects. NMFS will require cost sharing to leverage funding and to encourage partnerships among government, industry, and academia to address the needs of communities to restore important fisheries habitat.

The exact amount of funds awarded to a project and the funding instrument will be determined in pre-award negotiations between the applicant and NOAA/NMFS representatives. The

application and reporting requirements will differ depending upon the funding instrument selected. Projects receiving funds under this program will have to meet applicable NOAA/Department of Commerce/Federal policies, requirements, and laws.

Administrative Procedure Act

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act, (5 U.S.C. sec. 553), because these are agency guidelines. Because NMFS was interested in receiving comments on modifications to the Program that would allow greater flexibility to support community-based habitat restoration projects, NMFS solicited comments in the notice that was published in the **Federal Register** on October 1, 1999. This notice responds to those comments, and announces the final guidelines for the Program.

Statutory Authority

Fish and Wildlife Coordination Act of 1956, 16 U.S.C. 661–667; Joint Project Authority, 15 U.S.C. 1525; and the Economy Act, 31 U.S.C. 1535.

Dated: March 27, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–7919 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032200B]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (1247); issuance of modifications to existing permits (1051, 1189).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement:

NMFS has received a permit application from Mr. Tom Savoy, of the Connecticut Department of Environmental Protection (CTDEP) (1247); and NMFS has issued modifications to scientific research permits to Mr. Jorgen Skjeveland, of the U.S. Fish and Wildlife Service (JS-FWS) (1051) and Dr. James Kirk, of the Corps of Engineers Waterways Experiment Station (COE-WES) (1189).

DATES: Comments or requests for a public hearing on the new application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5:00pm eastern standard time on May 1, 2000.

ADDRESSES: Written comments on the new application should be sent to the Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the internet. The application and related documents are available for review by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (ph: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on the application listed in this notice should set out the specific reasons why a hearing on the application would be appropriate (see ADDRESSES). The holding of such hearing(s) is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species is covered in this notice: shortnose sturgeon (*Acipenser brevirostrum*).

New Application Received

CTDEP (1247) has requested a 5-year permit for annual lethal takes of up to 300 shortnose sturgeon spawned eggs and larvae; annually capture, examine, collect stomach contents samples via gastric lavage, PIT tag, and release up to 400 adult and 100 juvenile sturgeon; and implant sonic tags in up to 25 adult sturgeon annually. The research proposes to determine general seasonal movements and fine scale diurnal movement patterns as well as food habits and prey preferences of shortnose sturgeon in the Connecticut River below Holyoke Dam.

Permit Modifications Issued

Notice was published on October 22, 1999 (64 FR 57069), that JS-FWS had applied for a modification to permit 1051. Modification #2 to permit 1051 was issued on March 21, 2000, and authorizes the deployment of an additional 15 sonic tags on 15 of the shortnose sturgeon captured from the Delaware River, and to change the tagging methodology from external to completely internal. The purpose of the sonic tagging is to determine if there is migration back and forth via the Chesapeake and Delaware Canal. The sturgeon will be measured, tagged, have tissues sampled and released. Modification #2 to Permit 1051 is valid for the duration of the permit, which expires May 31, 2002.

Modification #1 to Permit 1189 was issued to COE-WES on March 21, 2000, and authorizes the addition of baited trotlines as a sampling method for shortnose sturgeon, thus increasing the effectiveness of seasonal sampling. Modification #1 to Permit 1189 is valid for the duration of the permit, which expires December 31, 2002.

Dated: March 23, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–7924 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032000A]

Marine Mammals; File No. 895–1450–00

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Rachel Cartwright, P.O. Box 1317, Lahaina, Hawaii 96767, has requested an amendment to Scientific Research Permit No. 895–1450–00.

DATES: Written or telefaxed comments must be received on or before May 1, 2000.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, 709 W 9th Street, Federal Building, Room 461, P.O. Box 21668, Juneau, AK 99802 (907–586–7235); and

Protected Species Program Manager, Pacific Islands Area Office, NMFS, NOAA, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, Hawaii 96814–4700 (808/973–2935).

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak or Trevor Spradlin, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 895–1450–00, issued on December 23, 1998 (64 FR 862) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226). Permit No. 895–1450–00 authorizes the permit holder to harass annually up to 1,100 humpback whales (*Megaptera novaeangliae*), including mother/calf pairs, during the conduct of scientific research on the whales in Hawaii waters. The purpose of the research is to study North Pacific humpback whale calf behavior and development. Research activities involve photo-identification and observation of the whales' surface and underwater behaviors. Activities are carried out between January and April, in the waters around the main Hawaiian Islands. The applicant is now requesting authorization to extend the study to Alaska waters. Extending the study to Alaska waters would allow documentation of the whole first year of the life of the humpback whale calf, incorporating the entire period of the calf's known association with the mother. The applicant is not requesting an increase in the number of animals authorized to be harassed under the Permit. The applicant proposes to initiate work in Alaska in early June 2000.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 24, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–7923 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Invention Promoters/Promotion Firms Complaints

ACTION: Proposed Collection; comment request.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 30, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 or via the Internet at LEngelme@doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Richard J. Apley, Director, Office of Independent Inventor Programs, Crystal Park 2, Suite 906, Washington, DC 20231. In addition, written comments may be sent via e-mail to richard.apley@uspto.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Inventors' Rights Act of 1999 requires the Patent and Trademark Office (PTO) to publish complaints filed by independent inventors against invention promoters/promotion firms and publish any replies to such complaints. The Inventors' Rights Act requires the PTO to publish these complaints and replies, but it does not require the PTO to enforce the Act, to investigate the complaints, or to participate in any legal proceedings against the invention promoters/promotion firms. The PTO will accept complaints filed against invention promoters/promotion firms and forward those complaints to the invention promoters/promotion firms for response. Both the complaints and the responses will be published so that they will be publicly available as required by the Act. The primary purpose of this collection is to make complaints and responses publicly available; the PTO will not accept complaints submitted under this system if the complainant requests confidentiality. The PTO has developed a form for the purpose of lodging a complaint against a promotion invention firm; however, use of the form is not mandatory as long as the complaint is clearly marked as a complaint filed under the Inventors' Rights Act or the PTO's rules implementing this Act.

II. Method of Collection

By mail, facsimile, or hand carry when an individual is required to participate in the information collection.

III. Data

OMB Number: 0651–0044.

Agency Form Number(s): PTO/SB/XX.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profit organizations; not-for-profit institutions; farms; Federal Government; and State, Local or Tribal Government.

Estimated Number of Respondents: 100 responses for a complaint regarding invention promoters/promotion firms and 100 responses for responding to the complaint per year.

Estimated Time Per Response: It is estimated to take approximately 15 minutes to submit a complaint and 15 minutes for the invention promoters/promotion firms to respond to a complaint.

Estimated Total Annual Burden Hours: 50 hours per year.

Estimated Total Annual Cost Burden: $0 (no capital start-up or maintenance expenditures are required). Using the professional hourly rate of $30.00 for paralegals (or professionals equal to paralegals) to prepare the complaint and the average hourly rate of $101.00 to prepare the response to the complaint, the PTO estimates $3,275.00 per year for salary costs associated with respondents.

Item	Estimated time for response (minutes)	Estimated annual burden hours	Estimated annual responses
Complaint Regarding Invention Promoter	15	25	100
Responses to the Complaints	15	25	100
Totals	.....	50	200

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 24, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–7809 Filed 3–29–00; 8:45 am]

BILLING CODE 3510–16–P

THE COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 19 April 2000 at 10:00 a.m. in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001–2728. Items of discussion will include designs for projects affecting the appearance of Washington, D.C., including buildings and parks.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, D.C., 23 March 2000.

Charles H. Atherton,

Secretary.

[FR Doc. 00–7903 Filed 3–29–00; 8:45 am]

BILLING CODE 6330–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00–C0008]

Standard Mattress Company, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1605.13(4). Published below is a provisionally-accepted Settlement Agreement with Standard Mattress Company, containing a civil penalty of $60,000.[1]

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by April 14, 2000.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00–C0008, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Michael J. Gidding, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626, 1344.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: March 24, 2000.

Sadye E. Dunn,

Secretary.

Consent Order Agreement

Standard Mattress Company (''Respondent''), enters into this Consent Order Agreement (''Agreement'') with the staff of the Consumer Product Safety Commission (hereinafter, ''Commission'') pursuant to the procedures for Consent Order Agreements contained in section 1605.13 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Flammable Fabrics Act (FFA), 16 CFR 1605.13. This Agreement and Order are for the sole purpose of settling allegations of the staff that Respondent violated sections 3(a) and 5(c) of the Flammable Fabrics Act (FFA), as amended 15 U.S.C. 1192(a) and 1194(c), by failing to comply with requirements under the Standard for the Flammability of Mattresses and Mattress Pads, 16 CFR part 1632 (FF 4–72, amended) (the ''Mattress Standard''), as is more fully

[1] Chairman Ann Brown and Commissioner Thomas H. Moore voted to provisionally accept the agreement. Vice Chairman Mary Sheila Gall voted to approve the agreement with the section VII delegation of authority deleted. Commissioner Moore accompanied his vote with a letter requesting that the staff brief him before exercising the section VII delegated authority.

set forth in the Complaint accompanying this Agreement. With respect to the matters alleged in the Complaint, the purpose of the Agreement is to settle all claims and potential claims that Respondent violated the FFA, the Federal Trade Commission Act (FTCA), 15 U.S.C. 41 *et seq.* (to the extent functions under that act related to the administration and enforcement of the FAA have been transferred to the Commission), the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051, *et seq.,* and all regulations promulgated under those statutes.

Respondent and the Staff Agree

1. The Consumer Product Safety Commission has jurisdiction in this matter under the FFA, the FTCA, and the CPSA.

2. Respondent is a corporation organized under the laws of the State of Connecticut, with its principal place of business located at 261 Weston Street, Hartford, Connecticut. Respondent manufactures futons.

3. Respondent is now, and has been engaged in, the manufacture for sale, and the sale in commerce, of futons which are subject to the requirements of the Mattress Standard and the FFA.

4. Respondent denies the allegations of the Complaint that it knowingly or otherwise violated the Mattress Standard and sections 3(a) and 5(c) of the FFA, as amended, 15 U.S.C. 1192(a) and 1194(c), or any provision of the FTCA or the CPSA.

5. This Agreement is entered into for the purposes of settlement only and does not constitute a determination by the Commission that Respondent knowingly or otherwise violated the Mattress Standard, the FAA, the FTCA, or the CPSA.

6. Upon final acceptance of this Agreement, Respondent agrees to conduct a consumer level recall of style 605, 608, 611, and 613 futons sold by retailers from May 1, 1998 through October 31, 1998 by (1) joining with the Commission in issuing a joint press release that is mutually acceptable to the parties; (2) notifying all retailers to whom, during this period, Standard sold such futons of the terms of recall and providing those retailers with mutually agreed upon point-of-purchase posters describing those terms; and (3) offering each consumer who owns a futon described above a replacement futon upon completion of a form and return of the law label, brand name tag, and a portion of the old futon to demonstrate its destruction, and upon identification of the retailer from whom the consumer purchased the futon, provided that no consumer shall be required to document proof of purchase as a condition for obtaining a replacement futon.

7. Without admitting to the commission of any violation, Respondent agrees to pay, in settlement of the staff's allegations, a civil penalty of $60,000 as set forth in the attached incorporated Order.

8. This Agreement becomes effective only upon its final acceptance by the Commission and service of the incorporated Final Order upon Respondent.

9. Upon final acceptance of this Agreement by the Commission and issuance of the Final Order, Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Respondent failed to comply with the FFA or FTCA, (4) to a statement of findings of fact and conclusions of law by the Commission, (5) to any claims under the Equal Access to Justice Act, and (6) to a determination by the Commission under section 30(d) of the CPSA, 15 U.S.C. 2079(d), that it is in the public interest to regulate the risk of injury associated with futons manufactured by Respondent for the purpose of implementing the recall referenced in paragraph 6 of this Agreement.

10. Violation of the provisions of the Order may subject Respondent to a civil and/or criminal penalty for each such violation, as prescribed by law.

11. The Commission may disclose the terms of this Agreement to the public.

12. This Agreement may be used in interpreting the Provisional and Final Orders. Agreements, understandings, representations, or interpretations apart from those contained in this Agreement may not be used to vary or to contradict its terms.

13. Upon acceptance of this Agreement, the Commission shall issue the following Order incorporated herein.

Dated: March 8, 2000.

Standard Mattress Company
Robert Naboicheck,
President.
The Commission Staff
Alan H. Schoem,
Director, Office of Compliance.
Eric L. Stone,
Director, Legal Division.

Dated: March 7, 2000.

Michael J. Gidding,
Attorney.

Order

Upon consideration of the Consent Order Agreement entered into between Standard Mattress Company (''Respondent'') and the staff of the Consumer Product Safety Commission; and it appearing that the Commission has jurisdiction over the subject matter and Respondent and that the Consent Order Agreement is in the public interest.

I

It Is Ordered That the Consent Order Agreement be and hereby is accepted, and

II

It Is Further Ordered That Respondent, and its successors and assigns, agents, representatives, and employees of the Respondent, acting directly or through any corporation, subsidiary, division, or other business entity, or through any agency, device or instrumentality, do forthwith cease and desist from manufacturing for sale, selling, or offering for sale, in commerce, any futon or other product which is subject to, and fails to conform with, the requirements of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), 16 CFR part 1632.

III

It Is Further Ordered That Respondent conduct prototype testing for each futon design, prior to production, and conduct prototype testing or, if appropriate, obtain supplier certification to support any substitution of materials after initial prototype testing, in accordance with the applicable provisions of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), 16 CFR part 1632.

IV

It Is Further Ordered That Respondent prepare and maintain: (a) Written records of all prototype tests specified in paragraph III of this Order for each futon design, including photographs of the tested futons; (b) a written record of the manufacturing specifications of each

futon prototype; and (c) written records of the manufacturing specifications of any material substituted for that used in the original prototype testing, in accordance with applicable provisions of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), 16 CFR part 1632.

V

It Is Further Ordered That Respondent prepare and maintain all other records required by the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), 16 CFR part 1632, for Respondent's futons, and comply with all applicable labeling requirements of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), 16 CFR part 1632, with respect to those futons.

VI

It Is Further Ordered That Respondent conduct a consumer level recall of style 605, 608, 611, and 613 futons sold by retailers from May 1, 1998 through October 31, 1998 by (1) joining with the Commission in issuing a joint press release that is mutually acceptable to the parties; (2) notifying all retailers to whom, during this period, Respondent sold such futons of the terms of recall and providing those retailers with mutually acceptable point-of-purchase posters describing those terms; and (3) offering each consumer who owns a futon described above a replacement futon upon completion of a form and return of the law label, brand name tag, and a portion of the old futon to demonstrate its destruction, and upon identification of the retailer from whom the consumer purchased the futon, provided that no consumer shall be required to document proof of purchase as a condition for obtaining a replacement futon.

VII

It Is Further Ordered That, no later than one year after final acceptance of the Consent Order Agreement by the Commission, Respondent pay to the Commission a civil penalty in the amount of SIXTY THOUSAND AND 00/100 DOLLARS ($60,000.00). If Respondent's financial condition deteriorates to a degree that payment within the prescribed time period would impose an undue financial hardship on the company, Respondent may request an extension of the payment schedule. Upon a showing of good cause, the Commission delegates to the Director of the Office of Compliance the authority to modify the terms of this order to provide an alternative payment schedule. Upon failure by Respondent to make full payment in the time specified by this agreement or any modification thereto, interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. 1961 (a) and (b).

VIII

It Is Further Ordered That Respondent shall within 90 days of service upon it of this Order file with the Commission a written report setting forth in detail the manner and form in which it has complied with this Order.

IX

It Is Further Ordered That Respondent: (a) Maintain records identifying each retail customer notified of the recall pursuant to paragraph VI, each consumer who receives a replacement futon pursuant to paragraph VI, and any consumer who requests but does not receive a replacement futon and the reason therefore; (b) make such records available for inspection by the Commission staff upon request; and (c) provide the Commission staff with a monthly summary, in a form designated by the staff, of the number of consumer contacts and the number of replacement futons shipped during that period.

X

It Is Further Ordered That for a period of three (3) years from the date this Order becomes final pursuant to 16 CFR 1605.13(e), Respondent notify the Commission at least thirty (30) days prior to any material proposed change in the way Respondent does business which may adversely affect its compliance obligations arising out of this Order.

By direction of the Commission, this Consent Order Agreement is provisionally accepted pursuant to 16 CFR 1605.13, and shall be placed on the public record, and the Commission shall announce the provisional acceptance of the Consent Order Agreement in the Commission's Public Calendar and in the **Federal Register.**

So Ordered by the Commission, this 24th day of March 2000.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Complaint

1. The staff of the Legal Division of the Office of Compliance, U.S. Consumer Product Safety Commission, brings this action for issuance of a cease and desist order against Respondent pursuant to section 5 of the Flammable Fabrics Act (FFA), 15 U.S.C. 1194, to section 5 of the Federal Trade Commission Act (FTCA), 15 U.S.C. 45, and to section 30(b) of the Consumer Product Safety Act, 15 U.S.C. 2079(b), which gives the Commission the authority to carry out certain functions under the FTCA related to the administration and enforcement of the FFA.

2. Respondent is a corporation organized under the laws of the State of Connecticut, with its principal place of business located at 261 Weston Street, Hartford, Connecticut. Respondent is a manufacturer of futons.

3. Respondent is now, and has been engaged in, the manufacture for sale and the sale in commerce, as the term ''commerce'' is defined in section 2(b) of the Flammable Fabrics Act (FFA), 15 U.S.C. 1191(b), of futons which are subject to the requirements of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended) (the ''Mattress Standard''), 16 CFR part 1632, and sections 3, 4, and 5 of the FFA, 15 U.S.C. 1192, 1193, and 1194.

4. Each futon identified in paragraph 2 is intended or promoted for sleeping upon.

5. Each futon identified in paragraph 2, is therefore:

(a) A ''mattress'' within the meaning of section 1632.1(a) of the Mattress Standard (FF 4–72, as amended), 16 CFR 1632.1(a); and

(b) An ''interior furnishing'' and a ''product'' as defined in sections 2(e) and (h) of the FFA, as amended, 16 U.S.C. 1191(e), (h).

6. Between May, 1995 and October, 1998, Respondent manufactured futons that were subject to, and failed to comply with, the Mattress Standard in that:

(a) Respondent failed to conduct new prototype testing as required by section 1632.3 of the Mattress Standard, 16 CFR 1632.3, upon opening a new manufacturing facility.

(b) Respondent failed to maintain manufacturing and test records as required by sections 1632.31(c)(1), (2), (3), (10), and (12) of the Mattress Standard, 16 CFR 1632.31(c)(1), (2), (3), (10), and (12).

(c) Respondent failed to label the futons in accordance with section 1632.31(a)(3) of the Mattress Standard, 16 CFR 1632.31(a)(3).

7. Tests conducted in accordance with section 1632.4 of the Mattress Standard, 16 CFR 1632.4, by the California Bureau of Home Furnishings and by the Commission technical staff on futon models 605, 608, 611, and 613 manufactured by Respondent and offered for retail sale in August, 1998 demonstrated that certain futons failed

to meet the ignition resistance requirements of section 1632.3 of the Mattress Standard, 16 CFR 1632.3.

8. The acts by Respondent set forth in paragraphs 5 and 6 of the complaint are unlawful and constitute an unfair method of competition and an unfair and deceptive practice in commerce under section 5(a) of the Federal Trade Commission Act (FTCA), 15 U.S.C. 45(a), in violation of section 3(a) of the FFA, 15 U.S.C. 1192(a), for which a cease and desist order may be issued against Respondent pursuant to section 5(b) of the FAA, 15 U.S.C. 1194(b), and section 5 of the FTCA, 15 U.S.C. 45.

Relief Sought

9. The staff seeks issuance of a cease and desist order against Respondent pursuant to section 5(b) of the FFA, 15 U.S.C. 1194(b), and section 5 of the FTCA, 15 U.S.C. 45.

Wherefore, the premises considered, the Commission hereby issues this Complaint on the ___ day of _____, 2000.

By direction of the Commission.

Dated:

Alan H. Schoem,

Director, Office of Compliance.

[FR Doc. 00–7786 Filed 3–29–00; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Availability of Government-Owned Inventions for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $3.00 each. Requests for copies of patents must include the patent number. Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the copies of patent applications sold to avoid premature disclosure.

The following patents and patent applications are available for licensing:

Patent 5,895,629: RING OSCILLATOR BASED CHEMICAL SENSOR; filed 25 November 1997; patented 20 April 1999.//Patent 5,900,835: COHERENT HIDDEN MARKOV MODEL; filed 9 July 1998; patented 4 May 1999.//Patent 5,903,483: FREQUENCY DOMAIN KERNEL PROCESSOR; filed 12 August 1997; patented 11 May 1999.//Patent 5,917,458: FREQUENCY SELECTIVE SURFACE INTEGRATED ANTENNA SYSTEM; filed 8 September 1995; patented 29 June 1999.//Patent 5,919,333: BRAKED LINEAR NIPPER; filed 19 November 1997; patented 6 July 1999.//Patent 5,920,065: OPTICALLY ACTIVATED BACK-TO-BACK PIN DIODE SWITCH HAVING EXPOSED INTRINSIC REGION; filed 14 November 1997; patented 6 July 1999.//Patent 5,921,589: VIBRATION ISOLATING FLANGE ASSEMBLY; filed 29 September 1997; patented 13 July 1999.//Patent 5,922,317: ACCELERATED GAS REMOVAL FROM DIVERS' TISSUES UTILIZING GAS METABOLIZING BACTERIA; filed 6 May 1997; patented 13 July 1999.//Patent 5,922,435: CERAMIC POLYMER COMPOSITE DIELECTRIC MATERIAL; filed 6 January 1999; patented 13 July 1999.//Patent 5,922,552: COMPOUNDS LABELED WITH CYANATE OR THIOCYANATE METAL COMPLEXES FOR DETECTING BY INFRARED SPECTROSCOPY; filed 9 June 1998; patented 13 July 1999.//Patent 5,923,030: SYSTEM AND METHOD FOR RECOVERING A SIGNAL OF INTEREST FROM A PHASE MODULATED SIGNAL USING QUADRATURE SAMPLING; filed 10 November 1997; patented 13 July 1999.//Patent 5,923,175: APPARATUS FOR CONTACTLESS MEASUREMENT OF THE ELECTRICAL RESISTANCE OF A CONDUCTOR; filed 3 June 1997; patented 13 July 1999.//Patent 5,923,617: FREQUENCY-STEERED ACOUSTIC BEAM FORMING SYSTEM AND PROCESS; filed 5 February 1997; patented 13 July 1999.//Patent 5,923,776: OBJECT EXTRACTION IN IMAGES; filed 23 May 1996; patented 13 July 1999.//Patent 5,924,109: METHOD AND APPARATUS FOR AUTOMATIC GENERATION OF EXTERNAL INTERFACE SPECIFICATIONS; filed 3 March 1997; patented 13 July 1999.//Patent 5,924,453: PISTON AND CYLINDER ACTUATED POLYMER MIXING VALVE; filed 20 April 1998; patented 20 July 1999.//Patent 5,924,587: PERFORMANCE ORIENTED SHIPPING CONTAINER; filed 11 August 1997; patented 20 July 1999.//Patent 5,925,370: BIOREPELLENT MATRIX COATING; filed 4 December 1997; patented 20 July 1999.//Patent 5,925,475: PHTHALONITRILE THERMOSET POLYMERS AND COMPOSITES CURED WITH HALOGEN-CONTAINING AROMATIC AMINE CURING AGENTS; filed 2 October 1997; patented 20 July 1999.//Patent 5,926,270: SYSTEM AND METHOD FOR THE REMOTE DETECTION OF ORGANIC MATERIAL IN ICE IN SITU; filed 14 October 1997; patented 20 July 1999.//Patent 5,926,439: FLEXTENSIONAL DUAL-SECTION PUSH-PULL UNDERWATER PROJECTOR; filed 21 December 1998; patented 20 July 1999.//Patent 5,927,149: HIGH-TORQUE QUIET GEAR; filed 14 July 1995; patented 27 July 1999.//Patent 5,928,483: ELECTROCHEMICAL CELL HAVING A BERYLLIUM COMPOUND COATED ELECTRODE; filed 12 November 1997; patented 27 July 1999.//Patent 5,928,545: CURE SHRINKAGE MEASUREMENT; filed 23 July 1997; patented 27 July 1999.//Patent 5,929,199: FLUOROALIPHATIC CYANATE RESINS FOR LOW DIELECTRIC APPLICATIONS; filed 13 January 1998; patented 27 July 1999.//Patent 5,929,572: ELECTROLUMINESCENT ARRAYS LAYERED TO FORM A VOLUMETRIC DISPLAY; filed 19 September 1996; patented 27 July 1999.//Patent 5,930,165: FRINGE FIELD SUPERCONDUCTING SYSTEM; filed 31 October 1997; patented 27 July 1999.//Patent 5,930,201: ACOUSTIC VECTOR SENSING SONAR SYSTEM; filed 27 January 1998; patented 27 July 1999.//Patent 5,930,203: FIBER OPTIC HYDROPHONE ARRAY; filed 10 August 1998; patented 27 July 1999.//Patent 5,930,313: METHOD AND APPARATUS FOR TRANSPORTING AN INTENSE ION BEAM; filed 3 December 1991; patented 27 July 1999.//Patent 5,930,580: METHOD FOR FORMING POROUS METALS; filed 30 April 1998; patented 27 July 1999.//Patent 5,931,248: DURABLE ROLL-STABILIZING KEEL SYSTEM FOR HOVERCRAFT; filed 15 September 1997; patented 3 August 1999.//Patent 5,932,006: BAF2/GAAS ELECTRONIC COMPONENTS; filed 25 March 1996; patented 3 August 1999.//Patent 5,932,091: OILY WASTE WATER TREATMENT SYSTEM; filed 22 January 1998; patented 3 August 1999.//Patent 5,932,335: OXIDATION RESISTANT FIBER-REINFORCED COMPOSITES WITH POLY (CARBORANE-SILOXANE/SILANE-ACETYLENE); filed 31 December 1996; patented 3 August 1999.//Patent 5,932,835: LINE

CHARGE INSENSITIVE MUNITION WARHEAD; filed 12 September 1997; patented 3 August 1999.//Patent 5,932,837: NON-TOXIC HYPERGOLIC MISCIBLE BIPROPELLANT; filed 22 December 1997; patented 3 August 1999.//Patent 5,933,117: FLEXIBLE FERRITE LOADED LOOP ANTENNA ASSEMBLY; filed 24 July 1996; patented 3 August 1999.//Patent 5,933,446: BEAMFORMER WITH ADAPTIVE PROCESSORS; filed 2 October 1995; patented 3 August 1999./ /Patent 5,933,808: METHOD AND APPARATUS FOR GENERATING MODIFIED SPEECH FROM PITCH-SYNCHRONOUS SEGMENTED SPEECH WAVEFORMS; filed 7 November 1995; patented 3 August 1999.//Patent 5,934,609: DEFORMABLE PROPELLER BLADE AND SHROUD; filed 1 April 1997; patented 10 August 1999.//Patent 5,934,622: MICRO-ELECTRODE AND MAGNET ARRAY FOR MICROTURBULENCE CONTROL; filed 1 May 1997; patented 10 August 1999./ /Patent 5,934,911: WATERPROOF QUICK DISCONNECT SLIP RING DEVICE; filed 14 April 1997; patented 10 August 1999.//Patent 5,936,025: CERAMIC POLYMER COMPOSITE DIELECTRIC MATERIAL; filed 6 March 1997; patented 10 August 1999.//Patent 5,937,078: TARGET DETECTION METHOD FROM PARTIAL IMAGE OF TARGET; filed 10 April 1996; patented 10 August 1999.//Patent 5,937,543: FOOTWEAR HAVING A VARIABLE SIZED INTERIOR; filed 22 August 1997; patented 17 August 1999.//Patent 5,938,545: VIDEO SYSTEM FOR DETERMINING A LOCATION OF A BODY IN FLIGHT; filed 5 June 1997; patented 17 August 1999.//Patent 5,938,999: WET-SPINNING FIBER PROCESS PROVIDING CONTROLLED MORPHOLOGY OF THE WET-SPUN FIBER; filed 14 February 1997; patented 17 August 1999.//Patent 5,939,665: BRISK MANEUVERING DEVICE FOR UNDERSEA VEHICLES; filed 12 February 1996; patented 17 August 1999.//Patent 5,939,958: MICROSTRIP DUAL MODE ELLIPTIC FILTER WITH MODAL COUPLING THROUGH PATCH SPACING; filed 18 February 1997; patented 17 August 1999.//Patent 5,940,046: STANDARDIZED MODULAR ANTENNA SYSTEM; filed 14 April 1997; patented 17 August 1999.//Patent 5,941,481: DEVICE FOR INTERACTIVE TURBULENCE CONTROL IN BOUNDARY LAYERS; filed 7 July 1997; patented 24 August 1999.//Patent 5,941,744: VECTORED PROPULSION SYSTEM FOR SEA-GOING VESSELS; filed 9 September 1997; patented 24 August 1999.//Patent 5,942,206: CONCENTRATION OF ISOTOPIC HYDROGEN BY TEMPERATURE GRADIENT EFFECT IN SOLUBLE METAL; filed 23 August 1991; patented 24 August 1999.//Patent 5,942,687: METHOD AND APPARATUS FOR IN SITU MEASUREMENT OF CORROSION IN FILLED TANKS; filed 1 April 1998; patented 24 August 1999.//Patent 5,942,712: METHOD AND APPARATUS FOR RETAINING WIRES IN A CYLINDRICAL TUBE; filed 9 October 1997; patented 24 August 1999.//Patent 5,942,748: LIQUID LEVEL SENSOR AND DETECTOR; filed 26 February 1997; patented 24 August 1999.//Patent 5,944,762: HIERARCHICAL TARGET INTERCEPT FUZZY CONTROLLER WITH FORBIDDEN ZONE; filed 1 April 1996; patented 31 August 1999.//Patent 5,944,784: OPERATING METHODS FOR A UNIVERSAL CLIENT DEVICE PERMITTING A COMPUTER TO RECEIVE AND DISPLAY INFORMATION FROM SEVERAL SPECIAL APPLICATIONS SIMULTANEOUSLY; filed 30 September 1997; patented 31 August 1999.//Patent 5,945,036: DUAL ENERGY DEPENDENT FLUIDS; filed 22 January 1992; patented 31 August 1999./ /Patent 5,945,666: HYBRID FIBER BRAGG GRATING/LONG PERIOD FIBER GRATING SENSOR FOR STRAIN/TEMPERATURE DISCRIMINATION; filed 19 May 1997; patented 31 August 1999.//Patent 5,945,966: COMPUTER PROGRAM FOR A THREE-DIMENSIONAL VOLUMETRIC DISPLAY; filed 2 October 1996; patented 31 August 1999.//Patent 5,946,272: IMAGE CONVERSION FOR A SCANNING TOROIDAL VOLUME SEARCH SONAR; filed 17 August 1998; patented 31 August 1999.//Patent 5,947,579: UNDERWATER CHEMILUMINESCENT DIVING LIGHT; filed 29 July 1997; patented 7 September 1999.//Patent 5,948,621: DIRECT MOLECULAR PATTERNING USING A MICRO-STAMP GEL; filed 30 September 1997; patented 7 September 1999.//Patent 5,948,959: CALIBRATION OF THE NORMAL PRESSURE TRANSFER FUNCTION OF A COMPLIANT FLUID-FILLED CYLINDER; filed 29 May 1997; patented 7 September 1999.//Patent 5,948,993: AMPLIFIED SHEAR TRANSDUCER; filed 2 March 1998; patented 7 September 1999.//Patent 5,949,016: ENERGETIC MELT CAST EXPLOSIVES; filed 29 July 1991; patented 7 September 1999.//Patent 5,949,361: MULTI-STAGE DELTA SIGMA MODULATOR WITH ONE OR MORE HIGH ORDER SECTIONS; filed 12 May 1997; patented 7 September 1999.//Patent 5,949,741: DUAL-SECTION PUSH-PULL UNDERWATER PROJECTOR; filed 21 December 1998; patented 7 September 1999.//Patent 5,949,835: STEADY-STATE, HIGH DOSE NEUTRON GENERATION AND CONCENTRATION APPARATUS AND METHOD FOR DEUTERIUM ATOMS; filed 1 July 1991; patented 7 September 1999.//Patent 5,949,935: INFRARED OPTICAL FIBER COUPLER; filed 26 November 1997; patented 7 September 1999.//Patent 5,950,004: MODEL-BASED PROCESS FOR TRANSLATING TEST PROGRAMS; filed 13 September 1996; patented 7 September 1999.// Patent 5,951,170: TAPERED RESILIENT SLEEVE BEARING ASSEMBLY; filed 3 April 1998; patented 14 September 1999.//Patent 5,951,346: AIR-DELIVERED POSITION MARKING DEVICE AND METHOD; filed 8 December 1997; patented 14 September 1999.//Patent 5,951,607: AUTONOMOUS CRAFT CONTROLLER SYSTEM FOR LANDING CRAFT AIR CUSHIONED VEHICLE; filed 6 March 1997; patented 14 September 1999.// Patent 5,952,458: PROCESS FOR PREPARING A VINYL TERMINATED POLYMER; filed 24 September 1998; patented 14 September 1999.//Patent 5,952,601: RECOILLESS AND GAS-FREE PROJECTILE PROPULSION; filed 23 April 1998; patented 14 September 1999.//Patent 5,952,957: WAVELET TRANSFORM OF SUPER-RESOLUTIONS BASED ON RADAR AND INFRARED SENSOR FUSION; filed 1 May 1998; patented 14 September 1999.//Patent 5,953,921: TORSIONALLY RESONANT TOROIDAL THERMOACOUSTIC REFRIGERATOR; filed 13 January 1998; patented 21 September 1999.//Patent 5,955,698: AIR-LAUNCHED SUPERCAVITATING WATER-ENTRY PROJECTILE; filed 28 January 1998; patented 21 September 1999.//Patent 5,955,849: COLD FIELD EMITTERS WITH THICK FOCUSING GRIDS; filed 25 February 1994; patented 21 September 1999.//Patent 5,956,171: ELECTRO-OPTIC MODULATOR AND METHOD; filed 31 July 1996; patented 21 September 1999.//Patent 5,957,077: GUIDE TUBE BEND FLUID BEARING; filed 23 May 1997; patented 28 September 1999.//Patent 5,957,427: ISOLATION MOUNTING DEVICE; filed 14 May 1996; patented 28 September 1999.//Patent 5,957,668: BRAKE ACTUATION MEANS FOR A ROTARY PUMP SYSTEM; filed 17 January 1996; patented 28 September 1999.//Patent 5,958,229: ELECTROLYTIC DISINFECTANT SYSTEM; filed 27 March 1998; patented 28 September

1999.//Patent 5,959,233: LINE CHARGE FASTENER AND DETONATING CORD GUIDE; filed 2 March 1998; patented 28 September 1999.//Patent 5,959,753: ULTRA HIGH BIT RATE ALL OPTICAL COMMUNICATION SYSTEM; filed 25 January 1994; patented 28 September 1999.//Patent 5,960,026: ORGANIC WASTE DISPOSAL SYSTEM; filed 9 September 1997; patented 28 September 1999.//Patent application 08/939,410: CORROSION-RESISTANT COATING PREPARED BY THE THERMAL DECOMPOSITION OF LITHIUM PERMANGANATE; filed 29 September 1997.//Patent application 08/982,892: ELECTROCHEMICAL FABRICATION OF CAPACITORS; filed 2 December 1997.//Patent application 09/105,087: CARBON-BASED COMPOSITES DERIVED FROM PHTHALONITRILE RESINS; filed 26 June 1998.//Patent application 09/115,073: TOW CABLE WITH CONDUCTING POLYMER JACKET FOR MEASURING THE TEMPERATURE OF WATER COLUMN; filed 6 July 1998.//Patent application 09/126,222: DEVICE FOR TENSIONING SHEET MEMBERS; filed 30 July 1998./ /Patent application 09/126,859: SHAPE MEMORY ACTUATOR SYSTEM; filed 31 July 1998.//Patent application 09/133,852: ADVANCED VERTICAL ARRAY BEAMFORMER; filed 13 August 1998.//Patent application 09/152,477: ACOUSTIC BOLT REMOVAL; filed 11 September 1998.//Patent application 09/158,974: CAVITATION-RESISTANT SONAR ARRAY; filed 17 September 1998.//Patent application 09/162,633: GROMMET HAVING METAL INSERT; filed 28 September 1998.// Patent application 09/173,612: QUADRIFILAR HELIX ANTENNA; filed 13 October 1998.//Patent application 09/226,628: BROADBAND DIRECT FED PHASED ARRAY ANTENNA COMPRISING STACKED PATCHES; filed 21 December 1998.//Patent application 09/246,195: LARGE PANEL SURFACE PLANER; filed 11 January 1999.//Patent application 09/246,208: FUZZY LOGIC BASED SYSTEM AND METHOD FOR INFORMATION PROCESSING WITH UNCERTAIN INPUT DATA; filed 20 January 1999.// Patent application 09/246,212: GUIDANCE SYSTEM; filed 15 January 1999.//Patent application 09/246,767: METHOD AND SYSTEM FOR TRANSIENT SIGNAL DETECTION; filed 1 February 1999.//Patent application 09/252,243: POWER ENVELOPE SHAPER; filed 14 January 1999.//Patent application 09/267,903: A RECONFIGURABLE ARRAY FOR POSITIONING MEDICAL SENSORS; filed 2 March 1999.//Patent application 09/267,904: PROPELLER DEFLECTION SNUBBER; filed 2 March 1999.//Patent application 09/267,905: MAGNESIUM-SOLUTION PHASE CATHOLYTE SEAWATER ELECTROCHEMICAL SYSTEM; filed 2 March 1999.//Patent application 09/267,908: TOW CABLE TEMPERATURE PROFILER; filed 8 March 1999.//Patent application 09/267,909: ROLLER GRAPNEL; filed 8 March 1999.//Patent application 09/267,916: CALIBRATED STOP BOLT FOR LONGITUDINAL SHOCK TEST FIXTURE; filed 2 March 1999.//Patent application 09/272,744: DATA ACQUISITION SYSTEM INCLUDING DATA TRANSMISSION CONTROLLER FOR OCTAVELY NESTED ACOUSTIC LINE ARRAYS; filed 10 March 1999.// Patent application 09/273,817: ACOUSTICALLY DRIVEN PLASMA ANTENNA; filed 22 March 1999.// Patent application 09/285,173: DATA REDUCTION SYSTEM FOR IMPROVEMENT CLASSIFIER PERFORMANCE; filed 18 March 1999./ /Patent application 09/285,175: PLASMA ANTENNA WITH CURRENTS GENERATED BY OPPOSED PHOTON BEAMS; filed 23 March 1999.//Patent application 09/285,176: HORIZONTAL PLASMA ANTENNA USING PLASMA DRIFT CURRENTS; filed 23 March 1999.//Patent application 09/286,844: FIBER OPTIC CABLE FURCATION UNIT; filed 6 April 1999.//Patent application 09/301,383: HYPOTHESIS SELECTION FOR EVIDENTIAL REASONING SYSTEMS; filed 27 April 1999.//Patent application 09/310,376: INFRARED FIBER IMAGER; filed 12 May 1999.//Patent application 09/310,681: HIGH RESOLUTION IMAGING USING OPTICALLY TRANSPARENT PHOSPHORS; filed 1 April 1999.// Patent application 09/311,900: ASSEMBLY AND METHOD FOR FURCATING OPTICAL FIBERS; filed 14 May 1999.//Patent application 09/313,311: DEPTH SENSITIVE MECHANICAL ACOUSTIC SIGNAL GENERATING DEVICE; filed 17 May 1999.//Patent application 09/313,575: FUZZY LOGIC-BASED MODEL ASSESSMENT SYSTEM FOR CONTACT TRACKING; filed 10 May 1999.//Patent application 09/317,084: STANDING WAVE PLASMA ANTENNA WITH PLASMA REFLECTOR; filed 21 May 1999.//Patent application 09/317,085: PLASMA ANTENNA WITH TWO-FLUID IONIZATION CURRENT; filed 21 May 1999.//Patent application 09/317,086: PLASMA ANTENNA WITH ELECTRO-OPTIC MODULATOR; filed 21 May 1999.//Patent application 09/317,088: SOFT-BODIED, TOWABLE, ACTIVE ACOUSTIC MODULE; filed 21 May 1999.//Patent application 09/317,089: METHOD AND SYSTEM FOR DETERMINING THE PROBABLE LOCATION OF A CONTACT; filed 21 May 1999.//Patent application 09/317,090: LOW VOLTAGE POWER SYSTEM FOR TOWED ACOUSTIC ARRAY; filed 21 May 1999.//Patent application 09/335,820: AN ASSEMBLY AND METHOD FOR POSITIONING A MEASUREMENT PROBE PROXIMATE A TEST BODY DISPOSED FOR A FLUID TUNNEL TEST; filed 18 June 1999.//Patent application 09/335,821: BOTTOM-DEPLOYED, UPWARD LOOKING HYDROPHONE ASSEMBLY; filed 18 June 1999.//Patent application 09/337,221: MULTI-DEPTH ACOUSTIC SIGNAL GENERATING DEVICE; filed 7 June 1999.//Patent application 09/339,917: METHODS AND MATERIALS FOR SELECTIVE MODIFICATION OF PHOTOPATTERNED POLYMER FILMS; filed 28 June 1999.//Patent application 09/349,355: SYSTEM AND METHOD FOR MONITORING RISK IN A SYSTEM DEVELOPMENT PROGRAM; filed 8 July 1999.//Patent application 09/349,356: AN INFORMATION SYSTEM FOR HANDLING CONTRACT DOCUMENTATION; filed 1 July 1999./ /Patent application 09/353,871: ELECTRONIC DEVICES GROWN ON OFF-AXIS SAPPHIRE SUBSTRATE; filed 15 July 1999.//Patent application 09/363,819: MOLECULARLY-IMPRINTED MATERIAL MADE BY TEMPLATE-DIRECTED SYNTHESIS; filed 30 July 1999.//Patent application 09/372,107: QUICK ZERO KNOB; filed 11 August 1999.//Patent application 09/372,108: SHOCK ABSORBING MOUNT FOR ADJUSTABLE BARREL; filed 11 August 1999.//Patent application 09/399,474: DEPTHIMETER; filed 13 September 1999.//

FOR FURTHER INFORMATION CONTACT: Mr. John G. Wynn, Associate Counsel, Intellectual Property, Office of Naval Research (Code 00CC), Arlington, VA 22217–5660, telephone (703) 696–4004.

(Authority: 35 U.S.C. 207; 37 CFR Part 404.)

Dated: March 22, 2000.

C.G. Carlson,

Major, U.S. Marine Corps, Alternate Federal Register Liaison Officer.

[FR Doc. 00–7904 Filed 3–29–00; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 1, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 24, 2000.

William Burrow,

Leader, Information Management GroupOffice of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: National Household Education Survey of 2001 (NHES: 2001).

Frequency: Weekly.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 3,100. Burden Hours: 465.

Abstract: The NHES:2001 will be a survey of households using random-digit-dialing and computer-assisted telephone interviewing. The topical components are Early Childhood Program Participation, Before-and After-School Programs and Activities, and Adult Education and Lifelong Learning. Respondents to the first two components will be parents of children from birth to age 6 who are not yet in kindergarten and children in kindergarten through grade 8, respectively. Respondents to the third component will be persons age 16 and older who are not enrolled in elementary or secondary school. This survey will provide NCES with current measures of educational participation for preschool children adn adults and will also provide much needed baseline information from a national sample on the out-of-school activities of school-age children.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO IMG Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (202) 708–9346 or via her internet address Kathy Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–7805 Filed 3–29–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 1, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 24, 2000.

William Burrow,

Leader, Information Management GroupOffice of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Extension.

Title: National Student Loan Data System (NSLDS).

Frequency: On Occasion, Weekly, Monthly, Quarterly.

Affected Public: Not-for-profit institutions; Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 29,952.

Burden Hours: 179,712.

Abstract: The U.S. Department of Education will collect data from postsecondary schools and guaranty agencies about federal Perkins loans, federal family education loans, and William D. Ford direct student loans to

be used to determine eligibility for Title IV student financial aid.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO IMG Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–7806 Filed 3–29–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 1, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 24, 2000.

William Burrow,

Leader, Information Management GroupOffice of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: Technology Innovation Challenge Grant Program Online Annual Performance Reporting System.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 96.

Burden Hours: 3,840.

Abstract: The proposed interactive, on-line database provides the U.S. Department of Education and funded Technology Innovation Challenge Grant projects with up-to-date information on a number of key issues that include: Basic characteristics of the project and key contact information; project partners; project participants; the project focus; project goals and activities; professional development activities; dissemination of project products; lessons learned from the project; and the project's budget.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO IMG Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (202) 708–9346 or via her internet address Kathy Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–7807 Filed 3–29–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM98–10–003; RM98–12–003]

Regulation of short-Term Natural Gas Transportation Services; Regulation of Interstate Natural Gas Transportation Services; Order Denying Stay

Issued March 24, 2000.

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

On February 9, 2000, The Federal Energy Regulatory Commission (Commission) issued a final rule [1] that amended the Commission's open access regulations to grant a waiver for a limited period of the price ceiling for released capacity transactions of less than one year.[2] The waiver takes effect on March 26, 2000. On March 15, 2000, Indicated Shippers and the Independent Petroleum Association of America filed a motion to stay the effective date of the waiver pending the Commission's consideration of the order and rehearing and any subsequent judicial review.

The Administrative Procedure Act provides that an agency may stay an action ''when justice so requires.'' [3] The Commission finds that justice does not require the issuance of a stay, and denies the motion.

The Commission orders: The motion for stay is denied.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–7799 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, 63 FR 10156 (Feb. 25, 2000), III FERC Stats. & Regs. Regulations Preambles ¶ 31,091 (Feb. 9, 2000).

[2] 18 CFR 284.8 (i).

[3] 5 U.S.C. 705 (1994).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–331–013]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 24, 2000.

Take notice that on March 21, 2000 National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Third Revised Sheet No. 12 and Second Revised Sheet No. 13 (reserved for future use), with a proposed effective date of April 1, 2000.

National Fuel states that the filing is made to implement firm storage and transportation agreements between National Fuel and TXU Energy Trading Company (TXU). National Fuel states that these agreements provide for negotiated rates pursuant to GT&C Section 17.2 of National Fuel's tariff and the Commission's policy regarding negotiated rates.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 of 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–7790 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–220–000]

Town of Neligh, Nebraska, v. K N Interstate Gas Transmission Company and KN Energy, a Division of Kinder-Morgan, Inc.; Notice of Complaint

March 24, 2000.

Take notice that on March 23, 2000, the Town of Neligh, Nebraska (Neligh) filed pursuant to 18 CFR 385.206 a Complaint under Section 5 of the Natural Gas Act (''NGA''), 15 U.S.C. 717d, against KN Interstate Gas Transmission Company (KNI), a Complaint and Request for Declaratory Relief against KN Energy (KNE), a division of Kinder-Morgan, Inc., and, in the alternative, an Application under Section 7(a) of the NGA, 15 U.S.C. 717f(a), to compel KNI to provide gas service to Neligh.

According to the Complainant, Neligh will acquire the local distribution facilities of KNE as a result of condemnation proceedings and will operate those facilities to provide gas distribution service to the residents and businesses located in Neligh and the surrounding community. Neligh has requested firm and no-notice transportation service from KNI, KNE's interstate pipeline affiliate, in an amount proportionate to that used historically by KNE to serve Neligh. KNI has rejected Neligh's request on the basis that KNI is fully subscribed.

Complainant seeks, on an expedited basis, the following alternative forms of relief:

(1) A Declaratory Order from the Commission declaring that the capacity in question was assigned to KNE by reason of its status as the incumbent provider of local distribution service to customers in Neligh, Nebraska during the restructuring of KNI, and ordering an assignment to Neligh of a proportionate amount of the FTS and NNS capacity on KNI, allocated to KNE in restructuring, adequate to serve Neligh.

(2) In the alternative, an order from the Commission pursuant to Sections 5, 7, and 16 of the NGA finding that KNI's refusal to provide service is unjust, unreasonable, unduly discriminatory, and preferential, and requiring KNI to provide gas transportation service to Neligh.

(3) In the alternative, a grant of Neligh's Application under Section 7(a) of the NGA to require KNI to extend and improve its transportation facilities to provide the transportation service sought by Neligh or provide such other relief as is authorized under the NGA to accommodate Neligh's need for interstate gas transportation service to serve the Neligh community.

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, 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 must be filed on or before April 3, 2000. 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. Copes of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before April 3, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–7794 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 137–002]

Pacific Gas & Electric Company; Notice of Meeting

March 24, 2000.

Take notice of the following scheduled meeting of the Mokelumne Relicensing Collaborative. There will be a full group meeting on Wednesday, April 26, 2000, and Thursday, April 27, 2000.

All meetings will be from 9 a.m. to 4 p.m. at the PG&E offices, 2740 Gateway Oaks Drive, in Sacramento, California. Expected participants need to give their names to David Moller (PG&E) at (415) 973–4696 so that they can get through security.

For further information, please contact Elizabeth Molloy at (202) 208–0771.

David P. Boergers,

Secretary.

[FR Doc. 00–7793 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–65–000, et al.]

Avista Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 24, 2000.

Take notice that the following filings have been made with the Commission:

1. Avista Energy, Inc.

[Docket No. EC00–65–000]

Take notice that on March 17, 2000, Avista Energy, Inc, (Avista Energy) submitted for filing an application for authorization under Federal Power Act Section 203 for the disposition of Avista Energy's rights and obligations under certain of its wholesale power agreements, and associated books and records, to Constellation Power Source, Inc. Avista Energy requests expedited approval of the application.

Comment date: April 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. PJM Interconnection, L.L.C.

[Docket No. ER00–1794–001]

Take notice that on March 22, 2000, PJM Interconnection, L.L.C. (PJM), supplemented its March 3, 2000 filing in this docket by tendering a Revised Exhibit 1 that corrects a typographical error in the originally filed exhibit.

Copies of this supplemental filing were served upon all PJM Members and the state electric regulatory commissions in the PJM Control Area.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Sun River Electric Cooperative, Inc.

[Docket Nos. ER00–1920–000]

Take notice that on March 20, 2000, Sun River Electric Cooperative, Inc. (SREC) submitted for filing its Agreement for Transmission Service between Montana Power Company and Sun River Electric Cooperative, Inc. (Agreement), pursuant to Section 205 of the Federal Power Act (FPA), 16 U.S.C. § 824d, and Section 35.12 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.12. SREC's filing is available for public inspection at its offices in Fairfield, Montana.

SREC requests that the Commission accept the Agreement with an effective date of March 24, 2000.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Allegheny Energy Service Corporation, on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–1927–000]

Take notice that on March 21, 2000, Allegheny Energy Service Corporation on behalf of West Penn Power Company (Allegheny Power), filed an Interconnection Agreement (Agreement) with Allegheny Energy Unit 1 and Unit 2, LLC.

The proposed effective date under the Agreement is November 15, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: April 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Western New York Wind Corp.

[Docket No. ER00–1928–000]

Take notice that on March 21, 2000, Western New York Wind Corp. (Western Wind), a New York corporation with its headquarters in Wyoming County, New York, tendered for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an initial rate schedule for the sale of electricity at market-based rates.

Western Wind requests that its tariff become effective May 18, 2000.

Comment date: April 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Central Illinois Light Company

[Docket No. ER00–1929–000]

Take notice that on March 21, 2000, 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 one new customer, Allegheny Energy Supply Company, LLC.

CILCO requested an effective date of March 10, 2000 for the service agreements.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: April 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Energy Service Corporation, on Behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1930–000]

Take notice that on March 21, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply Company) filed Amendment No. 3 to Supplement No. 9 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy requests a waiver of notice requirements to make service available as of November 24, 1999, to Strategic Energy L.L.C.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. PJM Interconnection, L.L.C.

[Docket No. ER00–1931–000]

Take notice that on March 21, 2000, PJM Interconnection, L.L.C. (PJM) tendered for filing Southern Company Retail Energy Marketing L.P.'s signature page to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA), and an amended Schedule 17 listing the parties to the RAA.

PJM states that it served a copy of its filing on all parties to the RAA, including Southern Company Retail Energy Marketing L.P., and each of the state electric regulatory commissions within the PJM Control Area.

Comment date: April 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. PJM Interconnection, L.L.C.

[Docket No. ER00–1932–000]

Take notice that on March 21, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing two executed service agreements. One agreement is a long-term firm point-to-point transmission service with Delmarva Power & Light Company, and the other is an umbrella service agreement for network integration transmission service under state required retail access programs with EconnergyEnergy Company, Inc.

Copies of this filing were served upon both Delmarva Power & Light Company and EconnergyEnergy Company, Inc.

The requested effective dates of the service agreements are March 7, 2000 for Delmarva Power & Light Company and March 3, 2000 for EconnergyEnergy Company, Inc.

Comment date: April 11, 2000, 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. 00–7834 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1782–001, et al.]

Duke Energy Trenton, LLC, et al.; Electric Rate and Corporate Regulation Filings

March 23, 2000.

Take notice that the following filings have been made with the Commission:

1. Duke Energy Trenton, LLC

[Docket No. ER00–1782–001]

Take notice that on March 20, 2000, Duke Energy Trenton, LLC (Duke Trenton) tendered for filing a supplemental filing to its Application for authorization to engage in market-based rate sales submitted in the above-referenced docket on March 2, 2000.

The supplemental filing consolidates Duke Trenton's proposed Rate Schedules FERC Nos. 1, 2, and 3 into one tariff, FERC Electric Tariff No. 1.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Duke Energy Vermillion, LLC

[Docket No. ER00–1783–001]

Take notice that on March 20, 2000, Duke Energy Vermillion, LLC (Duke Vermillion) tendered for filing a supplemental filing to its Application for authorization to engage in market-based rate sales submitted in the above-referenced docket on March 2, 2000.

The supplemental filing consolidates Duke Vermillion's proposed Rate Schedules FERC Nos. 1, 2, and 3 into one tariff, FERC Electric Tariff No. 1. In addition, the Test Power Purchase Agreement, referred to in the Application as Rate Schedule FERC No. 4, will be redesignated as Rate Schedule FERC No. 1.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Energy Madison, LLC

[Docket No. ER00–1784–001]

Take notice that on March 20, 2000, Duke Energy Madison, LLC (Duke Madison) tendered for filing a supplemental filing to its Application for authorization to engage in market-based rate sales submitted in the above-referenced docket on March 2, 2000.

The supplemental filing consolidates Duke Madison's proposed Rate Schedules FERC Nos. 1, 2, and 3 into one tariff, FERC Electric Tariff No. 1. In addition, the Test Power Purchase Agreement, referred to in the Application as Rate Schedule FERC No. 4, will be redesignated as Rate Schedule FERC No. 1.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Avista Corporation

[Docket No. ER00–1917–000]

Take notice that on March 20, 2000, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission pursuant to section 35.12 of the Commissions, 18 CFR Part 35.12, an executed Amendment to a Mutual Netting Agreement with Benton County PUD previously filed with the FERC under Docket No. ER99–4136–000, Service Agreement No. 274, effective 7/1/99 changing billing and payment terms.

AVA requests waiver of the prior notice requirements and requests an effective date of March 1, 2000 for the amended terms for net billing of transactions.

Notice of the filing has been served upon the following: Mr. James W. Sanders, General Manager, Benton County PUD, 2721 West 10th Avenue, P O Box 6270, Kennewick, WA 99336–0270.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. UtiliCorp United Inc.

[Docket No. ER00–1918–000]

Take notice that on March 20, 2000, UtiliCorp United Inc. (UtiliCorp) filed service agreements with Allegheny Energy Supply Company, LLC for service under its Non-Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. UtiliCorp United Inc.

[Docket No. ER00–1919–000]

Take notice that on March 20, 2000, UtiliCorp United Inc. (UtiliCorp) filed service agreements with Allegheny Energy Supply Company, LLC for service under its Short-Term Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Light Company

[Docket No. ER00–1921–000]

Take notice that on March 20, 2000, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and name changes for three customers, from El Paso Power Services Company to El Paso Merchant Energy, L.P.; from Illinova Power Marketing, Inc. to Dynegy Power Marketing, Inc. and from Sonat Power Marketing, L.P. to El Paso Merchant Energy, L.P.

CILCO requested an effective date of March 13, 2000 for the new index.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Electric Power Company

[Docket No. ER00–1922–000]

Take notice that on March 20, 2000, Wisconsin Electric Power Company (Wisconsin Electric) , tendered for filing

a notification indicating a name change for an electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, First Revised Volume No. 2) as requested by the customer.

Wisconsin Electric respectfully requests effective March 1, 2000, Service Agreement No. 78 with Williams Energy Service Company is changed to Williams Energy Marketing & Trading Company (Williams).

Copies of the filing have been served on Williams, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Central Illinois Light Company

[Docket No. ER00–1923–000]

Take notice that on March 20, 2000, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and name changes for four customers from Citizens Power Sales to Citizens Power Sales LLC.; from El Paso Power Services Company to El Paso Merchant Energy, L.P.; from Illinova Power Marketing, Inc. to Dynegy Power Marketing, Inc. and from Sonat Power Marketing, L.P. to El Paso Merchant Energy, L.P.

CILCO requested an effective date of March 13, 2000 for the new index.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: April 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. The Toledo Edison Company

[Docket No. ER00–1924–000]

Take notice that on March 20, 2000 The Toledo Edison Company tendered for filing, an amendment to the Interconnection and Service Agreement with American Municipal Power-Ohio, Inc. (AMP-Ohio) which deletes Section 2.04 to eliminate an obsolete reference, revises Section 1.09(a) of Schedule A to increase the permissible monthly deposit to or withdraw from the Base Capacity Bank by AMP-Ohio, and revises Schedule K to reflect the delivery points now served under the FirstEnergy Open Access Tariff. There is no rate effect associated with this filing. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: April 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Southwestern Public Service Company

[Docket No. ER00–1925–000]

Take notice that on March 20, 2000, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), submitted an executed umbrella service agreement under Southwestern's market-based sales tariff with South Plains Electric Cooperative, Inc. (South Plains). This umbrella service agreement provides for Southwestern's sale and South Plain's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Southwestern requests that this service agreement become effective on March 20, 2000.

Comment date: April 10, 2000, 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. 00–7835 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184–060]

El Dorado Irrigation District; Notice of Availability of Draft Environmental Assessment

March 24, 2000.

A draft environmental assessment (DEA) is available for public review. The DEA was prepared in support of Commission action on a proposed license amendment for the El Dorado Project. The proposed amendment would allow the reconstruction of the project's diversion dam and construction of a two-mile-long tunnel to bypass a section of the project's canal that is damaged and/or situated on unstable slopes. The DEA finds that approval of the proposed amendment, with staff's recommended mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment. The El Dorado Project is located on the South Fork of the American River, in El Dorado, Amador, and Alpine counties, California.

The DEA was written by staff in the Office of Energy Projects, Federal Energy Regulatory Commission. Copies of the DEA can be viewed at the Commission's Reference and Information Center, Room 2A, 888 First Street, NE., Washington, DC 20426, or by calling 202–208–1371. The document can be viewed on the web at http://rimsweb1.ferc.fed.us/rims (call 202–208–2222 for assistance). Copies can also be obtained by calling the project manager listed below.

Please submit any comments (an original and eight copies) on the DEA within 45 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 184–060 to all comments. For further information, please contact the project manager, John Mudre, at (202) 219–1208.

Federal, state, and local agencies are invited to file comments on the DEA. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

David P. Boergers,

Secretary.

[FR Doc. 00–7792 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–172 Oklahoma]

Grand River Dam Authority; Notice of Availability of Draft Environmental Assessment

March 24, 2000.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Energy Projects has prepared a draft environmental assessment (DEA) on the Grand River Dam Authority's application for approval of a new commercial dock facility. The Grand River Dam Authority proposes to permit Lewis Perrault, d/b/a Lewie Development Company (permittee), to construct and operate a commercial dock facility on Grand Lake's Grand Craft Cove, about 2 miles from the Pensacola Dam. The proposed facility includes nine boat slips and an area for swimming and temporary boat mooring and will be used in conjunction with the permittee's planned commercial development on his adjoining property. The Pensacola Project is on the Grand River, in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

In the DEA, staff concludes that approval of the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment. Copies of the DEA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371. Copies of the DEA can also be obtained through the Commission's homepage at *http://www.ferc.fed.us.*

Please submit any comments within 30 days from the date of this notice. Comments should be addressed to: Mr. David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please affix Project No. 1494–172 to all comments. For further information, please contact the project manager, Jon Cofrancesco at (202) 219–0079 or at e-mail address *Jon.Cofrancesco@ferc.fed.us.*

David P. Boergers,

Secretary.

[FR Doc. 00–7791 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–51–000]

East Tennessee Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Rocky Top Expansion Project, and Request for Comments on Environmental Issues

March 27, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction, testing, operation, and abandonment of facilities proposed in the East Tennessee Natural Gas Company (East Tennessee) Rocky Top Expansion Project in various counties of Virginia and Tennessee.[1] These facilities would consist of about 15.1 miles of pipeline, about 0.7 mile of pipeline replacement at seventeen road crossings, three new meter stations and a modification to an existing meter station, mainline valves, uprating of four compressor units and four meter stations, hydrostatic testing of about 26.7 miles of pipeline to increase the maximum allowable operating pressure (MAOP), and the abandonment of about 0.7 mile of pipeline. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner on East Tennessee's proposed route and receive this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice East Tennessee provided to landowners along and adjacent to the proposed route. This fact sheet addresses a number of typically asked questions, including the use of eniment domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

This Notice of Intent (NOI) is being sent to landowners of property crossed by and adjacent to East Tennessee's proposed route; Federal, state, and local agencies; elected officials; environmental and public interest groups; Indian tribes that might attach religious and cultural significance to historic properties in the area of potential effects; local libraries and newspapers; and the Commission's list of parties to the proceeding. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Additionally, with this NOI we[2] are asking those Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated East Tennessee's proposal relative to their agencies' responsibilities. Agencies who would like to request cooperating status should follow the instructions for filing comments described below.

Summary of the Proposed Project

East Tennessee is proposing the Rocky Top Expansion Project to satisfy the growing demand for natural gas in the western Virignia and eastern Tennessee regions. The project would provide new firm service to meet increased market demand of specific customers as well as provide system-wide benefits. East Tennessee is requesting authorization to increase its pipeline capacity by a total of 35,068 dekatherms (Dth) per day through the installation of additional pipeline, hydrostatic testing to increase MAOP, pipeline replacement, compressor horsepower and meter station uprates, and installation of additional metering facilities.

East Tennessee proposes to construct the following new facilities on its 3300 and 3100 Lines.

- About 15.1 miles of 12-inch-diameter pipeline loop[3] in Wythe,

[1] East Tennessee's application was filed with the Commission on December 13, 1999, under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] ''We,'' ''us,'' and ''our'' refer to the environment staff of the Office of Energy Projects, part of the Commission staff.

[3] A loop is a segment of pipeline that is installed adjacent to an existing pipeline and connected to it on both ends. The loop allows more gas to be moved through the pipeline system.

Smyth, and Washington Counties, Virginia;

• Four new meter stations—the Hawkins Meter Station in Greene County, Tennessee; the Lenoir City Meter Station in Roane County, Tennessee; the Etowah Meter Station in McMinn County, Tennessee; and a bi-directional meter station at the existing Citizens Meter Station in Morgan, County, Tennessee;

East Tennessee proposes to increase the MAOP of several sections on its 3100 and 3200 Lines through hydrostatic testing activities and pipeline replacements at road crossings:

• Uprate the MAOP of about 12.8 miles of 22-inch-diameter pipeline from main line valve (MLV) 3107–1A in Overton County, Tennessee to MLV 3108–1 in Fentress County, Tennessee, through hydrostatic testing, including pipeline replacements at six road crossings, and the installation of pressure control facilities at East Tennessee's Monterey Lateral;

• Uprate the MAOP of about 4.6 miles of 22-inch-diameter pipeline from MLV 3107–1 to MLV 3107–1A in Overton County, Tennessee, through hydrostatic testing of a pipeline replacement at one road crossing; [4]

• Uprate the MAOP of about 13.6 miles of 22-inch-diameter pipeline from MLV 3105–1 in Smith County, Tennessee to MLV 3105–1E2 in Jackson County, Tennessee, through hydrostatic testing, including pipeline replacement at ten road crossings, and the installation of pressure control facilities at East Tennessee's Carthage Lateral;

• Uprate the MAOP of the 0.3 mile dual 10-inch-diameter Tennessee River pipeline crossing in Hamilton County, Tennessee, through hydrostatic testing of the crossing, and the relocation of the river crossing valve assemblies; and

• Uprate the MAOPs of four existing meter stations on the 3200 Line in Hamilton County, Tennessee.

East Tennessee also proposes an uprate of horsepower (hp) at two compressor stations:

• Uprate of two turbine units from 1,000 hp to 1,450 hp, and one unit from 1000 hp to 1.360 hp at Station 3101 in Robertson County, Tennessee, and

• Uprate of the single turbine unit from 1,360 hp to 1,590 hp at Station 3210 in Marion County, Tennessee.

East Tennessee also proposes to replace 0.7 mile of pipeline at the seventeen road crossings in order to meet the applicable U.S. Department of Transportation strength and safety regulations applicable to the higher MAOP. As such, East Tennessee proposes to abandon by removal 0.6 mile and abandon in place 0.1 mile of pipeline to effect this replacement.

The general location of East Tennessee's proposed facilities is shown on the map attached as appendix 1.[5]

Land Requirement for Construction

Proposed Pipeline Looping—Virginia: Constructionof East Tennessee's proposed pipeline facilities would require about 241 acres of land. East Tennessee proposes to use a 100-foot-wide construction right-of-way, and retain a 50-foot wide permanent pipeline right-of-way. Total land requirements for the permanent right-of-way would be about 92 acres.

Proposed MAOP Increase and Hydrotest—Tennessee: The replacement of seventeen road crossings associated with the MAOP increase would affect about 43 acres of land during construction and would require about 7 acres of land during operation. The hydrostatic testing of about 26.7 miles of pipeline would require about 0.1 acre of temporary work space to install the proper facilities for testing. About 2.5 acres of land would be disturbed during the relocation of the existing valves at the Tennessee River crossing, of which about 0.2 acre would be permanently affected. All temporary work space would be allowed to revert to its original land use.

Proposed Meter Stations and Pressure Control Facilities—Tennessee: Construction and operation of three new meter stations would affect about 2 acres of land. About 0.2 acre of land within an existing meter station would be affected by the installation of a bi-directional meter. East Tennessee would disturb about 1 acre of land in the hydrostatic testing of its four existing meter stations, with no additional land required for operation. The installation of the pressure control facilities would require about 1.5 acres of land within the existing permanent right-of-way and would require no additional permanent operating acreage.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this NOI, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA.

Our independent analysis of the issues will be the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, elected officials, affected landowners, regional public interest groups, Indian tribes, local newspapers and libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

The EA will discuss impacts that could occur as a result of construction and operation of the proposed project. We have already identified a number of issues that was think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by East Tennessee. This preliminary list of issues may be changed based on your comments and our analysis.

- Geology and Soils
  - —Potential geologic hazards.
  - —Crossing of erosion prone soils.
- Water Resources and Wetlands
  - —Impact of groundwater and surface water resources.
  - —Impact on wetland hydrology.
- Biological Resources
  - —Impact on wildlife and fishery habitats.
  - —Potential impact on Federal- and State-listed threatened or endangered species.
- Cultural Resources
  - —Effect on prehistoric and historic sites.
  - —Native American concerns.
- Land Use
  - —Impact on residential areas (7 residences within 50 feet of the construction work area in Virginia).
  - —Impact on public lands and special use areas including the Tennessee River Park.

[4] In 1999, as part of the Virginia Expansion Project (Docket No. CP98–40–000), this 4.6 mile section was uprated by hydrostatic testing and replacing pipeline at all of the road crossings in this section, except for one.

[5] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

—Visual effect of the new aboveground facilities on surrounding areas.
- Air and Noise Quality
—Impacts on local air quality and noise environment as a result of the operation of the uprated horsepower units at existing Compressor Stations 3101 and 3210.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded.

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Environmental Gas Group 1, PJ–11.1;
- Reference Docket No. CP00–51–000; and
- Mail your comments so that they will be received in Washington, DC on or before April 28, 2000.

[If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be removed from the environmental mailing list.]

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' intervenors play a more formal role in the process. Among other things, Intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 00–7836 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application To Amend License, and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2000.

a. *Application Type:* Application to Amend the (monor-part) License for the Donnels-Standard City Transmission Line Project.

b. *Project No:* 2118.

c. *Date Filed:* November 29, 1999.

d. *Applicant:* Pacific Gas and Electric Company (PG&E).

e. *Name of Project:* Donnells-Standard City Transmission Line Project.

f. *Location:* The Project is located in Tuolumne County, California. The project occupies lands of the United States in the Stanislaus National Forest.

g. *Filed Pursuant to:* Federal Energy Regulatory Commission Regulation, 18 CFR 4.200.

h. *Applicant Contact:* Kathyrn Petersen, Sr. License Coordinator, Electric Transmission Department, PG&E, 2730 Gateway Oaks Drive, Suite 120, Sacramento, CA 95833, (916) 923–7055.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Jack Duckworth at (202) 219–2818 or by e-mail at jack.duckworth@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* 45 days from the date of this notice.

All documents (original and eight copies) should be filed with: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the project number (P–2118) on any comments or motions filed.

k. *Description of Filing:* PG&E proposes to delete non-jurisdictional transmission facilities from the project license. Specifically, PG&E states that the transmission lines extending from Curtis Substation to Spring Gap Powerhouse, including the Spring Gap Tap, are now used to serve distribution system load and are no longer subject to licensing as primary project lines within the meaning of § 3(11) of the Federal Power Act. PG&E further states that the remaining portions of the transmission facilities extending from Spring Gap Junction to Donnells Powerhouse, and the Beardsley Tap remain jurisdictional and should remain in the license. The licensee filed revised exhibit J and K drawings to show those the transmission facilities which remain jurisdictional and those which they propose be removed from the license. Project boundaries were modified accordingly to reflect these changes. The licensee also filed a Transmission Operating Diagram (one-line diagram) of the project. The acreage of federal lands encompassed by the Project will be reduced by 69.18 acres. PG&E has applied to the Forest Service for an easement to cover the continued operation and maintenance of the transmission lines to be removed from the project license.

l. *Location 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. This filing may be viewed on 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.

m. Individuals desiring to be included on the Commission's mailing list should

so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–7795 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application To Amend License, and Soliciting Comments, Motions To Intervene, and Protests

a. *Application Type:* Application Amend the (monor-part) License for the Woodleaf-Powerhouse (Woodleaf-Palermo) Transmission Line Project.

b. *Project No:* 2281.

c. *Data Filed:* November 29, 1999.

d. *Applicant:* Pacific Gas and Electric Company (PG&E).

e. *Name of Project:* Woodleaf Powerhouse Transmission Line Project.

f. *Location:* The Project is located in Butte County, California. The project occupies lands of the United States in the Plumas National Forest.

g. *Filed Pursuant to:* Federal Energy Regulatory Commission Regulation, 18 CFR 4.200.

h. *Applicant Contact:* Kathryn Petersen, Sr. License Coordinator, Electirc Transmission Department, PG&E, 2730 Gateway Oaks Drive, Suite 120, Sacramento, CA 95833, (916) 923–7055.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Jack Duckworth at (202) 219–2818 or by e-mail at jack.duckworth@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* 45 days from the date of this notice.

All documents (original and eight copies) should be filed with: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the project number (P–2281) on any comments or motions filed.

k. *Description of Filing:* PG&E proposes to delete non-jurisdictional transmission facilities from the project license. Specifically, PG&E states that the transmission line extending from Palermo Substation to Kanaka Junction is now used to serve distribution system load is no longer subject to licensing as primary project lines within the meaning of § 3(11) of the Federal Power Act. PG&E further states that the remaining portions of the transmission facilities extending from Kanaka Junction to Woodleaf Powerhouse, and the Forbestown Tap remain jurisdictional and should remain in the license. The licensee filed revised exhibit J and K drawings to show those transmission facilities which remain jurisdictional and those which they propose be removed from the license. Project boundaries were modified accordingly to reflect these changes. The licensee also filed a Transmission Operating Diagram (one-line diagram) of the project. The acreage of federal lands encompassed by the Project will be reduced by 18.81 acres. PG&E has applied to the Forest Service for an easement to cover the continued operation and maintenance of the transmission lines to be removed from the project license.

l. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on 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.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–7796 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application To Amend License, and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2000.

a. *Application Type:* Application to Amend the (monor-part) License for the French Meadows (Middle Fork American River) Transmission Line Project.

b. *Project No:* 2479.

c. *Date Filed:* November 29, 1999.

d. *Applicant:* Pacific Gas and Electric Company (PG&E).

e. *Name of Project:* French Meadows Transmission Line Project.

f. *Location:* The Project is Placer and El Dorado Counties, California. The project occupies lands of the United States in the Tahoe and Eldorado National Forests.

g. *Filed Pursuant to:* Federal Energy Regulatory Commission Regulation, 18 CFR 4.200.

h. *Applicant Contact:* Kathryn Petersen, Sr. License Coordinator, Electric Transmission Department, PG&E, 2730 Gateway Oaks Drive, Suite 120, Sacramento, CA 95833, (916) 923–7055.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Jack Duckworth at (202) 219–2818 or by e-mail at jack.duckworth@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* 45 days from the date of this notice.

All documents (original and eight copies) should be filed with: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the project number (P–2479) on any comments or motions filed.

k. *Description of Filing:* PG&E proposes to delete non-jurisdictional transmission facilities from the project license. Specifically, PG&E states that the transmission lines extending from Middle Fork Powerhouse to Forest Hill Substation and from Middle Fork Powerhouse to Gold Hill Substation are now used to serve network reliability functions and are no longer subject to licensing as primary project lines within the meaning of § 3(11) of the Federal Power Act. PG&E further states that the remaining portions of the transmission facilities extending from French Meadows Powerhouse to Middle Fork Powerhouse, from Ralston Powerhouse to the Middle Fork-Gold Hill 230kV line, and the Oxbow Tap remain jurisdictional and should remain in the license. The licensee filed revised exhibit J and K drawings to show those the transmission facilities which remain jurisdictional and those which they propose be removed from the license. Project boundaries were modified accordingly to reflect these changes. The licensee also filed a Transmission Operating Diagram (one-line diagram) of the project. The acreage of federal lands encompassed by the Project will be reduced by 18.16 acres in Tahoe National Forest and 68.71 acres in Eldorado National Forest. PG&E has applied to the Forest Service for an easement to cover the continued operation and maintenance of the transmission lines to be removed for the project license.

l. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on 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.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–7797 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

March 24, 2000.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

EXEMPT

1. CP00–67–000	3–10–00	Juan Polit.
2. Project No. 1927	3–1–00	Timothy C. O'Connor.
3. CP98–150–000	3–10–00	Stanley W. Gorski.
4. Project No. 2306	3–1–00	Gary L. Kellogg.
5. CP98–150–000	3–10–00	Joanne Wachholder, FERC.
6. CP00–36–000	12–20–99	Anne E. Haaker.
7. CP99–94–000	3–1–00	David L. Hankla.
8. CP99–94–000	3–15–00	State of Florida Department of Environmental Protection.
9. Project No. 2471–000	3–6–00	The Waucedah Township Board.
10. CP00–14–000, *et al*	3–14–00	Janet Rowe.
11. CP00–14–000, *et al*	3–14–00	Kim Jessen.
12. CP00–14–000, *et al*	3–14–00	Kim Jessen.
13. CP00–14–000, *et al*	3–14–00	Kim Jessen.
14. Project No. 1981–000	3–6–00	Charles Verhoeven.
15. CP00–36–000	3–16–00	Louis A. Olson.
16. CP00–36–000	3–13–00	Matthew C. Weidensee.
17. Project Nos. 10100 and 10416	2–9–00	John Phipps.
18. CP00–14–000	3–1–00	Andreas Mager, Jr.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–7798 Filed 3–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Revised Landowner Pamphlet

March 24, 2000.

The ''most recent edition'' of the Commission's pamphlet: ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' has been issued. It is dated March 2000. The revisions are marked by a blue triangle in the margin and were made to conform to the recent rehearing Order 609 A.

The revised pamphlet is available on the Commission's website. From the home page at *www.ferc.fed.us* select the link to the Office of External Affairs in the lower right column of links, or enter *www.ferc.fed.us/intro/oea* directly into your browser. The link to the revised pamphlet (*www.ferc.fed.us/intro/oea/6513gpo.pdf*) is on this page. This version should be used and may be copied until the full color version of the pamphlet is available through the Government Printing Office (GPO). The Commission will issue a further notice when the pamphlet may be obtained from the GPO.

Questions about the pamphlet should be directed to: Federal Energy Regulatory Commission, Office of External Affairs, 888 First Street, N.E., Washington, DC 20426, (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 00–7789 Filed 3–30–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6568–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Information Collection Request for the State Water Quality Program Management Gap Analysis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Collection Request for the State Water Quality Program Management Gap Analysis; EPA ICR No.1945.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 1, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1945.01. For technical information about the collection contact Carol Crow at (202) 260–6742.

SUPPLEMENTARY INFORMATION:

Title: Information Collection Request for the State Water Quality Program Management Gap Analysis; EPA ICR No. 1945.01. This is a new collection.

Abstract: The Environmental Protection Agency (EPA), in partnership with States, is conducting the State Water Quality Management Gap Analysis (Gap Analysis) to help enumerate current and future funding needs and to help identify innovative strategies for reducing resource gaps. To gather preliminary information in a short time frame, the Gap Analysis was divided into two phases. Phase I consisted of the development of an initial, national estimate of the resource gap faced by water quality management programs to provide a general idea of the magnitude of the resource gap faced by States.

Phase II of the Gap Analysis involves developing a detailed, activity-based workload model to provide a common framework and consistent methodology for States and EPA to estimate what it costs the States to meet the objectives of the Clean Water Act (CWA). In order to complete the model, EPA's Office of Wastewater Management (OWM) needs to gather data on the resources needed

by each State for water quality management activities.

This is a one time collection effort by OWM and responses to this ICR are voluntary. The collection is necessary to develop a detailed activity-based workload model that will provide an estimate of the resource needs facing water quality management programs, both for individual States and the nation. EPA will use the collected information to estimate resource needs for water quality management activities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on January 13, 2000 (65 FR 2162); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 180.15 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State Water Quality Management Programs.

Estimated Number of Respondents: 20.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 3603 hours.

Estimated Total Annualized Cost Burden (non-labor costs): $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1945.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503

Dated: March 22, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–7884 Filed 3–29–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6568–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Standard of Performance for Small Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, OMB No. 2060-0202, expires 6/30/00. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 1, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1564.05. For technical questions about the ICR contact Chris Oh at (202) 564–7004.

SUPPLEMENTARY INFORMATION: *Title:* NSPS-Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units (OMB Control No. 2060–0202; EPA ICR No. 1564.05) expiring June 30, 2000. This is a request for extension of a currently approved collection.

Abstract: Owners or operators of Small Industrial-Commercial-Institutional Steam Generating Units subject to NSPS subpart Dc must make one-time-only notification of construction/reconstruction, anticipated and actual startup, initial performance test, physical or operational changes, and demonstration of a continuous monitoring system. They must also submit a report on initial performance test results, monitoring results, and excess emissions. Records must be maintained of startups, shutdowns, malfunctions, periods when the continuous monitoring system is inoperative, and of various fuel combustion and pollutant emission parameters.

The required notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. Performance test reports are needed as these are the Agency's records of a source's initial capability to comply with the emission standard, and serve as a record of the operating conditions under which compliance was achieved. The monitoring and excess emissions reports are used for problem identification, as a check on source operation and maintenance, and for compliance determination. The information collected from recordkeeping and reporting requirements are used for targeting inspections, and for other uses in compliance and enforcement programs.

Responses to these information collections are deemed to be mandatory, per section 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies se forth in Title 40, Chapter 1, part 2, subpart B-Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 4000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979)

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d),

soliciting comments on this collection of information was published on October 29, 1999 (64 FR 58396); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information are estimated to average 49 hours per response. A burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of Small Industrial-Commercial-Institutional Steam Generating Units.

Estimated Number of Respondents: 708.

Frequency of Response: Quarterly and Semiannual.

Estimated Total Annual Hour Burden: 81,078 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $7,680,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burdens, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1564.05 and OMB Control No. 2060–0202 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: March 20, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–7885 Filed 3–29–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6568–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Assess Compliance With EPCRA Section 312 Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Assess Compliance with EPCRA Section 312 Reporting Requirements, EPA ICR Number 1909.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 1, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1909.01. For technical questions about the ICR contact John Mason at (202) 564–7037, fax: (202) 564–0009, or email: mason.john@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Assess Compliance with EPCRA Section 312 Reporting Requirements, EPA ICR No. 1909.01. This is a new collection.

Abstract: The Emergency Planning and Community Right-to-know Act (EPCRA) section 312 requires facilities which are required to prepare or have available Material Safety Data Sheets (MSDS) as required by OSHA to submit an annual emergency and hazardous chemical inventory form containing the amount and location of hazardous chemicals stored at the facility. Although EPCRA section 312 is a federal requirement, State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) are the main recipients and benefactors of this information. The inventory reports allow ''first responders'' (*e.g.,* local fire departments) to be informed about the presence of hazardous chemicals in the community and help facilitate development of the local emergency response plan. They also enhance community awareness of chemical hazards in the local area.

EPA has initiated compliance projects among a number of industrial, service and/or government sectors including: the iron and steel industry, the primary nonferrous metals industry, metal services (electroplating and coating), the chemical preparation industry, pulp and paper mills, the telecommunications industry, coal-fired power plants, the automobile servicing industry, mining, the petroleum refineries, organic chemical manufacturers, and municipalities. These projects include, in some cases, efforts to enhance compliance with EPCRA section 312.

EPA will be working with states and facilities to assure and confirm compliance with EPCRA requirements. In particular, EPA will ask the states whether the facilities submitted their Tier I or II forms and when during the reporting year the forms were submitted. The information sought with this ICR is who among selected sectors that produce, use, or store hazardous chemicals (as defined by the Occupational Safety and Health Act of 1970) submitted Tier II forms to the SERC and/or the LEPC, and when did they submit them. This information is being sought to assess compliance with the requirements of EPCRA section 312.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 08/27/99 (64 FR 46905); three comments were received.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 2.95 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources;

complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: States asked to review the Tier I or II submissions.

Estimated Number of Respondents: 53.

Frequency of Response: One time.

Estimated Total Annual Hour Burden: 2308 hours.

Estimated Total Annualized Cost Burden (non-labor costs): $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1909.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460;
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: March 20, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–7886 Filed 3–29–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6567–9]

Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Clean Air Scientific Advisory Committee (CASAC) Technical Subcommittee for Fine Particle Monitoring will meet on Tuesday and Wednesday, April 18–19, 2000 at the Governor's Inn, Route 54 and Davis Drive, Research Triangle Park, NC. The meeting will begin at 7:30 am and end no later than 5:00 pm on April 18th and begin at 9:00 am and end no later than 1:00 pm on April 19th. All times noted are Eastern Daylight Savings Time. The meeting is open to the public, however, due to limited space, seating will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed below.

Important Notice: Documents that are the subject of CASAC reviews are normally available from the originating EPA office and are not available from the CASAC Office—information concerning availability of documents from the relevant Program Office is included below.

Purpose of the Meeting—This technical subcommittee of CASAC was established in 1996 to provide advice and comment to EPA (through CASAC) on appropriate methods and network strategies for monitoring fine particles in the context of implementing the revised national ambient air quality standards (NAAQS) for particulate matter. The Subcommittee provided such advice on the Federal Reference Method and mass based fine particle network in July 1996 and is now meeting to examine EPA's plans and guidance for several components of the fine particle monitoring network and how these components are linked to research priorities for particulate matter.

At the meeting, staff from the Office of Air Quality Planning and Standards (OAQPS) and the Office of Research and Development (ORD) will provide briefings regarding status for the fine particle monitoring program with an emphasis on the chemical speciation and ''Supersites'' study programs. These briefings will include a review of the assessment of initial performance of chemical speciation samplers and progress reports on the chemical speciation and supersites networks. In addition, EPA will provide preliminary plans for developing coarse particle monitoring methods. The Agency staff and Subcommittee members will discuss the specific issues for the Charge to the Subcommittee during the meeting.

Availability of Review Materials: Hard copies of any background materials will be available from Ms. Brenda Millar, Office of Air Quality Planning and Standards (MD–14), U.S. EPA, Research Triangle Park, NC 27711. Ms. Millar can also be reached by telephone at (919) 541–4036 or by fax at (919) 541–1903. Electronic versions of the materials will be available on the Agency's TTN Bulletin Board, at http://www.epa.gov/ttn/amtic.

FOR FURTHER INFORMATION CONTACT: Members of the public desiring additional information about the meeting should contact Mr. Robert Flaak, Designated Federal Officer, Clean Air Scientific Advisory Committee, Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4546; fax at (202) 501–0582; or via e-mail at <flaak.robert@epa.gov>. A copy of the draft agenda is available from Ms. Diana Pozun at (202) 564–4544 or by FAX at (202) 501–0582 or via e-mail at <pozun.diana@epa.gov>.

Members of the public who wish to make a brief oral presentation to the Subcommittee must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Daylight Savings Time, Tuesday, April 11, 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. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. 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.

Individuals requiring special accommodation at this meeting, including wheelchair access, should contact Mr. Flaak at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: March 22, 2000.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 00–7882 Filed 3–29–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6567–8]

Science Advisory Board; Notification of 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 of the Science Advisory Board will hold a public teleconference meeting on April 17, 2000, from 11:00–2:00 pm, Eastern Standard Time.

The meeting will be coordinated through a conference call connection located in Room 6013 of the Ariel Rios Building at the U.S. Environmental Protection Agency (EPA) located at 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The building entrance is adjacent to the Federal Triangle Metro Stop on 12th Street. For directions and further information concerning the meeting, please contact the individuals given below. The public is welcome to attend the meeting physically or through a telephonic link. Seating and teleconference lines are limited and available on a first-come, first-served basis.

Purpose of the Meeting: At this meeting the Integrated Risk Project Subcommittee will review the revised report of the Integrated Risk Project: *Towards Integrated Environmental Decision-Making.*

FOR FURTHER INFORMATION CONTACT: Members of the public desiring additional information about this meeting should contact Dr. John R. Fowle III, Deputy Staff Director and Designated Federal Officer (DFO), 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. Wanda Fields, Management Assistant; telephone/voice mail at (202) 564–4539; fax at (202) 501–0582; or via email at fields.wanda@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. Wanda Fields at the fax or address noted above. Additional instructions about how to participate in the conference call can be obtained from Ms. Fields.

Making Oral Presentations During the Meetings

Members of the public who wish to make a brief oral presentation at the meeting must contact Dr. Fowle in writing (by email, by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, April 10, 2000 in order to be included on the Agenda. Public comments will be limited to three 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.

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.

Dated: March 22, 2000.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 00–7883 Filed 3–29–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6566–4]

Notice of Availability of the Tribal Drinking Water Operator Certification Program Draft Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is seeking comments from Tribes and other parties who will be affected by or are otherwise interested in the Tribal Drinking Water Operator Certification Program Draft Guidelines. EPA will consider the comments received when developing the final guidelines. There will be a 90-day comment period starting from the publication date of this notice of availability.

DATES: Comments should be postmarked or received via email by June 27, 2000.

ADDRESSES: Send comments to Attn: Staci Gatica (MC: 4606), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. NW, Washington DC 20460. Comments can also be sent via email to gatica.staci@epamail.epa.gov. Typed comments are preferred.

AVAILABILITY: Please contact the Safe Drinking Water Hotline at 1–800–426–4791 to receive a copy of the Tribal Drinking Water Operator Certification Program Draft Guidelines. The draft guidelines are also available on the EPA Office of Ground Water and Drinking Water website at *http://www.epa.gov/safewater/tribal.html.*

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, toll free (800) 426–4791, can be contacted for general information about and copies of this document. For technical inquiries, contact Staci Gatica, Implementation and Assistance Division, Office of Ground Water and Drinking Water (4606), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. NW, Washington DC 20460. The telephone number is (202) 260–3967 and the e-mail address is gatica.staci@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act (SDWA) Amendments of 1996 direct the EPA, in cooperation with the States, to develop guidelines specifying minimum standards for certification and recertification of operators of State community and nontransient noncommunity public water systems. The requirements pertaining to States do not apply to Tribes but because having a certified operator is a key factor in public health protection, EPA is developing, in cooperation with Tribes, a voluntary Tribal Drinking Water Operator Certification Program. This program is intended to protect public health by providing Tribes with additional opportunities to become trained and certified, by developing base standards for non-State organizations certifying operators of tribal systems and by establishing a consistent method of assessing, tracking, and addressing certification and training needs on tribal lands.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency.

[FR Doc. 00–7629 Filed 3–29–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, April 4, 2000 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular, employee.

DATE AND TIME: Wednesday, April 5, 2000 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

Notice of Proposed Rulemaking on Mandatory Electronic Filing: (11 CFR § 104.18).

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary.

[FR Doc. 00–7987 Filed 3–28–00; 1:25 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–010977–038.

Title: Hispaniola Discussion Agreement.

Parties: NPR, Inc., A.P. Moller-Maersk Sea-Land, Crowley Liner Services, Inc., Marine Express, U.S.A. Tecmarine Incorporated, Kent Line Limited, Seaboard Marine Ltd., Tropical Shipping and Construction Co., Ltd.

Synopsis: The parties are revising the admission, resignation, and expulsion provisions of their agreement.

Agreement No.: 203–011584–003.

Title: NYKNOS/HUAL Rate Discussion and Voluntary Rate Adherence Agreement.

Parties: Nippon Yusen Kaisha, Wallenius Wilhelmsen Lines AS, Hoegh-Ugland Auto Liners A/S.

Synopsis: The proposed amendment would authorize the parties to enter into joint service contracts and to discuss and agree upon voluntary guidelines with respect to their individual service contracts. It would also permit them to engage in ad hoc space chartering and would clarify the authority of the parties pertaining to the discussion of tariffs and other items. In addition, it changes the name of the Agreement to the NYK/WW Lines/HUAL Cooperative Working Agreement and restates the Agreement.

Agreement No.: 232–011698.

Title: CMA CGM/Norasia Slot Exchange, Sailing and Cooperative Working Agreement.

Parties: CMA CGM S.A., Norasia Lines (Malta) Ltd.

Synopsis: The proposed agreement authorizes the parties to exchange space on their respective vessels in the trade between United States West Coast ports and ports in the Far East, Sri Lanka, and the Mediterranean Sea.

Agreement No.: 201059–003.

Title: West Gulf Intermodal Marine Terminal Operator's Conference.

Parties: Barbours Cut Intermodal Services, Fairway Terminals Corporation, Port-Cooper/T. Smith Stevedoring Co., Shippers Stevedoring Co., Inc., Southern Stevedoring Co., Inc., Strachan Shipping Company.

Synopsis: The amendment provides for the indefinite suspension of the agreement.

Dated: March 24, 2000.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–7777 Filed 3–29–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicant

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

AP Shipping, Inc., 19401 S. Main Street, #302, Gardena, CA 90248. Officer: Austin T. Park, President (Qualifying Individual).

Can-Med Lines (USA), Inc., 3915 Annandale Road, Annandale, VA 22003. Officers: Ibrahim Hazim, Director (Qualifying Individual), Elie M. Ibrahim, President.

Deluxe Freight, Inc., 8513 NW 72nd Street, Miami, FL 33166. Officers: William Munoz, President (Qualifying Individual), Ana M. Munoz, Treasurer.

JHJ International Ltd., Building 80, Room 215, Jamaica, NY 11430. Officer: Joseph Cho Ming Yu, President (Qualifying Individual).

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Satellite Logistics Group, Inc., 12621 Featherwood, Suite 390, Houston, TX 77034–4902. Officers: Donald S. Lane, Vice President, Kevin D. Brady, President (Qualifying Individuals).

D & D Worldwide, Inc., 755 N. Route 83, Suite 216, Bensenville, IL 60106. Officer: Duke Hong, President (Qualifying Individual).

Cargo Express (Saipan), Inc., Airport Road, Dandan, P.O. Box 7447 SVRB, Saipan MP 96950. Officers: Liberato C. Legaspi, President (Qualifying Individual), Marie Christine T. Legaspi, Vice President.

Ocean Freight Forwarders—Ocean Transportation Intermediary Applicants

Marushin Group, Inc., 2720 Monterey Street, #405, Torrance, CA 90503. Officers: Honorato Soto, President,

Yumiko Pobanz, Secretary (Qualifying Individuals).

Sarah Worldwide Shipping, Inc., 6 Bear Trail, Fairview, NC 28730. Officer: Kim Williams, President (Qualifying Individual).

New World Import Services, Inc., 1650 NW 94th Avenue, Miami, FL 33172. Officer: Francisco M. Ripoll, President (Qualifying Individual).

Dated: March 24, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–7776 Filed 3–29–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 13, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Leon Alper Felman, Clayton, Missouri; to retain voting shares of Allegiant Bancorp, Inc., St. Louis, Missouri, and thereby indirectly retain voting shares of Allegiant Bank, St. Louis, Missouri.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. John and Nancy Brown, New Rockford, North Dakota; Mark and Marlys Brown, Hannaford, North Dakota; Steven and Cheryl Steinborn, Jamestown, North Dakota; and Security State Bank of North Dakota Employee Stock Ownership Plan, New Rockford, North Dakota; to retain voting shares of Security State Bank Holding Company, New Rockford, North Dakota, and thereby indirected retain voting shares of Security State Bank of North Dakota, Hannaford, North Dakota.

Board of Governors of the Federal Reserve System, March 27, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–7892 Filed 3–29–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 24, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Midland States Bancorp, Inc., Effingham, Illinois and CSB Acquisition Corporation, Effingham, Illinois, to acquire 100 percent of the voting shares of CSB Financial Group, Inc., Centralia, Illinois, and Centralia Savings Bank, Centralia, Illinois. In connection with this application CSB Acquisition Corporation, Effingham, Illinois, has applied to become a bank holding company.

Board of Governors of the Federal Reserve System, March 24, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–7775 Filed 3–29–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 24, 2000.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106–2204:

1. Fleet Boston Corporation, Boston, Massachusetts; to acquire 7 percent of the voting shares of North Fork Bancorporation, Melville, New York; and thereby indirectly acquire North Fork Bank, Mattituck, New York; and Superior Savings Bank of New England, Branford, Connecticut.

Board of Governors of the Federal Reserve System, March 27, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–7891 Filed 3–29–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations.

Time and Date: 9:30 a.m.–5:00 p.m., April 13, 2000; and 9:30 a.m.–2:00 p.m., April 14, 2000.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee on Populations is holding this meeting to continue its discussions on the potential use of measures of functional status on health records, such as enrollment in health plans, records of medical encounters, and standardized attachments to such records. Panelists will discuss issues related to the measurement, collection, and classification of information on functional status and the potential uses of functional status measures for administrative records and data systems. This is the second of several public meetings planned by the Subcommittee to explore these issues.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meetings.

Contact Person for More Information: Substantive program inforamtion as well as summaries of meetings and a roster of committee members may be obtained from Carolyn Rimes, Lead Staff Person for the NCVHS Subcommittee on Populations, Office of Research and Demonstrations, Health Care Financing Administration, MS–C4–13–01, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, telephone (410) 786–6620; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: http://www.ncvhs.hhs.gov/, where an agenda for the meeting will be posted when available.

Dated: March 22, 2000.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 00–7868 Filed 3–29–00; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Injury Research Grant Review Committee: Notice of Charter Renewal; Correction

ACTION: Notice; correction.

Correction

In the **Federal Register** of March 13, 2000, Volume 65, Number 49, Page 13391, on page (1) in the subject column, make the following correction to the subject: ''Advisory Committee for Energy-Related Epidemiologic Research: Notice of Charter Renewal.'' Deleting ''Injury Research Grant Review Committee: Notice of Renewal.

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Advisory Committee for Energy-Related Epidemiologic Research, Centers for Disease Control and Prevention, of the Department of Health and Human Services, has been renewed for a 2-year period extending through February 28, 2002.

For further information, contact Michael Sage, Executive Secretary, Advisory Committee for Energy-Related Epidemiologic Research, Centers for Disease Control and Prevention, of the Department of Health and Human Services, 1600 Clifton Road, NE, M/S F–35–32, Atlanta, Georgia 30333, telephone 404/639–2524 or fax 404/639–2575.

The Director, Management and Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 23, 2000.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–7814 Filed 3–29–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

The Advisory Committee for the Director of the National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC); Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee to the Director, NCEH, Meeting.

Times and Dates: 10 a.m.–5:30 p.m. (EST), April 18, 2000; 8:30 a.m.–3 p.m. (EST), April 19, 2000.

Place: JW Marriott, 1331 Pennsylvania Avenue, Washington, DC 20155.

Status: Open to the public for observation and comment, limited only by the space available. The meeting room accommodates approximately 80 people.

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation, the Director, Centers for Disease Control and Prevention, are authorized under Section 301 (42 U.S.C. 241) and Section 311 (42 U.S.C. 243) of the Public Health Service Act, as amended, to (1) conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases, and other impairments; (2) assist States and their political subdivisions in the prevention of infectious diseases and other preventable conditions, and in the promotion of health and well being; and (3) train State and local personnel in health work.

Matters To Be Discussed: Agenda items will include the NCEH vision for environmental health at CDC, the public health role in regulatory decision-making, and the role of the Office of Disabilities & Health at NCEH.

Contact Person for More Information: Marilyn R. DiSirio, Designated Federal Official, CDC, 4770 Buford Highway, NE, MS F–29, Atlanta, Georgia 30341–3724; telephone 770–488-7020, fax 770–488–7024; e-mail: *mrd2@cdc.gov.*

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 23, 2000.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–7813 Filed 3–29–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Scientific Panel for Immunization Measurement Standards, 2000: Meeting

Name: National Scientific Panel for Immunization Measurement Standards, 2000.

Time and Date: 8 a.m.–5 p.m., May 1, 2000.

Place: Atlanta Marriott Century Center, 2000 Century Boulevard, NE., Atlanta, Georgia 30345–3377.

Status: Open to the public, limited only by the space available.

Purpose: There are two systems for measuring immunization coverage that are widely used. The Health Plan Employer Data and Information Set (HEDIS) measures quality of health care delivered by managed care organizations (MCOs) and enables comparisons of performance among MCOs. The National Immunization Survey (NIS) is a population-based survey of immunization coverage, conducted by CDC to assess how well children are immunized in the US. The inclusion of different vaccines and different measurement criteria has made direct comparison inaccurate and difficult. The Panel will review scientific and programmatic issues concerning immunization coverage measurement.

Matters To Be Discussed: The agenda will include discussion on the impact of various measurement specifications for calculating immunization coverage levels using NIS and HEDIS; the potential impact of various definitions of up-to-date immunization status in the two systems of immunization coverage measurement varying: (1) Age at ascertainment, (2) spacing criteria, (3) number of doses, (4) vaccines in combination measures; presentation of results of analysis of NIS data and datasets used for HEDIS estimates; consideration other ways to estimate vaccine coverage.

Contact Person for More Information: Mehran S. Massoudi, Senior Staff Epidemiologist, Immunization Services Division, National Immunization Program, CDC,1600 Clifton Road, NE., m/s E52, Atlanta, Georgia 30333. Telephone 404/639–8209.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 23, 2000.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–7815 Filed 3–29–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 99M–4361, 99M–4277, 99M–4693, 99M–4278, 99M–4276, 99M–4281, 99M–4331, 99M–4279, 99M–4280, 99M–4776, 00M–0578, 99M–4330, 99M–4810, 99M–4692, 99M–5135, 99M–5327, and 99M–5539]

Medical Devices; Availability of Safety and Effectiveness Summaries for PMA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket application (PMA) approvals. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMA's through the Internet and the agency's Dockets Management Branch.

ADDRESSES: Summaries of safety and effectiveness are available on the Internet at http://www.fda.gov/cdrh/pmapage.html. Copies of summaries of safety and effectiveness are also available by submitting a written request to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 in the **SUPPLEMENTARY INFORMATION** section of this document when submitting a written request.

FOR FURTHER INFORMATION CONTACT: Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule to revise §§ 814.44(d) and 814.45(d) (21 CFR 814.44(d) and 814.45(d)) to discontinue publication of individual PMA approvals and denials in the **Federal Register**. Instead, revised §§ 814.44(d) and 814.45(d) state that FDA will notify the public of PMA approvals and denials by posting them on FDA's home page on the Internet at http://www.fda.gov, by placing the summaries of safety and effectiveness on the Internet and in FDA's Dockets Management Branch, and by publishing in the **Federal Register** after each quarter a list of available safety and effectiveness summaries of approved PMA's and denials announced in that quarter.

FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The following is a list of approved PMA's for which summaries of safety and effectiveness were placed on the Internet in accordance with the procedure explained previously from October 1, 1999, through December 31, 1999. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMA'S MADE AVAILABLE OCTOBER 1, 1999, THROUGH DECEMBER 31, 1999

PMA Number/Docket No.	Applicant	Trade Name	Approval Date
P970010/99M–4361	Synthes (USA)	Norian Skeletal Repair System (SRS) Cancellous Bone Cement	December 23, 1998
P970015/99M–4277	Sofamor Danek	Inter Fix Threaded Fusion Device	May 14, 1999
P960033/99M–4693	Staar Surgical	Staarvisc™ Sodium Hyaluronate	July 2, 1999
P980053/99M–4278	Advanced Uroscience, Inc.	Durasphere Injectable Bulking Agent	September 13, 1999
P990008/99M–4276	Cook, Inc.	Cook MBC PTCA Balloon Dilatation Catheter	September 27, 1999
P990001/99M–4281	Vitatron, Inc.	Diva Platform Implantable Pulse Generators & Pro Vit Application Software Version 3.3.2	September 27, 1999
P990020/99M–4331	Medtronic Aneurx	Aneurx Stent Graft System	September 28, 1999
P980043/99M–4279	Medtronic, Inc.	Hancock II Bioprosthetic Heart Valve	September 28, 1999
P990017/99M–4280	Guidant Cardiac & Vascular Surgery	EVT Abdominal Aortic Tube/EVT Abdominal Aortic Bifurcated EGS System	September 28, 1999
P990004/99M–4776	Ethicon, Inc.	Surgifoam Absorbable Gelatin Sponge, USP	September 30, 1999
P940034 (S008)/99M–4782	Gen-Probe, Inc.	Gen-Probe® Amplified Mycobacterium Tuberculosis Direct Test (MTD Test)	September 30, 1999
P990002/99M-4330	Rochester Medical Corp.	Femsoft Urethral Insert	September 30, 1999
H980007/99M–4810	Shelhigh, Inc.	Shelhigh Pulmonic Valve Conduit Model NR–4000 with ''No-React®'' Treatment	September 30, 1999
P990033/99M–4692	Ceramed Corp.	PepGen P–15	October 25, 1999
P990014/99M–5135	Bausch & Lomb Surgical, Inc.	Hydroview Composite Hydrogel Foldable UV–Absorbing Posterior Chamber Intraocular Lens	November 12, 1999
H990007/99M–5327	CryoLife, Inc.	BioGlue® Surgical Adhesive	December 7, 1999
H980006/99M–5539	MDS Nordion, Inc.	TheraSphere®	December 10, 1999

Dated: March 14, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–7780 Filed 3–29–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1197]

Guidance for Industry on Court Decisions, ANDA Approvals, and 180-Day Exclusivity Under the Hatch-Waxman Amendments to the Federal Food, Drug, and Cosmetic Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Court Decisions, ANDA Approvals, and 180-Day Exclusivity Under the Hatch-Waxman Amendments to the Federal Food, Drug, and Cosmetic Act.'' The purpose of this guidance is to inform the public of FDA's application of the abbreviated new drug application (ANDA) approval provisions and 180-day generic drug exclusivity provisions of the Federal Food, Drug, and Cosmetic Act (the act) in light of recent court decisions on these issues.

DATES: Submit written comments on the guidance by June 28, 2000. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of the guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Virginia G. Beakes, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''Court Decisions, ANDA Approvals, and 180-Day Exclusivity Under the Hatch-Waxman Amendments to the Federal Food, Drug, and Cosmetic Act.'' This guidance is being issued in response to recent litigation. The guidance is intended to provide information to the pharmaceutical industry regarding: (1) The timing of approval of ANDA's following an unsuccessful patent infringement action by the patent owner or new drug application (NDA) holder and (2) the start of 180 days of generic drug exclusivity.

FDA's interpretation of two provisions of the act have been successfully challenged in *TorPharm, Inc.* v. *Shalala* and *Mylan Pharmaceuticals, Inc.* v. *Shalala* [1].

[1] *Torpharm* v. *Shalala*, No. 97–1925, 1997 U.S. Dist. LEXIS 21983 (D.D.C. September 15, 1997); *appeal withdrawn and remanded*, 1998 U.S. App. LEXIS 4681 (D.C. Cir. February 5, 1998); *vacated* No. 97–1925 (D.D.C. April 9, 1998); *Mylan*

These provisions apply the concept of a court decision to the timing of certain ANDA approvals and to the start of 180-day exclusivity. There is a 30-month statutory bar to approval of an ANDA that is the subject of patent infringement litigation except if ''before the expiration of such period the court decides that such patent is invalid or not infringed, the approval will be made effective on the date of the court decision'' (section 505(j)(5)(B)(iii)(I) of the act (21 U.S.C. 355(j)(5)(B)(iii)(I))). Certain court decisions are also important for 180-day generic drug exclusivity. The 180-day period of exclusivity can begin on either: (1) The date of first commercial marketing, or (2) the date of a decision of a court holding the patent which is the subject of the paragraph IV certification to be invalid or not infringed, whichever is earlier (section 505(j)(5)(B)(iv) of the act). For purposes of section 505(j)(5)(B)(iii)(I) and (j)(5)(B)(iv) of the act, FDA determined that ''court'' means ''the court that enters final judgment from which no appeal can be or has been taken'' (§ 314.107(e)(1) (21 CFR 314.107(e)(1)) (1999)).

FDA's interpretation of the term ''court'' has been successfully challenged in the context of both the timing of ANDA approvals and the commencement of 180-day exclusivity. These recent decisions add considerable uncertainty to FDA's implementation of the ANDA approval and 180-day generic drug exclusivity programs. Therefore, in determining its response to the *TorPharm* and *Mylan* decisions, a primary concern for the agency has been to identify an approach that will minimize further disruption and will provide the regulated industry with reasonable guidance for making future business decisions. The government has decided not to appeal the *Mylan* decision and will follow that court's interpretation of the statute in approving ANDA's and calculating the commencement of 180 days of exclusivity. The agency intends to formally amend § 314.107(e) and will incorporate the *TorPharm* and *Mylan* courts' interpretation of the statute into the final rule implementing the changes in 180-day exclusivity (64 FR 42873, August 6, 1999). FDA will implement the new interpretation of the term ''court'' prospectively.

FDA will interpret the term ''court'' as found in section 505(j)(5)(B)(iii)(I) and (j)(5)(B)(iv) of the act to mean the first court that renders a decision finding the patent at issue invalid, unenforceable, or not infringed. The new definition of ''court'' will be applied to approval and exclusivity determinations for all ANDA's containing a paragraph IV certification submitted after the publication of this guidance, where the ANDA cites a reference listed drug for which no other ANDA containing a paragraph IV certification has been submitted.

This Level 1 guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The guidance is being implemented immediately without prior public comment because the guidance is needed to explain FDA's application of the statute in light of recent court decisions. However, the agency wishes to solicit comments from the public and is providing a 90-day comment period and establishing a docket for the receipt of comments.

This guidance represents the agency's current thinking on section 505(j)(5)(B)(iii)(I) and (j)(5)(B)(iv) of the act. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the act.

Interested persons may submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 23, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–7823 Filed 3–29–00; 8:45 am]

BILLING CODE 4160–01–F

Pharmaceuticals, Inc. v. *Shalala,* No. 99–2995, slip op. (D.D.C. January 4, 2000).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0805]

Draft Guidance for Institutional Review Boards, Clinical Investigators, and Sponsors: Exception From Informed Consent Requirements for Emergency Research; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Institutional Review Boards, Clinical Investigators, and Sponsors: Exception from Informed Consent Requirements for Emergency Research.'' The draft guidance document provides guidance for developing and implementing research in emergency settings when an exception from the informed consent requirements is requested under the Food and Drug Administration's (FDA's) emergency research rule.

DATES: Written comments on the draft guidance document are to be submitted by May 30, 2000. General comments on the agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled ''Guidance for Institutional Review Boards, Clinical Investigators, and Sponsors: Exception from Informed Consent Requirements for Emergency Research'' to the Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs (ORA), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Bonnie M. Lee, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857,301–827–0415

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance document entitled ''Guidance for Institutional Review Boards, Clinical Investigators, and Sponsors: Exception from Informed Consent Requirements for Emergency Research.'' In the **Federal Register** of October 2, 1996 (61 FR 51498), FDA published regulations that provide a narrow exception to the requirement for obtaining and documenting informed consent from each human subject, or his or her legally authorized representative, prior to initiation of an experimental intervention (§ 50.24 (21 CFR 50.24) in part 50 (21 CFR part 50)). The exception

would apply to a limited class of research activities involving human subjects who are in need of emergency medical intervention but who cannot give informed consent because of their life-threatening medical condition, and who do not have a legally authorized person to represent them. The preamble to part 50 stated that the agency intends to monitor and evaluate the implementation of these regulations on an ongoing basis. Since the effective date of these emergency research regulations (November 1, 1996), FDA has reviewed the efforts of sponsors, Institutional Review Boards, and clinical investigators to interpret and comply with these regulations and has determined that guidance is needed.

The draft guidance document, available for public comment, addresses issues pertinent to the implementation of FDA's emergency research regulations. The draft guidance document provides guidance on the development and conduct of community consultation and public disclosure activities; the establishment of informed consent procedures to be used when feasible; the need for the concurrence of a licensed physician; use of data monitoring committees; use of independent IRB's; documentation of efforts to contact a subject's legally authorized representative or family member regarding the subject's participation in the study; and other aspects of the emergency research regulations.

This draft Level 1 guidance document is being issued consistent with FDA's Good Guidance Practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on ways to effectively implement its emergency research regulations in order to protect the rights and welfare of human subjects participating in that research. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information contained in the guidance document may be applicable to all situations.

II. Request for Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document using the Internet at http://www.fda.gov/ora/compliance ref/bimo/default.html.

Dated: March 21, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–7778 Filed 3–29–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–295]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Medicare CAHPS Disenrollment Survey;

Form No.: HCFA–R–295 (OMB 0938–0779);

Use: This survey is used to collect information from Medicare beneficiaries who have disenrolled from their health plans during the past year. The purpose of this information is to obtain their ratings of their former plans and the reasons why they left. The survey results will be reported to all beneficiaries in print and on the Internet for the purpose of informed choices. Secondary uses of survey results include quality improvement and contract oversight;

Frequency: Quarterly, Annually;

Affected Public: Individuals or Households;

Number of Respondents: 112,800;

Total Annual Responses: 90,240;

Total Annual Hours: 39,744.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 20, 2000.

John P. Burke III

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–7905 Filed 3–29–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Withdrawal

AGENCY: Health Resources and Services Administration.

ACTION: Notice; withdrawal.

SUMMARY: In the **Federal Register** notice of Wednesday, August 18, 1999, in FR Doc. 99–21257, on page 45025, the grant category beginning in the third column under the heading ''State and Local Data Utilization and Enhancement (DUE) Cooperative Agreements, CFDA# 93.110U,'' is withdrawn from competition because of insufficient funds to support the full scope of

proposed activities published in the announcement. Prospective applicants who have submitted letters of intent or requested application materials have been notified directly of this withdrawal.

DATES: A successor competition will be announced shortly in the **Federal Register** for funding in this grant category under modified guidelines that will adjust project expectations to available funding. Application guidance for the successor competition will be available by April 21, 2000, by telephoning 1–877–477–2123 (or 1–877–HRSA–123) and providing the CFDA number (CFDA# 93.110U). The deadline for receipt of applications is July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Russ Scarato or Michael Kogan, Ph.D., Office of Data and Information Management, Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; telephone 1–301–443–0700 or 1–301–443–0701.

Dated: March 24, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–7821 Filed 3–29–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4563–N–03]

Notice of Proposed Information Collection for Public Comment for the Family Report

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 30, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

Background

The Department of Housing and Urban Development seeks comments on the revised Form HUD–50058 (changes to the Form are noted in italics). The revised Form HUD–50058 incorporates changes required for the sound management of HUD programs. This includes updates required by the passage of various laws, including the Quality Housing and Work Responsibility Act of 1998 (otherwise known as the Public Housing Reform Act), and other changes.

HUD worked with Public Housing Agencies (PHAs), trade organizations, vendors, and other interested parties to improve reporting to Multifamily Tenant Characteristics System (MTCS), the information system that collects electronic Form HUD–50058 data. In the past year, MTCS public housing reporting improved from 60 to 92 percent, and Section 8 reporting improved from 73 to 97 percent. It is critical that high reporting rates be sustained. HUD will provide technical assistance and training to Field Offices and PHAs to help sustain reporting.

To assure customer input, HUD conducted three industry consultation sessions to identify PHA needs for the revised Form HUD–50058. HUD held the first two sessions in November 1999 and January 2000. On February 10, 2000, the Department held a public forum in Washington, DC for software vendors and PHAs to brief them on the revised Form and MTCS enhancements. HUD seeks to work collaboratively with the user community to produce a user-friendly Form HUD–50058 that meets HUD, PHA, and other needs.

HUD is working to improve not only MTCS, but also the Form HUD–50058 implementation process. HUD will implement a test center to help software vendors and PHAs identify fatal errors prior to the MTCS release date. So that PHAs and software vendors have sufficient time to perform the necessary tests and sustain the high reporting rates, the Department will give them ample notice of the Form HUD–50058 modifications. In addition, HUD will implement a historical database so PHAs and HUD can track trends over time. This capability should provide PHAs greater flexibility and help them better meet local reporting needs.

Highlight of Changes

The revised Form HUD–50058 include changes that cover flat rents, earned income disregards, the Housing Choice Voucher Program, the Voucher Homeownership Program, and the Welfare-to-Work Program. To determine if there is a need for better PHA quality controls, the revised Form HUD–50058 asks PHAs to track the reason for corrections to family data. HUD added new section action codes for voucher issuance to analyze the movement and progression of families who receive rental subsidies. The revised Form HUD–50058 collects, for the first time, information about the family's gross income and any income discrepancy adjustments. The revised Form HUD–50058 also strives to fix certain problems that exist on the current form. Particularly, a PHA will be able to correct erroneous effective dates of action (line 2b) transmitted to MTCS.

This Notice also lists the following information:

Title of Proposal: Family Report.

OMB Control Number: 2577–0083.

Agency Form Number: HUD–50058.

Description of the need for the information and proposed use: Collection of this information is authorized by the U.S. Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–19), Section 214 of the Housing and Community Development Act of 1980.

Initially, PHAs will need ½ hour to input the data into each Form HUD–50058. After a one-year period, average input time should be reduced to 15 minutes per Form. The reduction in time is achieved by the pre-entering of key information on the Form (*i.e.,* income changes, change in family composition, etc). PHAs that administer the FSS and/or Welfare to Work voucher program(s) will require an additional 15 minutes per form for completion of the information.

Members of affected public: PHAs, State or Local Governments, Individuals or Households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours	Regulatory reference
HUD–50058	4500	667.67	3,000,000	0.5	1,500,000	985.101

Projected One-Year Period: Hours per response will be reduced to 0.25 for total burden hour of 750,000.

Status of the proposed information collection: Revision and extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 23, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

Family Report

U.S. Department of Housing and Urban Development — Office of Public and Indian Housing

1. Agency

1a. Agency name		1a.
1b. PHA code		*1b.*
1c. Program	(P= Public Housing CE= Sec. 8 Certificates VO= Sec. 8 Vouchers MR= Mod Rehab B= Indian Housing)	1c.
1d. Project number (Public/Indian Housing only)	*Suffix:*	*1d.*
1e. Building number (Public/Indian Housing only)		*1e.*
1f. Unit number (Public/Indian Housing only)		*1f.*

2. Action

2a. Type of action 1 = New Admission 2 = Annual Reexamination 3 = Interim Reexamination 4 = Portability Move-in 5 = Portability Move-out 6 = End Participation 7 = Other Change of Unit *8 = FSS/WtW Only 9 = Annual Reexamination Searching 10 = Issuance of Voucher 11 = Expiration of Voucher 12 = Flat Rent Annual Update 13 = Annual HQS Inspection Only 14 = V oid Family*	2a.
2b. Effective date (mm/dd/yyyy) of action	2b.
2c. Correction? (Y or N)	*2c.*
2d. If correction: (check primary reason) ☐ *Family income correction* ☐ *PHA income correction* ☐ *Family correction (non-income)* ☐ *PHA correction (non-income)*	
2e. Correction date (mm/dd/yyyy)	*2e.*
2f. Back rent agreement? (Y or N)	*2f.*
2g. Monthly amount of back rent payment	*$ 2g.*
2h. Date (mm/dd/yyyy) of admission to program	2h.
2i. Projected effective date (mm/dd/yyyy) of next reexamination	2i.
2j. Special program(s) (check all that apply): ☐ *FSS (now or in the last year)* ☐ *Enhanced Voucher* ☐ *Welfare to Work Voucher*	
2k. Other special programs: Number 01	*2k.*
2k. Other special programs: Number 02	*2k.*
2k. Other special programs: Number 03	*2k.*
2k. Other special programs: Number 04	*2k.*
2k. Other special programs: Number 05	*2k.*
2m. Use if instructed by HUD	2m.
2n. PHA use only	*2n.*
2p. PHA use only	*2p.*
2q. PHA use only	*2q.*
2r. PHA use only	*2r.*
2s. PHA use only	*2s.*

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

3. Household

3a. Head of Household Member Number 01

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race	3m. Ethnicity
	H			=1 =2 =3 =4 =5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3a. Member Number 02

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race	3m. Ethnicity
				=1 =2 =3 =4 =5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3a. Member Number 03

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race	3m. Ethnicity
				=1 =2 =3 =4 =5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3a. Member Number 04

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race	3m. Ethnicity
				=1 =2 =3 =4 =5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3a. Member Number 05

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race	3m. Ethnicity
				=1 =2 =3 =4 =5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3a. Member Number 06

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race	3m. Ethnicity
				=1 =2 =3 =4 =5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

Codes:

3h. Relation:
H = head
S = spouse
K = co-head
F = foster child/foster adult
Y = other youth under 18
E = full-time student 18+
L = live-in aide
A = other adult

3i. Citizenship:
EC = eligible citizen
EN = eligible noncitizen
IN = ineligible noncitizen
PV = pending verification

3k. Race:
1 = White
2 = Black/African American
3 = American Indian/Alaska Native
4 = Asian
5 = Native Hawaiian/Other Pacific Islander

3m. Ethnicity:
1 = Hispanic or Latino
2 = Not Hispanic or Latino

3q. = Community Service
1 = n/a
2 = yes
3 = no
4 = pending
5 = exception

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5 / 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5 / 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5 / 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5 / 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5 / 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5 / 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		

Codes:

3h. Relation:
H = head
S = spouse
K = co-head
F = foster child/foster adult
Y = other youth under 18
E = full-time student 18+
L = live-in aide
A = other adult

3i. Citizenship:
EC = eligible citizen
EN = eligible noncitizen
IN = ineligible noncitizen
PV = pending verification

3k. Race:
1 = White
2 = Black/African American
3 = American Indian/Alaska Native
4 = Asian
5 = Native Hawaiian/Other Pacific Islander

3m. Ethnicity:
1 = Hispanic or Latino
2 = Not Hispanic or Latino

3q. = Community Service
1 = n/a
2 = yes
3 = no
4 = pending
5 = exception

3r. Continued on an additional sheet? (Y or N) | 3r.

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

3s. Reserved

3t. Total number in household	3t.
3u. Family subsidy status under Noncitizen rule: C = Qualified for continuation of full assistance; E = Eligible for full assistance; F = Eligible for full assistance pending verification of status; T = Temporary deferral of termination; P = Prorated assistance	3u.
3v. Effective date (mm/dd/yyyy) if 3u = C or T	3v.
3w. If new head of household, former head of household's SSN	3w.

4. Background at Admission

4a. Date (mm/dd/yyyy) entered waiting list	4a.
4b. ZIP code before admission	4b.
4c. Homeless at admission? (Y or N)	4c.
4d. Does family qualify for admission over the very low-income limit? (Y or N)	4d.
4e. Continually assisted? (head of household only) (Y or N)	***4e.***

5. Unit to be Occupied on Effective Date of Action

5a. Unit address

Number and street		Apt.
City	State	Zip code (+4)

5b. Is mailing address same as unit address? (Y or N) (If yes, skip to 5d)	***5b.***

5c. Family's mailing address

Number and street		Apt.
City	State	Zip code (+4)

5d. Number of bedrooms in unit	5d.
5e. Has the PHA identified this unit as an accessible unit? *(Public/Indian Housing only)* (Y or N)	5e.
5f. Has the family requested accessibility features? *(Public/Indian Housing only)* (Y or N) *(If no, skip to 5h)*	5f.
5g. Has the family received requested accessibility features? *(Public/Indian Housing only)* ☐ a. Yes, fully ☐ b. Yes, partially ☐ c. No, not at all ☐ d. Action pending (can be checked in combination with b. or c.)	5g.
5h. Date (mm/dd/yyyy) unit last passed HQS inspection (Section 8 only, except Homeownership)	***5h.***
5i. Date (mm/dd/yyyy) of last annual HQS inspection (Section 8 only, except Homeownership)	***5i.***

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

6. Assets

6a. Family member name	No.	6b. Type of asset	6c. Calculation (PHA use)	6d. Cash value of asset	6e. Anticipated Income
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
6f, 6g. Column totals				$ 6f.	$ 6g.
6h. Passbook rate (written as decimal)					0. _____ 6h.
6i. Imputed asset income: 6f X 6h					$ 6i.
6j. Final asset income: Larger of 6g or 6i (If $5,000 or less, put 0)					$ 6j.

7. Income

7a. Family member name	No.	7b. Income code	7c. Calculation (PHA use)	7d. Dollars per year	***7e. Income exclusions (includes income disallowance and ISA-Public Housing only)***	7f. Income after exclusions (7d minus 7e)
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
7g. Column total						$ 7g.
7h. Reserved						
7i. Total annual income: 6j + 7g						$ 7i.

7b: Income Code

P = pension	S = SSI	G = general assistance	I = Indian trust/per capita
B = own business	F = Federal wage	W = other wage	N = other nonwage sources
SS = social security	T = TANF	C = child support	***E = medical income***
M = military pay	HA = HA wage	U = unemployment benefits	

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

8. Expected Income Per Year

8a. Total annual income: copy from 7j	$	8a.

Permissive Deductions

8b. Family member name	*No.*	*8c. Type of permissive deduction*	*8d. Amount*
			$
			$
			$
8e. Column total			***$ 8e.***

If head/spouse/co-head is under 62 and no family member disabled, skip to 8q

8f. Medical/disability threshold: 8a X 0.03	$	8f.
8g. Total unreimbursed disability assistance expense (if no disability expenses, skip to 8k)	$	8g.
8h. Maximum disability allowance: If 8g minus 8f is positive or zero, put amount	$	8h.
If negative and head/spouse/co-head under 62 and head/spouse/co-head not disabled, put 0	$	8h.
If negative and head/spouse/co-head elderly or head/spouse/co-head disabled, copy from 8g	$	8h.
8i. Earnings in 7d made possible by disability assistance expense	$	8i.
8j. Allowable disability assistance expense: lower of 8h or 8i (if 8g is less than 8f and head/spouse/co-head elderly or head/spouse/co-head disabled, copy from 8h)	$	8j.
8k. Total out of pocket Medical Expense (if head/spouse/co-head under 62 and head/spouse/co-head not disabled, put 0)	$	8k.
8m. Total disability assistance and medical expenses: 8j + 8k (if no disability expenses, copy from 8k)	$	8m.
8n. Medical/disability assistance allowance: If no disability assistance expenses or if 8g is less than 8f, put 8m minus 8f (if 8m minus 8f is negative, put zero)	$	8n.
If disability assistance expenses and 8g is greater than or equal to 8f, copy from 8m	$	8n.
8p. Elderly/disability allowance (default = $400)	$	8p.
8q. Number of dependents (people under 18, or with disability, or full-time student. Don't count head, spouse, co-head, foster child/adult, or live-in aide).	$	8q.
8r. Allowance per dependent (default = $480)	$	8r.
8s. Dependent allowance: 8q X 8r	$	8s.
8t. Yearly childcare costs that are not reimbursed	$	8t.
8u. Travel cost to work *(Indian Housing only)*	$	8u.
8v. Reserved		
8w. Reserved		

8x. Total allowances: 8e + 8n + 8p + 8s + 8t +8u	$	8x.
8y. Total annual income minus total allowances: 8a minus 8w (if 8w is larger, put 0)	$	8y.
8z. Annual imputed welfare income (sanction as determined by TANF agency)	***$***	***8z.***
8aa. Adjusted annual income: 8x + 8y	$	8aa.

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

9. TTP

9a. Total monthly income: 8a ÷ 12	$	9a.	
9b. Reserved			
9c. TTP if based on annual income: 9a X 0.10	$	9c.	
9d. Adjusted monthly income: 8z ÷ 12	$	9d.	
9e. Reserved			
9f. TTP if based on adjusted annual income: 9d X 0.30	$	9f.	
9g. Welfare rent per month (if none, put 0)	$	9g.	
9h. Minimum rent, put 0 if waived	$	9h.	
9i. Enhanced Voucher TTP	***$***	***9i.***	
9j. TTP, highest of lines 9c, 9f, 9g, or 9h (If enhanced Voucher, highest of 9c, 9f, 9g, 9h, or 9j)			$ 9j.
9k. Most recent TTP	$	9k.	
9m. Qualify for minimum rent hardship? (Y or N)		***9m.***	

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

10. Public Housing, Indian Rental, and Turnkey III

10a. TTP: copy from 9k		$ 10a.	
10b. Flat rent		***$ 10b.***	
Rent Calculation (if prorated rent, skip to 10i)			
10c. Ceiling rent, if any		$ 10c.	
10d. Lower of TTP or ceiling rent (If no ceiling rent, put 10a)		$ 10d.	
10e. Utility allowance, if any		$ 10e.	
10f. Tenant rent: 10d minus 10e	If positive or 0, put tenant rent		10f.
	If negative, credit tenant	or CR	$ 10f.
10g. Reserved			
Prorated Rent Calculation			
10h. Public/Indian Housing maximum rent		$ 10h.	
10i. Family maximum subsidy: 10i minus 10a		$ 10i.	
10j. Total number eligible		10j.	
10k. Total number in family		10k.	
10m. Reserved			
10n. Eligible subsidy (10i ÷ 10k) X 10j		$ 10n.	
10p. Mixed family TTP: 10h minus 10n		$ 10p.	
10q. Reserved			
10r. Utility allowance, if any		$ 10r.	
10s. Mixed family tenant rent: 10p minus 10r	If positive or 0, put tenant rent		$ 10s.
	If negative, credit tenant	or CR	$ 10s.
10t Reserved			

Type of Rent

10u. Type of rent selected:

☐ ***Income based*** ☐ ***Flat***

10v. Reserved

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

11. Section 8: Pre-merger Certificates Only (Except Owner-Occupied Manufactured Home on Rented Space/Pad)

11a.	Number of bedrooms on certificate		11a.
11b.	Is family now moving to this unit? *(project-based certificates only)* (Y or N)		11b.
11c.	Reserved		
11d.	Portability? (Y or N) *(If no, skip to 11g)*		11d.
11e.	Cost billed per month (put 0 if absorbed)		$ 11e.
11f.	PHA code billed		11f.
11g.	Check all housing types that apply: ☐ Project-based certificate program unit ☐ IGR: has continual supportive services (prorate gross rent) ☐ SRO: 1 room occupied by 1 person		
11h.	Owner name		11h.
11i.	Owner TIN/SSN		11i.
11j.	Reserved		
11k.	Contract rent to owner (if unit has other subsidy, put subsidized rent)	$ 11k.	
11m.	Utility allowance, if any	$ 11m.	
11n.	Gross rent of unit: 11k + 11m	$ 11n.	
11p.	Reserved		
11q.	TTP: copy from 9k	$ 11q.	
Rent Calculation (if prorated rent, skip to 11aa)			
11r.	Total HAP: 11n minus 11q. If 11q is larger, put 0	$ 11r.	
11s.	Tenant rent: 11k minus 11r — If positive or 0, put tenant rent.	$ 11s.	
	If negative, credit tenant or CR	$ 11s.	
11t.	HAP to owner: lower of 11k or 11r		$ 11t.

Prorated Rent Calculation

11aa.	Normal total HAP: 11n minus 11q (skip to 11ae)	$ 11aa.	
11ab.	Reserved		
11ac.	Reserved		
11ad.	Reserved		
11ae.	Total number eligible	11ae.	
11af.	Total number in family	11af.	
11ag.	Proration percentage: 11ae ÷ 11af	11ag.	
11ah.	Prorated total HAP: 11aa X 11ag	$ 11ah.	
11ai.	Mixed family TTP: 11n minus 11ah	$ 11ai.	
11aj.	Utility allowance: copy from 11m	$ 11aj.	
11ak.	Mixed family tenant rent: 11ai minus 11aj — If positive or 0, put tenant rent		$ 11ak.
	If negative, credit tenant or CR		$ 11am.
11am.	Reserved		
11an.	Prorated HAP to owner: 11k minus 11ak if 11ak is negative, put 11k		$ 11an.

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

12. Section 8 Vouchers

12a.	Number of bedrooms on voucher		12a.
12b.	Is family now moving to this unit? (Y or N)		12b.
12c.	Does the family qualify as a Hard to House family? (Y or N)		12c.
12d.	Portability? (Y or N) (If no, skip to 12g)		12d.
12e.	Cost billed per month (put 0 if absorbed)		$ 12e.
12f.	PHA code billed		12f.

12g. Check all housing types that apply:

☐ IGR: has continual supportive services (prorate gross rent) ☐ Project-based voucher program unit

☐ Own manufactured home, space lease ☐ SRO: 1 room occupied by 1 person

12h.	Owner name		12h.
12i.	Owner TIN/SSN		12i.
12j.	Voucher payment standard (if premerger voucher, see Instruction Booklet)	$ 12j.	
12k.	Rent to owner	$ 12k.	
12m.	Utility allowance, if any	$ 12m.	
12n.	Gross rent of unit: 12k + 12m (or "Space Rent")	$ 12n.	
12p.	Lower of 12j or 12n	$ 12p.	
12q.	TTP: copy from 9k	$ 12q.	
12r.	Total HAP: 12p minus 12q	$ 12r.	

Rent Calculation (if prorated rent, skip to 12ab)

12s.	Total family share: 12n minus 12r	$ 12s.	
12t.	HAP to owner: lower of 12k or 12r	$ 12t.	
12u.	Tenant rent to owner: 12k minus 12t		$ 12u.
12v.	Utility reimbursement to family: 12r minus 12t		$ 12v.

Prorated Rent Calculation

12aa.	Reserved		
12ab.	Normal total HAP: copy from 12r		$ 12ab.
12ac.	Total number eligible	12ac.	
12ad.	Total number in family	12ad.	
12ae.	Proration percentage: 12ac ÷ 12ad	12ae.	
12af.	Prorated total HAP: 12ab X 12ae	12af.	
12ag.	Mixed family total family contribution: 12n minus 12af	$ 12ag.	
12ah.	Utility allowance: copy from 12m	$ 12ah.	
12ai.	Mixed family tenant rent to owner: 12ag minus 12ah — If positive or 0, put tenant rent		$ 12ai.
	If negative, credit tenant	or CR	$ 12ai.
12aj.	Prorated HAP to owner: 12k minus 12ai. If 12ai is negative, put 12k		$ 12aj.
12ak.	Reserved		

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

13. Section 8: Mod Rehab (Except Converted to Certificate)

13a.	HAP contract number			13a.
13b.	Mod Rehab SRO Program for homeless? (Y or N)			13b.
13c.	Mod Rehab SRO unit (not homeless program)? (Y or N)			13c.
13d.	Owner name			13d.
13e.	Owner TIN/SSN			13e.
13f.	Current base rent	$	13f.	
13g.	Rehabilitation debt service	$	13g.	
13h.	Contract rent to owner: 13f + 13g	$	13h.	
13i.	Utility allowance, if any	$	13i.	
13j.	TTP: copy from 9k	$	13j.	

Rent Calculation (if prorated, skip to 13p)

13k.	Tenant rent: 13j minus 13i (if 13j is greater than 13h + 13i, put 13h)	If positive or 0, put tenant rent		$	13k.
		If negative, credit tenant	or CR	$	13k.
13m.	HAP to owner: 13h minus 13k (if 13k is negative, put 13h)			$	13m.
13n.	Reserved				

Prorated Rent Calculation

13p.	Gross rent: 13h + 13i	$	13p.		
13q.	Normal total HAP: 13p minus 13j	$	13q.		
13r.	Total number eligible	$	13r.		
13s.	Total number in family	$	13s.		
13t.	Proration percentage: 13r ÷ 13s	$	13t.		
13u.	Prorated total HAP: 13q X 13t	$	13u.		
13v.	Mixed family TTP: 13p minus 13u	$	13v.		
13w.	Utility allowance: copy from 13i	$	13w.		
13x.	Mixed family tenant rent: 13v minus 13w	If positive or 0, put tenant rent		$	13x.
		If negative, credit tenant	**or CR**	$	13x.
13y.	Reserved				
13z.	Prorated HAP to owner: 13h minus 13x. If 13x is negative, put 13h			$	13z.

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

14. Manufactured Home Owner Renting the Space (pre-merger Certificates only)

14a.	Number of bedrooms on certificate		14a.
14b.	Reserved		
14c.	Portability? (Y or N) *(if no skip to 14g)*		14c.
14d.	Cost billed per month (put 0 if absorbed)		$ 14d.
14e.	PHA code billed		14e.
14f.	Reserved		
14g.	Space owner name		14g.
14h.	Space owner TIN/SSN		14h.
14i.	Reserved		
14j.	Furniture included in purchase price? (Y or N)		14j.
14k.	Monthly amortization payment	$ 14k.	
14m.	Deduction: if 14j = Y, 14k X .0.15. If 14j = N, put 0	$ 14m.	
14n.	Adjusted amortization: 14k minus 14m	$ 14n.	
14p.	Utility allowance, if any	$ 14p.	
14q.	Rent to owner (space rent)	$ 14q.	
14r.	Gross rent: 14n + 14p + 14q	$ 14r.	
14s.	TTP: copy from 9k	$ 14s.	
14t.	Gross rent minus TTP: 14r minus 14s	$ 14t.	
14u.	Reserved		
14v.	HAP to owner: lower of 14r or 14s		$ 14v.

Rent Calculation (if prorated rent, skip to 14aa)

14w.	Tenant rent: 14q minus 14v		$ 14w.
14x.	Reserved		

Prorated Rent Calculation

14aa.	Total number eligible	14aa.	
14ab.	Total number in family	14ab.	
14ac.	Proration percentage: 14aa ÷ 14ab	14ac.	
14ad.	Prorated HAP to owner: 14v X 14ac	$ 14ad.	
14ae.	Mixed family TTP: 14r minus 14ad	$ 14ae.	
14af.	Reserved		
14ag.	Mixed family tenant rent: 14q minus 14ad		$ 14ag.

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

15. Section 8: Homeownership

15a. Is family now moving to this home? (Y or N)		*15a.*	
15b. Date (mm/dd/yyyy) of initial inspection		*15b.*	
15c. Portability? (Y or N) (if no, skip to 15f)		*15c.*	
15d. Cost billed per month (put 0 if absorbed)		*15d.*	
15e. PHA code billed		*15e.*	
15f. Monthly homeownership expense (PITI & MIP if applicable)	*$*	*15f.*	
15g. Utility allowance	*$*	*15g.*	
15h. Monthly maintenance allowance	*$*	*15h.*	
15i. Monthly major repair/replacement allowance	*$*	*15i.*	
15j. Monthly principal and interest on debt for improvements, if any	*$*	*15j.*	
15k. Gross homeownership expense: 15f + 15g + 15h + 15i + 15j	*$*	*15k.*	
15m. Payment standard	*$*	*15m.*	
15n. Lower of 15k and 15m	*$*	*15n.*	
15p. TTP: copy from 9k	*$*	*15p.*	
15q. HAP: 15n minus 15p (If 15p is larger, put 0)	*$*	*15q.*	

Subsidy Calculation (if prorated, skip to 15aa)

15r. Total family share: 15k minus 15q			*$ 15r.*
Prorated Subsidy Calculation			
15aa. Normal total HAP: copy from 15q		*15aa.*	
15ab. Total number eligible		*15ab.*	
15ac. Total number in family		*15ac.*	
15ad. Proration percentage: 15ab ÷ 15ac		*15ad.*	
15ae. Prorated HAP: 15aa X 15ad	*$*	*15ae.*	
15af. Mixed family total family share: 15k minus 15ae			*$ 15af.*
15ag. Reserved			
15ah. Reserved			

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

16. Indian Mutual Help

16a.	Adjusted monthly income: copy from 9d	$	16a.	
16b.	Number between 0.15 and 0.30 corresponding to the % in the mutual help agreement		16b.	
16c.	Gross family cost: 16a X 16b	$	16c.	
16d.	Utility allowance, if any	$	16d.	
16e.	Net cost: 16c minus 16d (if 16d is larger, put 0)	$	16e.	
16f.	Administration charge	$	16f.	
16g.	Maximum monthly payment in agreement, if any (usually 16f + monthly debt service)	$	16g.	
16h.	Family cost: higher of 16e and 16f, but not greater than 16g			$ 16h.

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

17. FSS/Welfare to Work Voucher Addendum

17a. Participate in special programs? (check all that apply) ☐ ***FSS*** ☐ ***Welfare to Work Voucher***	
17b. FSS report category *(check no more than one)* ☐ Enrollment ☐ Progress ☐ Exit	
17c. FSS effective date (mm/dd/yyyy) of action	17c.
17d. PHA code of PHA Administering FSS contract	***17d.***
17e. Welfare to Work report category (check no more than one) ☐ ***Enrollment*** ☐ ***Progress*** ☐ ***Exit***	
17f. WtW effective date (mm/dd/yyyy) of action	***17f.***
17g. PHA code of PHA that issued the WtW voucher	***17g.***
17h. General Information	
(1) Current employment status of head of household. Check the box to indicate the Head of Household's employment status at the time Addendum completed. ☐ Full-time (32 hours per week or more) ☐ Part-time ☐ Not employed seasonal	
(2) Date (mm/yyyy) current employment began	***17h(2).***
(3) Benefits in current employment: ☐ ***Health*** ☐ ***Retirement Account*** ☐ ***Other*** ☐ ***None***	
(4) Years of school completed by the head of household. Enter the highest grade of education or years of formal schooling the head of household completed at the time Addendum submitted. (0-25)	17h(4).
(5) Assistance received by the Family: (check all that apply) ☐ ***TANF Income Assistance?*** ☐ ***General Assistance?*** ☐ ***Food Stamps?*** ☐ ***Medicaid/Children's Health Insurance Program?*** ☐ ***Earned Income Tax Credit?***	
(6) Number of children receiving child care services	***17h(6).***

17i. Family Services Table

	(1) Need (Y or N)	(2) Needs Met Through Program (Y or N)	(3) Service Provider
Education/Training			
GED			
High school			
Post secondary			
Vocational/Job training			
Job search/Job placement			
Job retention			
Transportation			
Health services			
Drug treatment/Rehabilitation			
Mentoring			
Homeownership counseling			
Individual Development Account (IDA)			
Child care			
None			

17i (3) Service Provider Codes:

P = PHA	*D = DOL grantee*	*PR = For profit entity*	*E = Employer*
T = TANF agency	*V = Voluntary organization*	*N = Nonprofit agency*	*C = Community college*

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

Family Self Sufficiency Program ***(if not in FSS program, skip to 17n)***

17j.	**FSS Contract Information**		
	(1) Initial start date (mm/yyyy) of contract of participation *(FSS enrollment report only)*		17j(1).
	(2) Initial end date (mm/yyyy) of contract of participation *(FSS enrollment report only)*		17j(2).
	(3) Contract date (mm/yyyy) extended to (if applicable)		17j(3).
	(4) Number of family members with Individual Training and Services Plan		***17j(4).***
	(5) Did the Family receive selection preference because of an FSS related service program participation? (FSS enrollment report only) (Y or N)		***17j(5).***
17k.	**FSS account information**		
	(1) Current FSS account monthly credit	$	17k(1).
	(2) Current FSS account balance	$	17k(2).
	(3) FSS account amount disbursed to the family (cumulative as of end of reporting period)	***$***	***17k(3).***
17m.	**FSS exit Information (FSS Exit Report only)**		
	(1) Did family complete contract of participation? (Y or N)	$	17m(1).
	(2) If (1) is Yes, did family move to homeownership? (Y or N)	$	17m(2).

(3) If (1) is No, reason for exit: ☐ Left voluntarily ☐ Asked to leave program ☐ ***Portability move-out***
☐ Left because essential service was unavailable ☐ Contract expired but family did not fulfill obligations

Welfare to Work Voucher Program

17n.	***WtW program information***		
	(1) Date (mm/yyyy) Voucher issued (WtW enrollment report only)		***17n(1).***
	(2) Number of days to find a unit (WtW enrollment report only))		***17n(2).***
	(3) Date (mm/yyyy) of initial lease/HAP contract under WtW		***17n(3).***
	(4) Help in housing search from: ☐ ***PHA*** ☐ ***TANF Agency*** ☐ ***Other***		

17p. If assisted in a different unit, reason(s): (check all that apply) (WtW enrollment report only))
☐ ***Closer to day care*** ☐ ***Employment*** ☐ ***Transportation*** ☐ ***Closer to other services***
☐ ***Pre-program unit would not meet HQS*** ☐ ***Pre-program unit rent above payment standard, tenant rent too high***
☐ ***Owner of pre-program unit unwilling to participate*** ☐ ***Other***

17q. Welfare to Work exit Information (WtW exit report only))

Reason for leaving program:

☐ ***Portability move-out***
☐ ***Family no longer needs subsidy***
☐ ***Subsidy terminated for Section 8 program violation, other than WtW obligations***
☐ ***Subsidy terminated for violation of WtW obligations***
☐ ***Family voluntarily withdrew from Section 8 program***
☐ ***Move to homeownership***
☐ ***Other***

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

MTW Family Report

U.S. Department of Housing and Urban Development — Office of Public and Indian Housing

1. MTW Public Housing Agency

1a. Agency name		1a.
1b. PHA code		☐☐☐☐☐ ***1b.***
1c. Program	(P= Project-based T = Tenant-based H = Homeownership)	☐☐ 1c.
1d. Project number (Current Public Housing only)	☐☐☐☐☐☐☐☐ ***Suffix:*** ☐☐☐	***1d.***
1e. Building number (Current Public Housing only)	☐☐☐☐☐☐	***1e.***
1f. Unit number (Current Public Housing only)	☐☐☐	***1f.***

2. MTW Action

2a. Type of action 1 = New Admission 2 = Annual Reexamination 3 = Interim Reexamination 4 = Portability Move-in 5 = Portability Move-out 6 = End Participation 7 = Other Change of Unit ***8 = Self Sufficiency Program Only 9 = Annual Reexamination Searching 10 = Issuance of Voucher equivalent 11 = Expiration of Voucher equivalent 12 = Flat Rent Annual Update 13 = Annual HQS Inspection Only 14 = Void Family***	2a.
2b. Effective date (mm/dd/yyyy) of action	2b.
2c. Correction? (Y or N)	***2c.***
2d. If correction: (check primary reason) ☐ ***Family income correction*** ☐ ***PHA income correction*** ☐ ***Family correction (non-income)*** ☐ ***PHA correction (non-income)***	
2e. Correction date (mm/dd/yyyy)	***2e.***
2f. Back rent agreement? (Y or N)	***2f.***
2g. Monthly amount of back rent payment	***$ 2g.***
2h. Date (mm/dd/yyyy) of admission to program	2h.
2i. Projected effective date (mm/dd/yyyy) of next reexamination	2i.
2j. Special program(s) (check all that apply): ☐ ***Traditional FSS*** ☐ ***Other***	
2k. Other special programs: Number 01	***2k.***
2k. Other special programs: Number 02	***2k.***
2k. Other special programs: Number 03	***2k.***
2k. Other special programs: Number 04	***2k.***
2k. Other special programs: Number 05	***2k.***
2m. Use if instructed by HUD	2m.
2n. PHA use only	***2n.***
2p. PHA use only	***2p.***
2q. PHA use only	***2q.***
2r. PHA use only	***2r.***
2s. PHA use only	***2s.***

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

3. MTW Household Information

3a. Head of Household Member Number 01

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
	H				=1	=2	=3	=4	=5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3r. Total years of school (0-25)

3a. Member Number 02

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
					=1	=2	=3	=4	=5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3r. Total years of school (0-25)

3a. Member Number 03

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
					=1	=2	=3	=4	=5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3r. Total years of school (0-25)

3a. Member Number 04

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
					=1	=2	=3	=4	=5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3r. Total years of school (0-25)

3a. Member Number 05

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
					=1	=2	=3	=4	=5	

3n. Social Security Number	3p. Alien Registration Number	*3q. Meeting community service requirement? (Public Housing only)*
	A-	

3r. Total years of school (0-25)

Codes:

3h. Relation:
H = head
S = spouse
K = co-head
F = foster child/foster adult
Y = other youth under 18
E = full-time student 18+
L = live-in aide
A = other adult

3i. Citizenship:
EC = eligible citizen
EN = eligible noncitizen
IN = ineligible noncitizen
PV = pending verification

3k. Race:
1 = White
2 = Black/African American
3 = American Indian/Alaska Native
4 = Asian
5 = Native Hawaiian/Other Pacific Islander

3m. Ethnicity:
1 = Hispanic or Latino
2 = Not Hispanic or Latino

3q. = Community Service
1 = n/a
2 = yes
3 = no
4 = pending
5 = exception

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race: =1 =2 =3 =4 =5; 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		
	3r. Total years of school (0-25)				

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race: =1 =2 =3 =4 =5; 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		
	3r. Total years of school (0-25)				

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race: =1 =2 =3 =4 =5; 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		
	3r. Total years of school (0-25)				

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race: =1 =2 =3 =4 =5; 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		
	3r. Total years of school (0-25)				

3a. Member Number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race: =1 =2 =3 =4 =5; 3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	***3q. Meeting community service requirement? (Public Housing only)***		
	3r. Total years of school (0-25)				

Codes:

3h. Relation:
H = head
S = spouse
K = co-head
F = foster child/foster adult
Y = other youth under 18
E = full-time student 18+
L = live-in aide
A = other adult

3i. Citizenship:
EC = eligible citizen
EN = eligible noncitizen
IN = ineligible noncitizen
PV = pending verification

3k. Race:
1 = White
2 = Black/African American
3 = American Indian/Alaska Native
4 = Asian
5 = Native Hawaiian/Other Pacific Islander

3m. Ethnicity:
1 = Hispanic or Latino
2 = Not Hispanic or Latino

3q. = Community Service
1 = n/a
2 = yes
3 = no
4 = pending
5 = exception

3s. Continued on an additional sheet? (Y or N)	3s.

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

3t. Total number in household	3t.
3u. Family subsidy status under Noncitizen rule: C = Qualified for continuation of full assistance E = Eligible for full assistance F = Eligible for full assistance pending verification of status T = Temporary deferral of termination P = Prorated assistance	3u.
3v. Effective date (mm/dd/yyyy) if 3u = C or T	3v.
3w. If new head of household, former head of household's SSN	3w.

4. MTW Family Background at Admission

4a. Date (mm/dd/yyyy) entered waiting list	4a.
4b. ZIP code before admission	4b.
4c. Homeless at admission? (Y or N)	4c.
4d. Does family qualify for admission over the very low-income limit? (Y or N)	4d.
4e. Continually assisted? (head of household only) (Y or N)	***4e.***

5. MTW Unit Information

5a. Unit address

Number and street			Apt.
City	State	Zip code (+4)	

5b. Is mailing address same as unit address? (Y or N) (If yes, skip to 5d)	***5b.***

5c. Family's mailing address

Number and street			Apt.
City	State	Zip code (+4)	

5d. Number of bedrooms in unit	5d.
5e. Has the PHA identified this unit as an accessible unit? *(current Public Housing only)* (Y or N)	5e.
5f. Has the family requested accessibility features? *(current Public Housing only)* (Y or N) *(If no, skip to 5h)*	5f.
5g. Has the family received requested accessibility features? *(current Public Housing only)* ☐ a. Yes, fully ☐ b. Yes, partially ☐ c. No, not at all ☐ d. Action pending (can be checked in combination with b. or c.)	5g.
5h. Date (mm/dd/yyyy) unit last passed HQS inspection (Section 8 only, except Homeownership)	***5h.***
5i. Date (mm/dd/yyyy) of last annual HQS inspection (Section 8 only, except Homeownership)	***5i.***

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

6. MTW Asset Income

6a. Family member name	No.	6b. Type of asset	6c. Calculation (PHA use only)	6d. Cash value of asset (PHA use only)	6e. Asset Income	6f. Asset Income Excluded
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
6g., 6h., 6i. Column totals				$ 6g.	$ 6h.	$ 6i.
6j. Total asset income: 6h minus 6i *(only include if more than $5000)*						$ 6j.

7. MTW Family Income

7a. Family member name	No.	7b. Income code	7c. Calculation (PHA use only)	7d. Dollars per year
				$
				$
				$
				$
				$
				$
				$
				$
				$
				$
				$
				$
				$
				$
7e. Column total				$ 7e.

7f.	Income exclusions	$ 7f.
7g.	Income after income exclusions: 7e minus 7f	$ 7g.
7h.	Total annual income: 6j + 7g	$ 7h.
7i.	Deductions	$ 7i.
7j.	Total annual income minus deductions: 7h minus 7i	$ 7j.
7k.	***Annual imputed welfare income (sanction as determined by TANF agency)***	***$ 7k.***
7m.	Adjusted annual income: 7j + 7k	$ 7m.

7b. Income Code

P = pension	S = SSI	G = general assistance	I = Indian trust/per capita
B = own business	F = Federal wage	W = other wage	N = other nonwage sources
SS = social security	T = TANF	C = child support	***E = medical income***
M = military pay	HA = HA wage	U = unemployment benefits	***X = MTW income***

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

8. Project-Based Family Rental Information

8a.	Indicate if flat or income-based rent (F = Flat I = Income-based)	$	8a.
8b.	Tenant rent	$	8b.
8c.	Mixed family tenant rent	$	8c.
8d.	Utility allowance/estimate	$	8d.
8e.	Reserved		

9. Tenant-Based Family Rental Information

9a.	Indicate if flat subsidy or income-based rent (F = Flat subsidy I = Income-based)		9a.
9b.	Number of bedrooms on voucher/equivalent		9b.
9c.	Family is now moving to this unit? (Y or N)		9c.
9d.	Portability? (Y or N)		9d.
9e.	Cost billed per month		9e.
9f.	PHA code billed		9f.
9g.	Owner name		9g.
9h.	Owner TIN/SSN		9h.
9i.	Rent to owner	$	9i.
9j.	Utility allowance/estimate	$	9j.
9k.	Gross rent of unit	$	9k.
9m.	Flat subsidy amount, if any	$	9m.
9n.	Tenant rent	$	9n.
9p.	Mixed family tenant rent	$	9p.
9q.	Reserved		

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

10. MTW Home Ownership

10a.	Indicate if flat subsidy or income-based homeownership payment (F = Flat subsidy I = Income-based)		10a.		
10b.	Is family now moving to this home? (Y or N)		10b.		
10c.	Date (mm/dd/yyyy) of initial inspection		10c.		
10d.	Portability? Y or N (if no, skip to 10f)		10d.		
10e.	Cost billed per month (put 0 if absorbed)		10e.		
10f.	PHA code billed		10f.		
10g.	Monthly homeownership expense (PITI & MIP if applicable)	$	10g.		
10h.	Utility allowance/estimate	$	10h.		
10i.	Other monthly allowance, if any	$	10i.		
10j.	Reserved				
10k.	Reserved				
10m.	Gross homeownership expense: 10g + 10h + 10i	$	10m.		
10n.	Flat subsidy amount	$	10n.		
10p.	Tenant rent			$	10p.
10q.	Mixed family tenant rent			$	10q.
10r.	Reserved				

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

11. Self-Sufficiency Addendum

11a. Family participation in self sufficiency programs ☐ Traditional FSS ☐ MTW

11b. Report category *(check no more than one)* ☐ Enrollment ☐ Progress ☐ Exit

11c. Effective date (mm/dd/yyyy) of action — 11c.

11d. Reserved

11e. Reserved

11f. PHA code of PHA Administering FSS contract — 11f.

11g. Reserved

11h. General Information

(1) Current employment status of head of household. Check the box to indicate the head of household's employment status at the time Addendum completed.

☐ Full-time (32 hours per week or more) ☐ Part-time ☐ Not employed

(2) Date (mm/yyyy) current employment began — 11h(2).

(3) Benefits in current employment: ☐ Health ☐ Retirement Account ☐ Other ☐ None

(4) Reserved — 11h(4).

(5) Assistance received by the Family: (check all that apply)

☐ TANF Income Assistance? ☐ General Assistance? ☐ Food Stamps?

☐ Medicaid/Children's Health Insurance Program? ☐ Earned Income Tax Credit?

(6) Number of children receiving child care services — 11h(6).

11i. Family Services Table

	(1) Enrolled During Reporting Period (Y or N)	(2) Completed During Reporting Period (Y or N)	(3) Service Provider
Education/Training			
GED			
High school			
Post secondary			
Vocational/Job training			
Job search/Job placement			
Job retention			
Transportation			
Health services			
Drug treatment/Rehabilitation			
Mentoring			
Homeownership counseling			
Individual Development Account (IDA)			
Child care			
None			

11i (3) Service Provider Codes

P = PHA D = DOL grantee PR = For profit entity E = Employer

T = TANF agency V = Voluntary organization N = Nonprofit agency C = Community college

Head of Household Name	Social Security Number	Date Modified (mm/dd/yyyy)

11j.	**Self-Sufficiency Contract Information**		
	(1) Initial start date (mm/yyyy) *(enrollment report only)*		11j(1).
	(2) Initial end date (mm/yyyy) *(enrollment report only)*		11j(2).
	(3) Program extension date (mm/yyyy) *(if applicable)*		11j(3).
	(4) Number of family members with Individual Training and Services Plan		11j(4).
	(5) Did the family receive selection preference because of a related service? (enrollment report only) (Y or N)		
11k.	**Escrow Account Information**		
	(1) Current monthly credit	$	11k(1).
	(2) Current account balance	$	11k(2).
	(3) Account amount disbursed to the family (cumulative as of end of reporting period)	$	11k(3).
11m.	Exit Information (complete only for Exit Report)		
	(1) Did family complete contract of participation? (Y or N)		
	(2) If (1) is Yes, did family move to homeownership? (Y or N)		
	(3) If (1) is No, reason for exit: ☐ Left voluntarily ☐ Asked to leave program ☐ Portability move-out ☐ Left because essential service was unavailable ☐ Contract expired but family did not fulfill obligations		

[FR Doc. 00–7784 Filed 3–29–00; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–02]

Order of Succession

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

ACTION: Notice of Order of Succession for the Assistant Secretary for Fair Housing and Equal Opportunity.

SUMMARY: In this notice, the Assistant Secretary for Fair Housing and Equal Opportunity designates the Order of Successions for the position of Assistant Secretary for FHEO, and revokes the prior Order of Succession for this position.

EFFECTIVE DATE: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Deborah R. Harrison, Administrative Officer, Office of Fair Housing and Equal Opportunity, Budget and Administrative Support Division, Department of Housing and Urban Development, 451 7th Street, SW, Room 5124, Washington, DC 20410–2000; telephone (202) 708–2701. [This is not a toll-free number.] A telecommunications device for hearing impaired persons (TDD) is available at 1–800–543–8294.

SUPPLEMENTARY INFORMATION: In this document, the Assistant Secretary for Fair Housing and Equal Opportunity is issuing the Order of Succession of officials authorized to serve as Acting Assistant Secretary for FHEO when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for FHEO is not available to exercise the powers or perform the duties of the office. This revised Order of Succession is being issued due to a reorganization of the office of the Assistant Secretary for FHEO.

Accordingly, the Assistant Secretary for FHEO designates the following officials, in the order specified to act for and assume the powers of the Assistant Secretary for FHEO:

Section A. Order of Succession

During any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Fair Housing and Equal Opportunity is not available to exercise the powers or perform the duties of the Office of the Assistant Secretary for FHEO, the following are hereby designated to serve as Acting Assistant Secretary for FHEO:

(1) General Deputy Assistant Secretary;

(2) Deputy Assistant Secretary for Enforcement and Program;

(3) Deputy Assistant Secretary for Operations and Management;

(4) Director, Policy and Program Evaluation Staff;

(5) Director, Office of Enforcement;

(6) Director, Office of Programs;

(7) Director, Field Oversight Staff; and

(8) Director, Office of Management and Planning

Section B. Authority Revoked

The Order of Succession of the Assistant Secretary for FHEO, published in the **Federal Register** on December 13, 1996 at 61 FR 65591, is hereby revoked.

Authority: Sec. 7(d) Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 17, 2000.

Eva M. Plaza,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 00–7783 Filed 3–29–00; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE–836329

Applicant: Blanton and Associates, Austin, Texas.

Applicant requests authorization for recovery purposes to conduct activities with the following federally-listed plants:

Slender rush pea (*Hoffmannseggia tenella*)
Black lace cactus (*Echinocereus reichenbachii var. albertii*)
Tobusch fishhook cactus (*Ancistrocactus tobuschii*)
Texas poppy mallow (*Callirhoe scabriuscula*)
Sneed pincushion cactus (*Coryphanthus sneedii var. sneedii*)
Terlingua Creek Cat's-Eye (*Cryptantha crassipes*)
Lloyd's hedgehog cactus (*Echinocereus lloydii*)
Davis' green pitaya (*Echinocereus viridiflora var. davisii*)
Texas snowbells (*Styrax texana*)

Permit No. TE–24723

Applicant: Colorado River Indian Tribes, Ahakhav Tribal Preserve.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) within the Colorado River Indian Tribes Ahakhav Tribal Preserve in La Paz County, Arizona.

Permit No. TE–24755

Applicant: Bureau of Land Management, Kingman Field Office, Kingman, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) in Mohave and Yavapai Counties, Arizona.

Permit No. TE–821356

Applicant: Grand Canyon Monitoring and Research Center, Flagstaff, Arizona.

Applicant requests authorization for research and recovery purposes to conduct fish monitoring studies for the humpback chub (*Gila cypha*) in the Little Colorado River and the Colorado River mainstem.

Permit No. TE–24786

Applicant: Bureau of Indian Affairs-Western Regional Office, Phoenix, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in any Indian Reservation that may have potential habitat in Maricopa, Yuma, Pima, Pinal, Gila, or Yavapai Counties, Arizona.

Permit No. TE–24788

Applicant: Animal and Plant Health Inspection Service/Wildlife Services, Phoenix, Arizona.

Applicant requests authorization to conduct presence/absence surveys for the following federally-listed species in various counties in Arizona:

bald eagle (*Haliaeetus leucocephalus*)
cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*)
southwestern willow flycatcher (*Empidonax traillii extimus*)
Yuma clapper rail (*Rallus longirostris yumanensis*)
black-footed ferret (*Mustela nigripes*)
jaguar (*Panthera onca*)
Mexican gray wolf (*Canis lupus baileyi*)

Permit No. TE–828830

Applicant: Bureau of Land Management (BLM), Tucson Field Office, Tucson, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/

absence surveys for the following federally-listed species occurring on lands administered by the BLM:

Fish: Gila topminnow (*Poeciliopsis occidentalis*) desert pupfish (*Cyprinodon macularius macularius*) razorback sucker (*Xyrauchen texanus*)

Birds: southwestern willow flycatcher (*Empidonax traillii extimus*) cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*)

Mammals: lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*)

Permit No. TE–819473

Applicant: Grand Canyon National Park, Grand Canyon, Arizona.

Applicant requests authorization for recovery purposes to monitor the southwestern willow flycatcher (*Empidonax traillii extimus*) and the California condor (*Gymnogyps californianus*) in Grand Canyon National Park, Arizona.

Permit No. TE–24789

Applicant: Colby Henley, Tucson, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in southern Arizona.

Permit No. TE–24791

Applicant: Freese and Nichols, Inc., Fort Worth, Texas.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the golden-cheeked warbler (*Dendroica chrysoparia*), black-capped vireo (*Vireo atricapillus*), and red-cockaded woodpecker (*Picoides borealis*) within Texas.

Permit No. TE–24792

Applicant: Deborah L. Brewster, Pine, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) in Arizona and New Mexico.

Permit No. TE–4439

Applicant: Albuquerque Biological Park, Albuquerque, New Mexico.

Applicant requests authorization for scientific research and recovery purposes to collect, hold, spawn, and release the Rio Grande silvery minnow (*Hybognathus amarus*) and also collect from all river drainages in New Mexico, and hold for public display the following federally-listed fish species:

Gila trout (*Oncorhynchus gilae*)
Colorado pikeminnow (*Ptychocheilus lucius*)
razorback sucker (*Xyrauchen texanus*)
Pecos gambusia (*Gambusia nobilis*)
Gila topminnow (*Poeciliopsis occidentalis*)

Permit No. TE–799099

Applicant: Eagle Environmental, Inc.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in Arizona, New Mexico, and Texas.

DATES: Written comments on these permit applications must be received on or before May 1, 2000.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: The U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. 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 on or before May 1, 2000, to the address above.

Susan MacMullin,

Programmatic Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 00–7811 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–340–1220–PC–02–24 1A]

Extension of Currently Approved Information Collection, OMB Approval Number 1004–0165

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM), acting for the Department of the Interior, announces its intention to request approval to collect certain information from those people submitting nominations for significant caves under the Federal Cave Resources Protection Act of 1988 and those people requesting confidential cave information on federal lands administered by the Secretary of the Interior. This information is needed to: (1) Determine which caves will be listed as significant and (2) decide whether to grant access to confidential cave information.

DATES: Comments on the proposed information collection must be received by May 30, 2000 to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (WO–630), Bureau of Land Management, 1849 C St., NW, Mail Stop 401 LS, Washington, DC 20240.

Comments may be sent via the Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0165'' and your name and return address in your Internet message.

Comments may be hand delivered to: The Bureau of Land Management Administrative Record, Room 401, 1620 L St., NW, Washington, DC.

Comments will be available for inspection at the L Street address during regular business hours (7:45 am to 4:15 pm), Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Jim Goodbar, BLM, Carlsbad, New Mexico Field Office, (505) 234–5929.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the BLM, on behalf of the Department, is required to provide a 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of collecting the 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 collecting the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and

analyze comments sent in response to this notice and include them in the request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Nominations of Significant Caves

The Federal Cave Resources Protection Act of 1988, 102 Stat. 4546, 16 U.S.C. 4301, requires identifying, protecting and maintaining, to the extent possible, significant caves on lands managed by the Department of the Interior. The implementing regulations are found at 43 CFR 37—Cave Management. The regulations were issued on October 1, 1993. Federal agencies must consult with ''cavers'' and other interested parties and develop a listing of significant caves. The regulations establish criteria for identifying significant caves and integrate cave management into existing planning and management processes to protect cave resource information. Protecting the information will prevent vandalism and disturbance of significant caves.

The public and other government agencies provide (a) names and addresses, (b) name and phone number of a key contact, (c) cave name, (d) cave location, (e) topographic and/or cave maps, (f) name of the administering federal agency and agency filed office name and address where the cave is located, (g) description of the cave, and (h) description of the applicable criteria significant caves, such as biota, cultural, geologic/mineralogic/paleontologic, hydrologic, recreational, and/or educational or scientific. If the Department did not collect the information, it could not identify, manage, and protect significant caves in accordance with the law.

This collection of information is short, simple, and limited to the information necessary for efficient operation of the program. The information collected is a voluntary, non-recurring submission necessary to receive a benefit. There is no other source for the information, and failure to submit the necessary information could result in a significant cave not receiving appropriate protection. Respondents already maintain this information for their own recordkeeping purposes and need only compile it for submission.

Based on the Department's experience in administering cave resources as described above, the public reporting burden for this collection is estimated to average 3 hours per response. The estimate includes the time for research, time to transcribe and audit the data, and time to prepare the nomination. The number of responses is estimated to be about 200 per year. The frequency of response is once per nomination. The estimated total annual burden on new respondents is 600 hours.

Access to Confidential Cave Information

Other federal or state agencies, bona fide educational or research institutes, or individuals or organizations assisting the land management agencies with cave management activities may request access to confidential cave information. The written request should include: (a) name, address and telephone number of the person responsible for the security of the information, (b) a legal description of the cave location, (c) a statement of the purpose of the request, and (d) written assurance that the requesting party will maintain the confidentiality of the information and protect the cave and its resources. The Department uses the information provided to determine whether disclosure will create a substantial risk to cave resources. If the Department did not collect the information, it could not identify, manage or protect significant caves in accordance with the laws.

The collection of information is short, simple and convenient to the applicant. The information collected is a voluntary, non-recurring submission necessary to receive a benefit. The respondents already maintain this information for their own recordkeeping purposes and need only compile it.

Based on the Department's experience administering cave resources as described above, the information collection burden for confidential cave information requests is about 1 hour per request. The number of requests per year is ten. The frequency of response is once per request. The estimated total annual burden on new respondents is 10 hours.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also be a matter of public record.

Dated: March 27, 2000.

Carole Smith,

BLM Information Collection Officer.

[FR Doc. 00–7837 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–2822–JL–J787; Closure Notice No. NV–030–00–001]

Emergency Closure and Vehicle Restriction on Federal Lands

SUMMARY: Notice is hereby given that certain public lands south of Hungry Ridge and northwest of Spanish Springs Valley, Washoe County, Nevada, are closed to all motorized vehicles. This closure is necessary due to unauthorized construction of a motorcross track in a rehabilitated materials pit, and off-road vehicle use which is causing considerable adverse effects to soils and vegetation. In addition, motorized vehicle use is restricted to existing roads and trails on all public lands under the jurisdiction of the Carson City Field Office which were burned during the 1999 fire season. These fires were identified by the following names: (1) Sand Springs/ Fairview; (2) Cold Springs; (3) Stillwater Complex; (4) Shoshone; (5) New Pass; (6) Cemetery; (7) Fish; (8) Wilcox; (9) Reservoir; (10) Red Rock; (11) Pah Rah; and (12) Sutro. This restriction is necessary in order to allow for recovery and revegetation of these lands.

DATES: This closure becomes effective immediately and these restrictions will go into effect on March 20, 2000, and will remain in effect until the Manager, Carson City Field Office, determines they are no longer needed.

FOR FURTHER INFORMATION CONTACT: John O. Singlaub, Manager, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701. Telephone (775) 885–6100.

SUPPLEMENTARY INFORMATION: The authorities for the closure and restrictions are 43 CFR 8341.2, 43 CFR 8342.3 and 43 CFR 8364.1. Any person who fails to comply with a closure or restriction order is subject to arrest and fines in accordance with applicable provisions of 18 U.S.C. 3571 and/or imprisonment not to exceed 12 months.

This order applies to all motorized vehicles excluding (1) any emergency or law enforcement vehicle while being used for emergency purposes, and (2) any vehicle whose use is expressly authorized in writing by the Manager, Carson City Field Office.

The public lands affected by the closure order are located approximately one mile west of Nevada Highway 445 at the south end of Hungry Ridge, and include all lands being used as an unauthorized motorcycle race course within:

Mt. Diablo Meridian

T. 21 N., R. 20 E.
Sec. 22, NE¼NE¼NW¼

The public lands affected by the restriction order constitute approximately 151,000 acres and are located throughout the area administered by the Carson City Field Office. These lands are depicted on maps posted in the Carson City Field Office. Copies of these maps also may be obtained from the Field Office.

Dated: March 8, 2000.

John O. Singlaub,

Manager, Carson City Field Office.

[FR Doc. 00–7906 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Intent To Prepare an Environmental Assessment for Amendments to the Gunnison and Uncompahgre Resource Management Plans Regarding Cross-Country Travel by Off Highway Vehicles and Mountain Bikes; 30-Day Scoping Period Announced

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Gunnison and the Uncompahgre Field Offices, Bureau of Land Management (BLM) in Colorado, propose to prepare an Environmental Assessment and amend their respective resource management plans to prohibit cross-country travel by off-highway vehicles and mountain bikes on certain lands managed by each of these agency offices. Cross-country travel is defined as travel off established, existing roads and trails. Established, existing roads and trails, for this proposal, are defined as: roads and trails that exist on the ground at the time agency decisions become effective, and are described in agency travel inventories, or are easily recognizable on the ground as a route, and have been traveled routinely by users. This action is interim in nature, and is necessary so these offices can responsibly manage the land and meet people needs by preventing the proliferation of new, user-created routes and help maintain a quality recreation experience until intensive travel management planning can be completed by the agencies for the affected lands. The affected BLM offices propose changing OHV designations under 43 CFR 8342.2 on BLM-managed lands currently designated ''open'' year-long, and ''limited seasonally'', to ''limited to existing roads and trails'', in order to prohibit cross-country travel by OHVs. In addition, under 43 CFR 8364.1 the offices propose to limit mountain bike use to ''existing roads and trails'' on all lands where use is not currently prohibited. Snowmobile use would not be addressed in this proposal. Implementing these proposed land use plan amendments would be an interim and temporary measure until the offices can conduct intensive and detailed travel management planning on the affected lands. After the completion of the EA, the BLM offices would then issue decisions amending existing resource management plans.

This effort is being undertaken in coordination with the Forest Service which is proposing similar measures on National Forest lands managed by the Gunnison and Paonia Ranger Districts within the Gunnison National Forest, Region 2.

The public is invited to comment on this proposal and to contact the local offices for additional information. The 30-day time period for receiving comments from the public will begin on the day this notice is published in the **Federal Register**, and will end 30 days after the publication of this notice in the **Federal Register**. Informal scoping occurred from February 24, 2000, through March 24, 2000. This notice will satisfy the requirement for the affected BLM offices to conduct formal scoping. Comments received during the scoping period will be considered during the preparation of the EA.

All alternatives to be considered during the EA process will be formulated after the scoping period is over and all comments are received.

DATES: Submit comments on or before May 1, 2000.

ADDRESSES: Address all comments concerning this notice to Bill Bottomly, Bureau of Land Management, 2465 South Townsend Avenue, Montrose, CO 81401. Electronic mail can be sent to bill bottomly@co.blm.gov. The local addresses and telephone numbers of the affected BLM offices are: Gunnison Field Office, Bureau of Land Management, 216 N. Colorado, Gunnison, CO 81230 (970)641–0471; Uncompahgre Field Office, Bureau of Land Management, 2505 S. Townsend Avenue, Montrose, CO 81401 (970)240–5300.

FOR FURTHER INFORMATION CONTACT: Bill Bottomly at (970)240–5337.

SUPPLEMENTARY INFORMATION: The GFO manages approximately 585,000 acres in the study area. In the GFO, approximately 365,660 acres are currently ''open'' year-long and approximately 73,430 acres are ''limited seasonally'' to motorized use. Mountain bike use is currently unrestricted on approximately 537,000 acres. The UFO manages approximately 66,825 acres within the study area for this proposal. Of the lands managed by the UFO in the study area, approximately 27,060 acres are ''open'' year-long and 36,690 acres are ''limited seasonally'' to motorized use. Mountain bike use is currently unrestricted on all BLM-managed lands in the study area managed by the UFO.

The affected agency resource management plans were prepared prior to much of the recent increase in OHV and mountain bike use, and the new development of all terrain vehicle technology. One of the many opportunities on public land is traveling the back country for recreational pursuits, such as sight-seeing, wood cutting, fishing, hunting, and other activities. It is the goal of both offices to provide for a wide spectrum of dispersed recreation activities while minimizing environmental impacts and conflicts between user groups. Some of this use occurs on public lands where OHV use is currently limited to existing or designated roads and trails. However, there are large areas of public land that are open to cross-country travel off roads and trails by OHVs, including mountain bikes. This unrestricted use has the potential to continue the spread of noxious weeds, create user conflicts, cause erosion, damage cultural sites, and disrupt wildlife and wildlife habitat. With an increase in OHV and mountain bike traffic, and changes in OHV technology, the public, and the land management agencies, recognize the need to evaluate current management decisions for those areas where driving off roads and trails is allowed. A change in management direction would be accomplished through an EA and an amendment to the BLM resource management plans. The BLM plan amendments would address the use of wheeled, motorized vehicles designed for and/or capable of travel off roads and trails, and mountain bike use. The BLM proposes changing the areas currently open seasonally or year-long to cross-country OHV and mountain bike use to a designation that allows for travel only on existing roads and trails. These changes in designation would prohibit cross-country travel by wheeled, motorized vehicles designed for and/or capable of travel off roads and trails, and mountain bike. However, this would not change most of the current limited or closed designations, or designated intensive use areas.

Access allowed under the terms and conditions of a federal lease or permit would not be affected by the proposal. This broad scale decision as proposed would be an interim decision until revision or completion of agency travel management plans. If necessary, as a part of a future travel management planning process, existing OHV designations that affect travel uses by OHVs and mountain bikes on the affected lands could be changed to a more appropriate designation, including identifying areas for trail development, or further limiting travel off roads and trails.

The 30-day scoping period covering this notice for the BLM plan amendments and EA is being provided so interested groups and the general public can comment on the proposal in this notice. Please see the information after the heading above titled ''DATES'' for the public comment period dates. No open houses or public meetings are planned during the comment period on this proposal. Proposed BLM plan amendments will be published during the EA process, and a 30-day protest period will apply to the BLM proposed amendments.

Authority: Sec. 202, Pub. L. 94–579, 90 Stat. 2747 (43 U.S.C. 1712), Sec. 6, Pub. L. 94–588, 90 Stat. 2949 (16 U.S.C. 1604).

Barry Tollefson and Allan Belt, Field Managers, Gunnison and Uncompahgre Field Offices, respectively.

Dated: March 24, 2000.

Barry A. Tollefson,

Field Manager, Gunnison Field Office.

Dated: March 24, 2000.

Allan J Belt,

Field Manager, Uncompahgre Field Office.

[FR Doc. 00–7816 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–930–00–143HN LRTN]

Notice of Intent To Prepare Planning Analysis/Environmental Assessment and Notice of Exchange Proposal in Fairfax County, VA

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Eastern States, will prepare a Planning Analysis/ Environmental Assessment (PAE/EA) to examine the proposed exchange of Federal land at the former Lorton Correctional Complex, Lorton, Virginia, for private land of equal value in the Mason Neck area of Fairfax County. The planning will follow the procedures set forth in 43 CFR, Subpart 1600. Processing the land exchange will take place pursuant to Section 206 of the Federal Land Policy and Management Act (43 USC 1716), as amended, and follow procedures set forth in 43 CFR Subpart 2200.

DATE: Comments will be accepted through May 12, 2000. To be considered in the planning analysis/environmental assessment of the proposed exchange and in processing the exchange, comments relating to the identification of planning issues, alternatives, and criteria must be made in writing to the State Director and be postmarked or delivered by May 12, 2000.

ADDRESS: Send comments to State Director, Bureau of Land Management, Eastern States (ES–930), 7450 Boston Blvd., Springfield, Virginia 22153.

FOR FURTHER INFORMATION CONTACT: Walt Rewinski at 703–440–1727.

SUPPLEMENTARY INFORMATION: The Lorton Technical Corrections Act of 1998 gave the Department of the Interior (DOI) the opportunity to select and receive lands managed by the General Services Administration (GSA) at the Lorton Correctional Complex in Lorton, Virginia. DOI assigned processing the proposed land exchange to BLM. GSA would transfer the requested land to BLM for a possible land exchange. The Act also required that the use of these lands be consistent with the Reuse Plan. The Fairfax County Comprehensive Plan was amended July 26, 1999, and became the Reuse Plan. The Reuse Plan identifies some of the land north of Silverbrook Road for residential development (about 205 acres) and an elementary school site (about 15 acres).

The Federal land at the Lorton Correctional Complex to be considered for exchange is the developable land north of Silverbrook Road as identified in the Reuse Plan.

In exchange, the United States would acquire all or a significant part of the property known as Meadowood Farm on Mason Neck at 10406 Gunston Road, Lorton, Virginia 22079. Both the Federal and non-Federal lands are in Fairfax County, Virginia. The private party participating in the exchange is the Meadowood Farm Limited Partnership, owner of Meadowood Farm.

The public is invited to participate in the land exchange and planning process, beginning with scoping to identify issues to be addressed, alternatives to be analyzed, and criteria to be considered in making a decision, Criteria include applicable laws, regulations, and policies. If identified through public participation, additional criteria may be developed. The scoping period is an opportunity to identify any liens, encumbrances or other title claims on both the Federal and non-Federal land.

Public participation is an integral and important part of the planning and exchange processes. We intend to involve all interested or affected parties. The planning team will seek input from groups and individuals through public meetings, direct mailings, personal contacts, and coordination with local, state and other federal agencies.

A public meeting will be held at 7:30 pm on Wednesday, April 12, 2000, at the BLM office located at 7450 Boston Blvd., Springfield, Virginia 22153. At the meeting BLM will present information about the planning and exchange processes, and gather public input.

The PA/EA will be prepared by an interdisciplinary team of cultural and natural resource specialists. Technical support and mapping will be provided as needed.

Records of the planning process will be available for public review at the BLM, Eastern States, 7450 Boston Blvd., Springfield, Virginia 22153.

Dated: March 27, 2000.

Walter Rewinksi,

Deputy State Director, Division of Resources Planning, use and Protection.

[FR Doc. 00–7928 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–120–00–1610–DH–241A]

Notice of Availability of Proposed Resource Management Plan Amendments for Kremmling Field Office Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notices of Availability.

SUMMARY: The Kremmling Field Office of the Bureau of Land Management is proposing to make two amendments to the Kremmling Resource Management Plan (RMP). One amendment would establish management direction for lands recently acquired through land acquisitions. The other amendment would expand the boundary of the Upper Colorado River Special Recreation Management Area (SRMA) and consider management changes for the SRMA. The amendments only affect public lands in the Kremmling Field

Office, and would have no affect on private lands.

ADDRESSES: For further information contact Dave Atkins, Bureau of Land Management (BLM), 2815 H Road, Grand Junction, Colorado 81505; Telephone (970) 244–3074.

DATES: The final decision on the amendments will be made following a 60-day Governor's Consistency Review, a 30-day protest period, and resolution of inconsistencies and protests, if any. The 30-day protest period is initiated by this notice.

SUPPLEMENTAL INFORMATION: Notices of Intent for these two Plan amendments were published in the **Federal Register** on August 26, 1999. All comments received as a result of the Notices were considered in preparation of the Plan amendments and environmental assessments.

The first Plan amendment would establish land use planning prescriptions and land use priorities for fourteen separate parcels of land acquired by the Kremmling Field Office since the Kremmling RMP was completed in 1984. The RMP amendment would also facilitate establishing land management prescriptions and land use priorities for future land acquisitions during the environmental analysis process associated with each specific land acquisition.

The second Plan amendment would expand the boundary of the Upper Colorado River Special Recreation Management Area (SRMA) and consider management changes for the SRMA. The specific management changes include the following:

#1. Modify the boundary of the SRMA. The current SRMA boundary would be expanded to approximately ½ mile each side of the Colorado river, and would be extended approximately 7½ miles upstream to near Reeder Creek.

#2. Land use priorities would be changed for some public lands in the proposed SRMA. Of the 12,237 acres of public land in the SRMA, approximately 8,787 acres would be identified as a recreation priority, 2,542 acres as a wildlife priority, 833 acres as a soil priority, 35 acres as a protected area priority, and 40 acres with no priority. In addition, 20.8 miles of the Colorado River and associated tributaries would be designated as a water priority.

#3. Because of the recreation emphasis of the SRMA, the amendment would also address enlarging the existing No Surface Occupancy (NSO) area for oil and gas development within the river corridor, to that of the new SRMA boundary. This would result in 12,237 acres of NSO within the SRMA. There are currently 4,870 acres of NSO within the boundary of the existing SRMA boundary. Consequently, this action would increase the acreage of NSO by 7,367 acres. The amendment would also ensure that any future lands within the SRMA that are acquired by the Federal government would have an NSO stipulation for oil and gas development. There would be no affect on these lands unless acquired by the Federal government.

#4. The amendment would also withdraw the entire 12,237 acres of Federal surface estate within the SRMA from settlement, sale, location, or entry under the general land laws, including the mining laws. It would also withdraw 1,020 acres of private or state land with Federal minerals. The amendment would also identify additional private or State owned lands within the SRMA that would be withdrawn from the lands and mining laws if they were ever acquired by the Federal government. By including these private lands at this time, they would automatically be withdrawn if acquired by the Federal Government. There would be no affect on the private lands unless they were acquired by the Federal Government.

The above two alternatives as well as the no action alternative were analyzed in the environmental assessments associated with the amendments of the RMP.

The Bureau's planning regulations (43 CFR 1610.5–2) provide protest procedures for persons adversely affected by the approval of RMP amendments. Any person who participated in the planning process and has an interest which is or may be adversely affected by the amendment of an RMP may protest such amendments. A protest may only raise those issues which were submitted for the record during the planning process. The protest shall be in writing and shall be filed with the Director. The protest must be filed within 30 days of the date of this notice. Protests shall be filled with: Director, Bureau of Land Management, Attention: Ms Brenda Williams, Protest Coordinator (WO–210), WO–210/LS–1075, Department of the Interior, Washington DC 20240.

The overnight mail address is: Director, Bureau of Land Management, Attention: Ms Brenda Williams, Protest Coordinator (WO–210), 1620 L Street, NW, Rm. 1075, Washington, DC 20036, [Phone: 202/452–5110].

Dated: March 24, 2000.

Linda M. Gross,

Kremmling Field Manager.

[FR Doc. 00–7876 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of restricted joint bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period May 1, 2000, through October 31, 2000. The List of Restricted Joint Bidders published October 18, 1999, in the **Federal Register** at 64 FR 56215 covered the period November 1, 1999, through April 30, 2000.

Group I: Exxon Mobil Corporation; and ExxonMobil Exploration Company.

Group II: Shell Oil Co.; Shell Offshore Inc.; SWEPILP; Shell Frontier Oil & Gas Inc.; Shell Consolidated Energy Resources Inc.; Shell Land & Energy Company; Shell Onshore Ventures Inc.; Shell Deepwater Development Inc.; Shell Deepwater Production Inc.; and Shell Offshore Properties and Capital Inc.

Group III: BP Exploration & Oil Inc.; BP Exploration (Alaska) Inc.; and Amoco Production Company.

Dated: March 24, 2000.

Thomas R. Kitsos,

Director, Minerals Management Service.

[FR Doc. 00–7869 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items from the Prince William Sound Region, AK in the Control of the Chugach National Forest, U.S. Forest Service, Anchorage, AK and in Possession of the University of Alaska Museum, Fairbanks, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from the Prince William Sound Region, Alaska in the control of the Chugach National Forest, U.S. Forest Service, Anchorage, AK and in possession of the University of Alaska Museum, Fairbanks, AK which meet the definition of ''unassociated funerary objects'' under Section 2 of the Act.

The two cultural items consist of two bone needles.

In 1933, these two cultural items were recovered with a burial at the Palugvik Village site on Hawkins Island, AK during excavations conducted under the auspices of the University of Pennsylvania Museum by Frederica de Laguna. The human remains recovered with these cultural items have previously been repatriated from the Danish National Museum. Based on archeological evidence, the Palugvik Village site has been dated to c. 1500 A.D.

The three cultural items consist of a string of glass beads and two shell pendants.

In 1933, these three cultural items were recovered with a burial at Glacier Island, AK during excavations conducted under the auspices of the University of Pennsylvania Museum by Frederica de Laguna. The human remains recovered with these cultural items have previously been repatriated from the Danish National Museum. Based on archeological evidence, this Glacier Island burial has been dated to the post-contact period, post-1780 A.D.

In 1953, the cultural items mentioned above were sent to the University of Alaska Museum from the University of Pennsylvania Museum as part of an exchange collection.

Based on the above mentioned information, officials of the U.S. Forest Service have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these five cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the U.S. Forest Service have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Chugach Alaska Corporation.

This notice has been sent to officials of the Chugach Alaska Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Linda Yarborough, Acting Forest Archaeologist, Chugach National Forest, 3301 C Street, Suite 300, Anchorage, AK 99503; telephone: (907) 271–2511, fax: (907) 271–2725 before May 1, 2000. Repatriation of these objects to the Chugach Alaska Corporation may begin after that date if no additional claimants come forward.

Dated: March 23, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–7852 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Unassociated Funerary Objects from the Battle Point Site, Ottawa County, MI in the Possession of the Museum of Anthropology, University of Michigan, Ann Arbor, MI

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and unassociated funerary objects from the Battle Point site, Ottawa County, MI in the possession of Museum of Anthropology, University of Michigan, Ann Arbor, MI.

A detailed assessment of the human remains was made by Museum of Anthropology professional staff in consultation with representatives of the Little River Band of Ottawa Indians.

In 1955, human remains representing 11 individuals were recovered from the Battle Point site (20OT4), Ottawa County, MI. The 1955 excavations were conducted by Mr. George Davis and Mr. Edward Gillis of Grand Rapids, MI following their observation that human remains were eroding into the Grand River; and these human remains were donated to the University of Michigan Museum of Anthropology in 1962. No known individuals were identified. The funerary objects recovered with the human remains were not donated to the University of Michigan Museum of Anthropology.

In 1962, human remains representing one individual were recovered during surface collections from the Battle Point site (20OT4), Ottawa County, MI conducted by Richard Flanders of the University of Michigan Museum of Anthropology. No known individual was identified. No associated funerary objects can be identified.

The 18 cultural items consist of small iron fragments, a sample of wood, one iron nail, three silver fragments, one fish bone, and unidentified pieces of unmodified animal bone.

In 1962, these cultural items were recovered during surface collections conducted by Richard Flanders of the University of Michigan Museum of Anthropology. Based on age, types of cultural material, presence with human remains, and location at the Battle Point site, these cultural items have been determined to be unassociated funerary objects.

Based on historic documents, reports of associated funerary objects, and cultural material, the Battle Point site has been identified as an Ottawa settlement and cemetery dating to c. 1810-1830 A.D. Additionally, consultation evidence provided by representatives of the Little River Band of Ottawa Indians includes an *Abstract of Title* for the land parcel containing the Battle Point cemetery and specific mentions of this cemetery continue in a series of transactions. Further, the original 1864 abstract involved a member of the Little River Band of Ottawa.

Based on the above mentioned information, officials of the University of Michigan Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 12 individuals of Native American ancestry. Officials of the University of Michigan Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 18 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Lastly, officials of the University of Michigan Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and unassociated funerary objects and the Little River Band of Ottawa Indians.

This notice has been sent to officials of the Little River Band of Ottawa Indians, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little Traverse Band of Odawa Indians, and a

non-Federally recognized Indian group, the Grand River Bands of Ottawa Indians. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Karen O'Brien, Collections Manager, Museum of Anthropology, University of Michigan, Ann Arbor, MI 48109; telephone: (734) 764-6299, before May 1, 2000. Repatriation of the human remains and unassociated funerary objects to the Little River Band of Ottawa Indians may begin after that date if no additional claimants come forward.

Dated: March 22, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–7850 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of Pipestone National Monument, National Park Service, Pipestone, MN

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of Pipestone National Monument, National Park Service, Pipestone, MN which meets the definition of ''sacred object'' under Section 2 of the Act.

The cultural item is a pipestone pipe fashioned in a generalized ''T'' shape with a long prow. The pipe stem is wood and fashioned in a flattened diamond shape with three notches cut into the stem, and attached to the bowl with a leather cord. Written on the shank of the pipe bowl in India ink are the words ''Chief Roan Horse, Osage.''

Catalog information in the possession of the National Park Service states that the item is an Osage Indian pipe and belonged to Chief Roan Horse in Oklahoma. Further information in the possession of the National Park Service indicates that the claimant, Mr. Raymond A. Lasley, Sr. is the oldest living grandchild of Chief Roan Horse (Kah-wah-ho-tsa). Mr. Lasley, Sr., recognized by the Osage Tribe as a traditional religious leader, identified this specific pipestone pipe as a sacred object, which he needs to perform various traditional ceremonies, including naming ceremonies.

Prior to 1964, the pipe was acquired by the Pipestone Indian Shrine Association. In April of 1964, the National Park Service purchased the pipe from the Pipestone Indian Shrine Association. The circumstances surrounding the original acquisition of this pipe are not clear. Whether the Pipestone Indian Shrine Association acquired the pipe from an individual or group possessing the authority to alienate such an object is unknown. According to members of the Lasley family, this pipestone pipe can not be transferred outside their family. These individuals further indicated that this pipe should only be passed down to family members who have taken-up various ceremonial duties. The lineal descendant, Mr. Lasley, Sr., has designated that his son, Mr. Raymond Lasley, Jr., is to be the next family member to whom the pipe would be passed.

The National Park Service possesses no knowledge of the pipe's original acquisition by the Pipestone Indian Shrine Association. On the basis of information supplied by the Lasley family regarding the nature of the pipe's transferability, as well as a lack of any evidence to the contrary, it is unclear whether the Pipestone Indian Shrine Association obtained a right of possession to the pipe through its initial acquisition. Accordingly, whether a right of possession to this pipe was assumed by the National Park Service when it was purchased from the Pipestone Indian Shrine Association in 1964 is uncertain. The National Park Service can not produce evidence to demonstrate that it holds a right of possession over the pipe, which could operate to overcome the claim Mr. Lasley Sr. brought to obtain this cultural item.

Based on the above-mentioned information, officials of the National Park Service have determined that pursuant to 43 CFR 10.2 (d)(3), this one cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religion by their present-day adherents. Officials of the National Park Service, pursuant to 43 CFR 10.10 (a) (2), have also determined that the National Park Service is unable to demonstrate that it holds a right of possession over this cultural item. Finally, officials of the National Park Service have determined that, pursuant 43 CFR 10.2 (b) (1), Mr. Raymond A. Lasley, Sr. can trace his ancestry directly and without interruption by means of the traditional kinship system of the Osage Tribe and the common law system of descent to a known Native American individual who controlled this cultural item.

This notice has been sent to Mr. Raymond A. Lasley, Sr. and officials of the Osage Tribe, Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this cultural item should contact Jim LaRock, Superintendent, Pipestone National Monument, P.O. Box 727, 36 Reservation Avenue, Pipestone, MN 56164–0727; telephone: (507) 825–5464 before May 1, 2000. Repatriation of this cultural item to Mr. Raymond A. Lasley, Sr. may begin after the above date if no additional claimants come forward.

Dated: March 16, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–7851 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items from Santee, CA in the Possession of the San Diego Archaeological Center, San Diego, CA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from Santee, CA in the possession of the San Diego Archaeological Center, San Diego, CA which meet the definition of ''sacred objects'' under Section 2 of the Act.

The 41 cultural items consist of pipe fragments and crystals.

In 1973, these cultural items were recovered from site CA SDi 5699, known as ''Santee Greens'' during excavations conducted by Archaeological Consulting Technology, Inc. (ACT) for Time for Living, Inc., a residential development in the City of Santee, San Diego County, CA. ACT stored this collection until 1998, when the collection was donated to the San Diego Archaeological Center for curation.

Geographical location and site evidence indicate that site CA SDi 5699 was a Kumeyaay village site with two Late Archaic occupations (c. 760-1030 A.D.). Archaeological literature confirms

that this site is within the geographic range of Kumeyaay people during this period. During consultation with the Kumeyaay Cultural Repatriation Committee, authorized representatives of the Campo Band of Diegueno Mission Indians of the Campo Reservation, the Capitan Grande Band of Diegueno Mission Indians of California, the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, the Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, the Cuyapaipe Community of Degueno Mission Indians of the Cuyapaipe Reservation, the Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, the La Posta Band of Diegueno Mission Indians of the La Posta Reservation, the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, the Jamul Indian Village, the Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, the San Pasqual Band of Diegueno Mission Indians of California, the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, and the Sycuan Band of Diegueno Mission Indians of California, these cultural items were identified as Kumeyaay sacred objects which are necessary to Kumeyaay traditional religious leaders for the practice of Native American religion by present-day adherents.

Based on the above-mentioned information, officials of the San Diego Archaeological Center have determined that, pursuant to 43 CFR 10.2 (d)(3), these 41 cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the San Diego Archaeological Center have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Campo Band of Diegueno Mission Indians of the Campo Reservation, the Capitan Grande Band of Diegueno Mission Indians of California, the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, the Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, the Cuyapaipe Community of Degueno Mission Indians of the Cuyapaipe Reservation, the Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, the La Posta Band of Diegueno Mission Indians of the La Posta Reservation, the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, the Jamul Indian Village, the Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, the San Pasqual Band of Diegueno Mission Indians of California, the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, and the Sycuan Band of Diegueno Mission Indians of California.

This notice has been sent to officials of the Kumeyaay Cultural Repatriation Committee, the Campo Band of Diegueno Mission Indians of the Campo Reservation, the Capitan Grande Band of Diegueno Mission Indians of California, the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, the Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, the Cuyapaipe Community of Degueno Mission Indians of the Cuyapaipe Reservation, the Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, the La Posta Band of Diegueno Mission Indians of the La Posta Reservation, the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, the Jamul Indian Village, the Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, the San Pasqual Band of Diegueno Mission Indians of California, the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, and the Sycuan Band of Diegueno Mission Indians of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Yvonne Lever, San Diego Archaeological Center, 334 Eleventh Ave., San Diego, CA 92101; telephone: (619) 239–1868 before May 1, 2000. Repatriation of these objects to the Campo Band of Diegueno Mission Indians of the Campo Reservation, the Capitan Grande Band of Diegueno Mission Indians of California, the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, the Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, the Cuyapaipe Community of Degueno Mission Indians of the Cuyapaipe Reservation, the Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, the La Posta Band of Diegueno Mission Indians of the La Posta Reservation, the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, the Jamul Indian Village, the Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, the San Pasqual Band of Diegueno Mission Indians of California, the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, and the Sycuan Band of Diegueno Mission Indians of California may begin after that date if no additional claimants come forward.

Dated: March 15, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–7849 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item from the Kachemak Bay Region, AK in the Possession of the University of Alaska Museum, Fairbanks, AK

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item from the Prince William Sound and Kachemak Bay Regions, AK in the possession of the University of Alaska Museum, Fairbanks, AK which meets the definition of ''unassociated funerary object'' under Section 2 of the Act.

The one cultural item consists of worked bone.

In 1931, this cultural item was recovered near a burial on Cottonwood Creek, AK during excavations conducted by Frederica de Laguna of the University of Pennsylvania Museum. In 1953, this cultural item was sent to the University of Alaska Museum from the University of Pennsylvania Museum as part of an exchange collection. The human remains recovered with this cultural item have previously been repatriated from the University of Pennsylvania.

Based on material culture, the Cotton Wood Creek site has been identified as Kachemak Bay period (c. 1500 A.D.) Chugach occupations.

Based on the above mentioned information, officials of the University of Alaska Museum have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this one cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual.

Officials of the University of Alaska Museum have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between this item and the Chugach Alaska Corporation.

This notice has been sent to officials of the Chugach Alaska Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Gary Selinger, Special Projects Manager, University of Alaska Museum, 907 Yukon Drive, Fairbanks, AK 99775-1200; telephone: (907) 474-6117, fax: (907) 474-5469 before May 1, 2000. Repatriation of this object to the Chugach Alaska Corporation may begin after that date if no additional claimants come forward.

Dated: March 23, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–7846 Filed 3–29–00 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items From the Kachemak Bay Region, AK in the Control of the U.S. Fish and Wildlife Service and in Possession of the University of Alaska Museum, Fairbanks, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from the Kachemak Bay Region, Alaska in the control of the U.S. Fish and Wildlife Service and in possession of the University of Alaska Museum, Fairbanks, AK which meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

The two cultural items consist of a bone wedge and pumice.

In 1931, these two cultural items were recovered with a burial at the Fox Farm Site, Yukon Island, AK during excavations conducted under the auspices of the University of Pennsylvania Museum by Frederica de Laguna. The human remains recovered with these cultural items have previously been repatriated from the University of Pennsylvania Museum.

The two cultural items consist of a bone eye and a slate point.

In 1932, these two cultural items were recovered with a burial on Yukon Island, Alaska during excavations conducted under the auspices of the University of Pennsylvania Museum by Frederica de Laguna. The human remains recovered with these cultural items have previously been repatriated from the University of Pennsylvania Museum.

In 1953, the four cultural items mentioned above were sent to the University of Alaska Museum from the University of Pennsylvania Museum as part of an exchange collection.

Based on material culture and oral history, the sites listed above have been identified as Kachemak Bay period occupations (c. 1500 AD).

Based on the above mentioned information, officials of the U.S. Fish and Wildlife Service have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these four cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the U.S. Fish and Wildlife Service have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Chugach Alaska Corporation.

This notice has been sent to officials of the Chugach Alaska Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Deb Corbett, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone: (907) 786-3399, fax: (907) 786-3635 before May 1, 2000. Repatriation of these objects to the Chugach Alaska Corporation may begin after that date if no additional claimants come forward.

Dated: March 23, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–7847 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Keechelus Dam Safety of Dams Modification, Yakima Project, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) proposes to prepare an environmental impact statement (EIS) on structural and nonstructural alternatives to correct safety deficiencies at Keechelus Dam in the State of Washington. In June 1998, Reclamation's Safety of Dams (SOD) Program identified safety deficiencies from void sites and dam embankment deterioration which could lead to embankment failure. The SOD Program indicated that there is a need to correct dam safety deficiencies at Keechelus Dam to protect property and the lives of people living downstream of the dam.

DATES: Scoping meetings will be held on the following dates and times:

- North Bend, Washington: April 18, 2000, Open House 6 to 7 p.m.; Meeting 7 to 9 p.m.
- Ellensburg, Washington: April 19, Open House 12 noon to 1 p.m.; Meeting 1 to 3 p.m. and Open House 6 to 7 p.m.; Meeting 7 to 9 p.m.

Written comments will be accepted through April 24, 2000, for inclusion in the scoping summary document. Requests for sign language interpretation for the hearing impaired should be submitted to Dave Kaumheimer, as indicated below by April 11, 2000.

ADDRESSES: Comments and requests to be added to the mailing list may be submitted to Bureau of Reclamation, Upper Columbia Area Office, Attention: Dave Kaumheimer, Environmental Programs Manager, PO Box 1749, Yakima, Washington 98907–1749.

The scoping meetings will be held at the following locations:

- North Bend—North Bend (U.S. Forest Service) Ranger Station, 42404 SE North Bend Way, North Bend, Washington.
- Ellensburg—Ellensburg Inn, 1700 Canyon Road, Ellensburg, Washington.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which

we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowed by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. 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 disclosure in their entirety.

FOR FURTHER INFORMATION CONTACT: Dave Kaumheimer, Environmental Programs Manager, Bureau of Reclamation, telephone: (509) 575–5848 x232; fax: (509) 454–5650.

The meeting facilities are physically accessible to people with disabilities. Please direct requests for sign language interpretation for the hearing impaired, or other auxiliary aids, to Dave Kaumheimer at (509) 575–5848 x232 via toll free TTY relay (800) 833–6388 by April 11, 2000.

SUPPLEMENTARY INFORMATION:

Background

Keechelus Dam was constructed at the lower end of a natural lake on the Yakima River about 10 miles northwest of Easton, Washington, in Kittitas County. This earthfill structure was constructed between 1913 and 1917 and is approximately 6,550 feet long with a maximum height of 128 feet. It creates a reservoir with an active storage capacity of 158,000 acre-feet.

In June 1998, during the excavation of a trench for a telephone line conduit, a void was found in the crest of Keechelus Dam. This discovery led to further geotechnical investigations, including ground penetrating radar and geologic exploration activities, to determine the condition of the overall dam. Subsequent investigations identified more than 40 potential void sites and significant evidence of dam embankment deterioration from seepage which could lead to embankment failure. As an interim safety measure, Keechelus Reservoir has been operated at a restricted full pool elevation 7 feet below the normal full pool elevation since November 1998, with increased technical monitoring and surveillance at the dam.

The scope of this document will focus on correcting the dam safety deficiencies at Keechelus Dam to protect property and the lives of people living downstream from the dam, and evaluating the potential impacts associated with the proposed alternatives. Correcting the SOD deficiencies in no way restricts potential future modifications to the structure.

Public Involvement

Reclamation plans to conduct public scoping meetings to solicit input on the alternatives developed to correct safety deficiencies at Keechelus Dam and to identify potential issues and impacts associated with those alternatives. Reclamation will summarize comments received during the scoping meetings and from letters of comment received during the scoping period, identified under **DATES,** into a scoping summary document which will be made available to the public.

Dated: March 24, 2000.

Max B. Gallegos,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 00–7812 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–469 (Review)]

Electroluminescent Flat Panel Displays From Japan

Determination

On the basis of the record [1] developed in the subject five-year review, 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 order on electroluminescent flat panel displays from 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 this review on August 2, 1999 (64 FR 41951, August 2, 1999) and determined on November 4, 1999 that it would conduct an expedited review (64 FR 62688, November 17, 1999). The Commission transmitted its determination in this review to the Secretary of Commerce on March 27, 2000. The views of the Commission are contained in USITC Publication 3285 (March 2000), entitled Electroluminescent Flat Panel Displays from Japan: Investigation No. 731–TA–469 (Review).

[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 Askey and Okun dissenting. Vice Chairman Miller did not participate in this five-year review.

Issued: March 27, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–7833 Filed 3–29–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 14, 2000 at 10 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: None.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–868–871 (Preliminary) (Steel Wire Rope from China, India, Malaysia, and Thailand)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on April 17, 2000.)
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 24, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–7995 Filed 3–28–00; 2:05 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlling Substances; Notice of Registration

By Notice dated December 16, 1999, and published in the **Federal Register** on December 28, 1999, (64 FR 248), Celgene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacturer methylphenidate for product research and development.

No comments or objections have been received. DEA has considered the

factors in Title 21, United States Code, Section 823(a) and determined that the registration of Celgene Corporation to manufacturer methylphenidate is consistent with the public interest at this time, DEA has investigated the Celgene Corporation on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR § 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: March 23, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–7872 Filed 3–29–00; 8:45 am]

BILLING CODE 4410 09 M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1301.34 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on October 19, 1999, Chirex Technology Center, Inc., DBA Chirex Cauldron, 383 Phoenixville Pike, Malvern, Pennsylvania 19355, made application by letter to the Drug Enforcement Administration to be registered as an importer of amphetamine (1100), a basic class of controlled substance listed in Schedule II.

The firm plans to import the amphetamine for the manufacture of a finished product.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 1, 2000.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 23, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–7870 Filed 3–29–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 16, 1999, and published in the **Federal Register** on December 28, 1999 (64 FR 248), Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application by renewal to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

The firm plans to produce bulk product and finished dosage units for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Knoll Pharmaceuticals to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Knoll Pharmaceuticals on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: March 23, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–7873 Filed 3–29–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 12, 2000, Lilly Del Caribe, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00680, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of dextropropoxyphene (9273) a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture bulk product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance

may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 30, 2000.

Dated: March 23, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–7871 Filed 3–29–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 16, 1999, and published in the **Federal Register** on December 28, 1999 (64 FR 248), Medeva Pharmaceuticals CA, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

The firm plans to manufacture the listed controlled substances to make finished dosage forms for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Medeva Pharmaceuticals CA, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Medeva Pharmaceuticals CA, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: March 23, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–7874 Filed 3–29–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By notice dated October 8, 1999, and published in the **Federal Register** on October 18, 1999, (64 FR 56227), Pharmacia & Upjohn Company, 7000 Portage Road, 2000–41–109, Kalamazoo, Michigan 49001, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 2,5-dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture the listed controlled substance for distribution as bulk product to a customer.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Pharmacia & Upjoun Company to manufacture 2,5-dimethoxyamphetamine is consistent with the public interest at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: March 23, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–7875 Filed 3–29–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term ''FR Notice'' appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

FOR FURTHER INFORMATION: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Contact Barbara Barron at 703–235–1910.

Dated: March 16, 2000.

Carol J. Jones,

Director, Office of Standards, Regulations and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.: M–1999–011–C.
FR Notice: 64 FR 16760.
Petitioner: D & D Coal Company.
Regulation Affected: 30 CFR 75.1202 and 75.1202–1(a).
Summary of Findings: Petitioner's proposal is to revise and supplement mine maps annually instead of every 6 months, and to update maps daily by hand notations. This is considered an acceptable alternative method for the 7′ Drift Mine. MSHA grants the petition for modification for the 7′ Drift Mine with conditions.

Docket No.: M–1999–033–C.
FR Notice: 64 FR 32552.
Petitioner: Snyder Coal Company.
Regulation Affected: 30 CFR 75.1202 and 75.1202–1(a).
Summary of Findings: Petitioner's proposal is to conduct mine surveys and revise and supplement mine maps annually instead of every 6 months, to update maps daily by hand notations, and to conduct surveys prior to commencing retreat mining and whenever a drilling program under 30 CFR 75.388 or plan for mining into inaccessible areas under 30 CFR 75.389 is required. This is considered an acceptable alternative method for the Rattling Run Slope Mine. MSHA grants the petition for modification for the Rattling Run Slope Mine with conditions.

Docket No.: M–1999–047–C.
FR Notice: 64 FR 32554.
Petitioner: Little Buck Coal Company.
Regulation Affected: 30 CFR 75.1200(d), (h), and (i)
Summary of Findings: Petitioner's proposal is to use on its mine map cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, at 1,000 foot intervals of advance from the intake slope, and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. This is considered an acceptable alternative method for the #3 Slope Mtn. Mine. MSHA grants the petition for modification for the ւ3 Slope Mtn. Mine with conditions.

Docket No.: M–1999–048–C.
FR Notice: 64 FR 32554.
Petitioner: Little Buck Coal Company.
Regulation Affected: 30 CFR 75.1202 and 75.1202–1(a).
Summary of Findings: Petitioner's proposal is to conduct mine surveys and revise and supplement mine maps annually instead of every 6 months, to update maps daily by hand notations, and to conduct surveys prior to commencing retreat mining and whenever a drilling program under 30 CFR 75.388 or plan for mining into inaccessible areas under 30 CFR 75.389 is required. This is considered an acceptable alternative method for the #3 Slope Buck Mtn. Mine. MSHA grants the petition for modification for the #3 Slope Buck Mtn. Mine with conditions.

Docket No.: M–1999–056–C.
FR Notice: 64 FR 41140.
Petitioner: Monterey Coal Company.
Regulation Affected: 30 CFR 75.1909(b)(6).
Summary of Findings: Petitioner's proposal is to lower the blade on its road grader to stop and control the grader instead of adding front wheel brakes on the grader. This is considered an acceptable alternative method for the No. 1 Mine. MSHA grants the petition for modification for the No. 1 Mine with conditions.

Docket No.: M–1999–059–C.
Petitioner: Independence Coal Company, Inc..
Regulation Affected: 30 CFR 75.1002–1(a).
Summary of Findings: Petitioner's proposal is to use 4,160 volt cables to supply power to the permissible longwall face equipment. This is considered an acceptable alternative method for the Cedar Grove Mine No. 1. MSHA grants the petition for modification for the Cedar Grove Mine No. 1 with conditions.

Docket No.: M–1999–062–C.
FR Notice: 64 FR 49246.
Petitioner: PennAmerican Coal L.P.
Regulation Affected: 30 CFR 75.1100–2(e)(2).
Summary of Findings: Petitioner's proposal is to use two fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using one portable fire extinguisher and 240 pounds of rock dust. This is considered an acceptable alternative method for the Burrell Mine. MSHA grants the petition for modification for the Burrell Mine.

Docket No.: M–1999–065–C.
FR Notice: 64 FR 49246.
Petitioner: Canterbury Coal Company.
Regulation Affected: 30 CFR 75.1100–2(e)(2).
Summary of Findings: Petitioner's proposal is to use two fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using one fire extinguisher and 240 pounds of rock dust. This is considered an acceptable alternative method for the DiAnne Mine MSHA grants the petition for modification for the DiAnne Mine.

Docket No.: M–1999–075–C.
FR Notice: 64 FR 55492.
Petitioner: Independence Coal Company, Inc.
Regulation Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal is to plug and mine through oil and gas wells and to notify the District Manager or designee prior to mining within 300 feet of a plugged oil and gas well. This is considered an acceptable alternative method for the Cedar Grove Mine No. 1. MSHA grants the petition for modification for the Cedar Grove Mine No. 1 with conditions.

Docket No.: M–1998–115–C.
FR Notice: 64 FR 2519.
Petitioner: Primrose Coal #2.
Regulation Affected: 30 CFR 75.335.
Summary of Findings: Petitioner's proposal is to use wooden materials of moderate size and weight to construct seals due to difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings, to use a design criteria in the 10 psi range, and for seals installed in pairs, to permit the water trap to be installed only in the gangway seal and the sampling tube in the monkey seal. This is considered an acceptable alternative method for the Buck Mountain Vein Slope Mine. MSHA grants the petition for modification for the Buck Mountain Vein Slope with conditions.

[FR Doc. 00–7907 Filed 3–29–00; 8:45 am]
BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Williams Brothers Coal Company, Inc.

[Docket No. M–2000–012–C]

Williams Brothers Coal Company, Inc., 238 Cantrell Road, Mouthcard, Kentucky 41548 has filed a petition to modify the application of 30 CFR 75.1100–2(b) (quantity and location of firefighting equipment) to its No. 3 Mine (I.D. No. 15–16666) located in Pike County, Kentucky. The petitioner proposes to leave the fire hose outlets in

the entry adjacent to the conveyor belt entry. The petitioner states that in the event of a belt fire, the water line would be protected and the fire fighters would have safe access to the outlets. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

2. Europa Coal Company, Inc.

[Docket No. M–2000–013–C]

Europa Coal Company, Inc., 430 Harper Park Drive, Beckley, West Virginia 25801 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Europa Mine (I.D. No. 46–08798) located in Boone County, West Virginia. The petitioner proposes to use a 2,400 volt Joy 14CM continuous miner instead of a 1,000 volt continuous miner inby the last open crosscut and within 150 feet from pillar workings using the specific terms and conditions listed in this petition for modification. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

3. Blue Mountain Energy, Inc.

[Docket No. M–2000–014–C]

Blue Mountain Energy, Inc., 3607 County Rd. #65, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 75.1908(a)(5) (nonpermissible diesel-powered equipment; categories) to its Deserado Mine (I.D. No. 05–03505) located in Rio Blanco County, Colorado. The petitioner requests a modification of the standard to permit the use of diesel-powered pickup trucks to tow diesel fuel transportation units. The petitioner proposes to only use diesel-powered pickup trucks to tow diesel fuel transportation units if the rated capacity of the truck exceeds the load by a fraction of 50 percent, and equip diesel fuel transportation units with automatic fire suppression devices when towed by the pickup trucks. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

4. RAG Cumberland Resources LP

[Docket No. M–2000–015–C]

RAG Cumberland Resources LP, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219–1410 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its (I.D. No. 36–05018) located in Greene County, Pennsylvania. The petitioner requests a modification of the standard to permit the use of a 1,000 foot trailing cable on full-face continuous miners and other face equipment during development mining using the specific terms and conditions listed in this petition for modification. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

5. Elk Run Coal Company

[Docket No. M–2000–016–C]

Elk Run Coal Company, Box 497, Sylvester, West Virginia 25193 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its White Knight Mine (I.D. No. 46–08055) located in Boone County, West Virginia. The petitioner proposes to use air coursed through the conveyor belt entry at a velocity of at least 50 feet per minute to ventilate active working places using the specific terms and conditions listed in this petition for modification. The petitioner proposes to install a low-level carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

6. FKZ Coal, Inc.

[Docket No. M–2000–017–C]

FKZ Coal, Inc., P.O. Box 62, Locust Gap, Pennsylvania 17840 has filed a petition to modify the application of 30 CFR 75.1202 and 75.1202–1(a) (temporary notations, revisions, and supplements) to its No. 1 Slope Mine (I.D. No. 36–08637) located in Northumberland County, Pennsylvania. The petitioner proposes to conduct mine surveys and revise and supplement mine maps annually instead of every 6 months as required, and to update maps daily by hand notations. The petitioner also proposes to conduct surveys prior to commencing retreat mining and whenever a drilling program under 30 CFR 75.388 or plan for mining into inaccessible area under 30 CFR 75.389 is required. The petitioner asserts that low production and slow rate of advance in anthracite mining make surveying on 6-month intervals impractical. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

7. FKZ Coal, Inc.

[Docket No. M–2000–018–C]

FKZ Coal, Inc., P.O. Box 62, Locust Gap, Pennsylvania 17840 has filed a petition to modify the application of 30 CFR 75.1200(d) and (i) (mine map) to its No. 1 Slope Mine (I.D. No. 36–08637) located in Northumberland County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope; and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels using the specific terms and conditions specified in the petition for modification. The petitioner asserts that due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the mine illegible. The petitioner further asserts that use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the mandatory standard.

8. Basic Mining Corp.

[Docket No. M–2000–019–C]

Basic Mining Corp., P.O. Box 1197, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.1710–1(a) (canopies or cabs; self-propelled diesel-powered and electric face equipment; installation requirements) to its Mine No. 2 (I.D. No. 44–05032) located in Dickenson County, Virginia. The petitioner proposes to operate its Joy 21 SC Shuttle Cars without canopies in mining heights less than 50 inches. The petitioner asserts that the Lower Banner coal seam of the mine is 34 inches thick; the mining height ranges from 44–50 inches with the majority of the area being 47 inches; the shuttle car frames are 30 inches high and the installed canopy height is 38 inches creating a visibility problem for the operator by limiting field of vision to 4 inches, compromises the safety of the miners, and create pinch points for the shuttle car operators during the mining of cross-cut entries. The petitioner also asserts that the Lower Banner seam has a fire clay bottom with water in the mine floor that tends to

break up and out, and that shuttle cars traveling over this uneven, undulating surface causes canopies to contact the mine roof and dislodge or shear off the permanent roof support resulting in a diminution of safety to the equipment operator.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 1, 2000. Copies of these petitions are available for inspection at that address.

Dated: March 20, 2000.

Carol J. Jones,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 00–7908 Filed 3–29–00; 8:45 am]

BILLING CODE 4510–43–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0126(2000)]

Acrylonitrile (AN) Standard (29 CFR 1910.1045); 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 extension of the information collection requirements contained in the Acrylonitrile Standard (the ''AN'' Standard) (29 CFR 1910.1045).

Request for Comment: The Agency has a particular interest 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 clarify of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

DATES: Submit written comments on or before May 30, 2000.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0126(2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Todd R. Owen, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW, 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 AN Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd R. Owen at (202) 693–2444. For electronic copies of the ICR on the AN Standard, OSHA on the Internet at *http://www.osha.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 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).

The information-collection requirements specified in the AN Standard protect employees from the adverse health effects that may result from their exposure to AN. The major information-collection requirements of the AN Standard include notifying employees of their AN exposures, implementing a written compliance program, providing examining physicians with specific information, ensuring that employees receive a copy of their medical-examination results, maintaining employees' exposure-monitoring and medical records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected employees, and designated representatives.

II. Proposed Actions

OSHA proposes to reduce the existing burden hour estimate, and to extend OMB's approval, of the collection of information (paperwork) requirements contained in the AN Standard. The Agency is reducing its previous estimate, 6,857 hours, by 2,719 hours as a result of lowering the number of establishments affected by the paperwork requirements. 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 AN Standard.

Type of Review: Extension of currently approved information-collection requirements.

Title: Acrylonitrile Standards (29 CFR 1910.1045).

OMB Number: 1218–0126.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 23.

Frequency: On occasion.

Total Responses: 18,838.

Average Time per Response: Varies from 5 minutes to provide information to the examining physician to 2 hours for employers to provide OSHA area offices with information about AN emergencies.

Estimated Total Burden Hours: 4,138.

Estimated Cost (Operations and Maintenance): $189,835.

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, DC, on March 24, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–7785 Filed 3–30–00; 8:45 am]

BILLING CODE 4510–26–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Rescission of Office of Federal Procurement Policy; Policy Letters 77–2, 78–2, 78–3, 78–4, 79–1, 79–2, 80–3, 80–6, 80–8, 81–1, 81–2, 82–1, 83–1, 83–2, 83–3, 84–1, 85–1, 89–1, 91–2, 91–4, 92–5, and 95–1

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Rescission of Office of Federal Procurement Policy (OFPP) Policy Letters 77–2, 78–2, 78–3, 78–4, 79–1, 79–2, 80–3, 80–6, 80–8, 81–1, 81–2, 82–1, 83–1, 83–2, 83–3, 84–1, 85–1, 89–1, 91–2, 91–4, 92–5, and 95–1.

SUMMARY: Notice is hereby given that the Office of Federal Procurement Policy (OFPP) is rescinding the following OFPP Policy Letters: 77–2, Section 502(c) of Pub. L. 95–89; 78–2, Preventing ''Wage Busting'' for Professionals: Procedures for Evaluating Contractor Proposals for Service Contracts; 78–3, Requests for Disclosure of Contractor-Supplied Information Obtained in the Course of a Procurement; 78–4, Field Contract Support Cross-Servicing Program; 79–1, Implementation of Section 15(k) of the Small Business Act, as amended: Office of Small and Disadvantaged Business Utilization; 79–2, Boards of Contract Appeals: Position Allocation Pursuant to Public Law 95–563; 80–3, Regulatory Guidance on Pub. L. 95–563, the Contract Disputes Act of 1978; 80–6, Regulatory Guidance on Section 221 of Public Law 95–507; 80–8, Establishment of Procurement Data Reporting Requirements to Comply with Public Law 96–39 (as amended by Transmittal Memoranda Nos. 1, 2, and 3); 81–1, Procurement Procedures, Advance Procurement Planning, and Review of End-of-Year Purchases; 81–2, Policy Guidance for the Labor Surplus Area Programs; 82–1, Policy Guidance Concerning Government-wide Debarment, Suspension, and Ineligibility; 83–1, Withholding of Funds from Construction Contract Progress Payments; 83–2, Publicizing the Development of Procurement Policies and Regulations; 83–3, Procurement of Architect-Engineer Services, 84–1, Federally Funded Research and Development Centers; 85–1, Federal Acquisition Regulations System; 89–1, Conflict of Interest Policies Applicable to Consultants; 91–2, Service Contracting; 91–4, Use of Irrevocable Letters of Credit; 92–5, Past Performance Information; and 95–1, Subcontracting Plans for Companies Supplying Commercial Items.

EFFECTIVE DATE: March 30, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Gerich, Office of Federal Procurement Policy, 202–395–3501.

SUPPLEMENTARY INFORMATION: OFPP issued a notice of proposed rescission of these 22 Policy Letters that was published in the **Federal Register** on September 15, 1999 (64 FR 50108). No comments were received in response to the notice of proposed rescission.

As indicated in the Supplementary Information section of that notice, the rescission of these 22 Policy Letters reflects OFPP's conclusion that the Federal Acquisition Regulation (FAR), as written, contains the current policy. Any policy embodied in the Policy Letters rescinded by this notice that is not reflected in the current FAR has been either superseded by subsequent statutory changes or is otherwise no longer necessary. Accordingly, OFPP Policy Letters 77–2, 78–2, 78–3, 78–4, 79–1, 79–2, 80–3, 80–6, 80–8, 81–1, 81–2, 82–1, 83–1, 83–2, 83–3, 84–1, 85–1, 89–1, 91–2, 91–4, 92–5, and 95–1 are hereby rescinded. No substantive FAR change is required by this action.

Eleven OFPP Policy Letters remain in effect. Copies of those Policy Letters can be obtained at the ARNet world wide website, http://www.arnet.gov/ Library/ OFPP/PolicyLetters.

Deidre A. Lee,

Administrator.

[FR Doc. 00–7803 Filed 3–29–00; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Proposed Collection; Comments Request

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent to burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection of: National Endowment for the Arts: Panelist Profile Form. A copy of the current information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 30, 2000. The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility; and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond.

ADDRESSES: A.B. Spellman, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Room 516, Washington, DC 20506–0001, telephone (202) 682–5421 (this is not a toll-free number), fax (202) 682–5049.

Murray Welsh,

Director, Administrative Services, National Endowment for the Acts.

[FR Doc. 00–7894 Filed 3–29–00; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Energy Corporation (Oconee Nuclear Station, Units 1, 2, and 3); Exemption

I

The Duke Energy Corporation (Duke/ the licensee) is the holder of Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, that authorize operation of the Oconee Nuclear Station, Units 1, 2, and 3 (Oconee), respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory

Commission (the Commission) now or hereafter in effect.

The facilities consist of pressurized water reactors located on Duke's Oconee site in Seneca, Oconee County, South Carolina.

II

The proposed action is in accordance with the licensee's application for exemption contained in a submittal dated September 15, 1999, and is needed to allow the use of Framatome Cogema Fuels (FCF) ''M5'' advanced alloy as a fuel rod cladding material. This exemption is necessary since the chemical composition of M5 differs from the Zircaloy and ZIRLO cladding material specified in 10 CFR 50.44, 10 CFR 50.46, and Appendix K of 10 CFR Part 50. These regulations contain acceptance and analytical criteria regarding the light water nuclear reactor system performance during and following a postulated loss-of-coolant accident (LOCA). These regulations assume the use of only two types of fuel cladding material, Zircaloy and ZIRLO. However, the licensee has requested use of FCF M5 advanced alloy for fuel rod cladding at Oconee. The M5 alloy is a proprietary zirconium-based alloy comprised of primarily zirconium (~99 percent) and niobium (~1 percent). The elimination of tin has resulted in superior corrosion resistance and reduced irradiation-induced growth relative to both standard Zircaloy (1.7 percent tin) and low-tin Zircaloy (1.2 percent tin). The addition of niobium increases ductility, which is desirable to avoid brittle failures. Since the chemical composition of the M5 alloy differs from the specifications for Zircaloy or ZIRLO, a plant specific exemption is required to allow the use of the M5 alloy as a fuel cladding material at Oconee.

III

Section 50.12 of Title 10 of the Code of Federal Regulations, ''Specific Exemptions,'' states, among other items, that the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present where application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of 10 CFR 50.46 is to ensure that facilities have adequate acceptance criteria for emergency core cooling systems (ECCS). In its topical report BAW–10227–P, ''Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel,'' FCF demonstrated that the ECCS acceptance criteria applied to reactors fueled with Zircaloy clad fuel are also applicable to reactors fueled with M5 fuel rod cladding. The topical report (which was approved by the staff on February 4, 2000) also showed that the M5 fuel cladding was capable of satisfying this design and acceptance criteria. Therefore, the underlying purpose of 10 CFR 50.46 is achieved through the use of M5 as a fuel rod cladding material.

The underlying purposes of 10 CFR 50.44 and Appendix K to 10 CFR Part 50, paragraph I.A.5, are to ensure that the cladding oxidation and hydrogen generation are appropriately limited during a LOCA and conservatively accounted for in the ECCS evaluation model. Specifically, Appendix K requires that the Baker-Just equation (which assumes zirconium as the cladding material) be used in the ECCS evaluation model to determine the rate of energy release, hydrogen generation, and cladding oxidation from the metal/water reaction. In their topical report, FCF demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of M5 advanced alloy as a fuel rod cladding material. Therefore, the underlying purposes of 10 CFR 50.44 and 10 CFR Part 50 Appendix K, paragraph I.A.5 are achieved through the use of M5 as a fuel rod cladding material.

Because there are properties of M5 that differ from the specifications for Zircaloy or ZIRLO, which are referenced in the regulations, the staff has determined that an exemption would be required to allow the use of M5 as a fuel rod cladding material. The proposed action would not exempt the licensee from complying with the acceptance and analytical criteria of 10 CFR 50.44, 10 CFR 50.46 and Appendix K to 10 CFR Part 50 applicable to the cladding. The exemption would only allow the application of the criteria set forth in these regulations to the M5 cladding material.

Since the acceptance and analytical criteria set forth in the applicable regulations would continue to be applicable to the M5 fuel cladding, the staff has concluded that the proposed exemption is authorized by law, does not present an undue risk to the public health and safety, and is consistent with the common defense and security. Further, since the underlying purposes of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR Part 50, Appendix K are achieved through the use of the M5 advanced alloy as a fuel rod cladding material, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of exemptions to 10 CFR 50.44, 10 CFR 50.46, and 10 CFR Part 50, Appendix K exist. Therefore, the staff concludes that the proposed exemption to 10 CFR 50.44, 10 CFR 50.46, and Appendix K of 10 CFR Part 50 related to the fuel cladding material for Oconee Nuclear Station Units 1, 2, and 3 is acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants Duke an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and Appendix K of 10 CFR Part 50, related to the fuel cladding material for the Oconee Nuclear Station, Units 1, 2, and 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment (65 FR 15659).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of March 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–7832 Filed 3–29–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305]

Wisconsin Public Service Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License DPR–43; Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License DPR–43 issued to Wisconsin Public Service

Corporation (the licensee) for operation of the Kewaunee Nuclear Power Plant, located in Kewaunee County, Wisconsin.

The proposed amendment would change Technical Specification (TS) 3.8.a.5 to increase the minimum refueling boron concentration value to 2200 parts per million (ppm) from 2100 ppm. The increase in boron concentration is required to ensure 5% Δk/k shutdown margin during refueling due to the increased feed fuel loadings since the plant's change from 12 month to 18-month cycles in 1995.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does operation of the facility with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The refueling boron concentration value is not an accident initiator. Therefore, the change will not increase the probability of an accident previously evaluated. The proposed change to the refueling boron concentration value does not alter the plant configuration, operating set points, or overall plant performance. As was the case prior to the change, when there is fuel in the reactor, a 5% Δk/k shutdown margin will be maintained in the reactor coolant system during reactor vessel head removal or while loading and unloading fuel from the reactor.

2. Does operation of the facility with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change in the refueling boron concentration value does not alter the plant configuration, operating set points, or overall plant performance. The proposed change will ensure a 5% Δk/k shutdown margin will be maintained as currently described in TS. Therefore, it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does operation of the facility with the proposed amendment involve a significant reduction in a margin of safety?

The proposed change in the refueling boron concentration value continue to ensure that the current TS 3.8.a.5 shutdown requirement of 5% Δk/k shutdown margin will be maintained in the Reactor Coolant System during reactor vessel head removal or while loading and unloading fuel from the reactor. Design basis dilution events were re-evaluated with the proposed TS boron concentrations. It was determined that there remains a sufficient amount of time for the operator to recognize the event and stop the dilution. Therefore, this change will not involve a significant reduction in safety margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 1, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Bradley D. Jackson, Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 2, 2000, which is 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 24th day of March 2000.

For the Nuclear Regulatory Commission.

Beth A. Wetzel,

Acting Chief, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–7830 Filed 3–29–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Consumers Energy Company; Palisades Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of Section III.O of Appendix R, 10 CFR Part 50 to Consumers Energy Company (the licensee), holder of Facility Operating License No. DPR–20, for operation of the Palisades Nuclear Plant, located in the town of Covert, Michigan, on the eastern shore of Lake Michigan.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the requirement of Section III.O of Appendix R, 10 CFR Part 50, regarding the design capacity of the lubricating oil collection systems for three of the four primary coolant pump (PCP) motors. Specifically, the exemption would apply to the requirement that a vented container for the collection of leakage ''can hold the entire lube oil system inventory.'' The proposed action does not apply to the collection system for PCP P–50D, which, as a result of modifications during the 1999 refueling outage, has been brought into compliance with Section III.O. The proposed action is in accordance with the licensee's application for an exemption dated August 13, 1999, as revised and supplemented by letters dated November 3, 1999, and March 15, 2000.

The Need for the Proposed Action

Each of the four Palisades PCP motors has its own oil collection tank that receives the leakage from both the upper and lower bearing lubrication systems for that PCP motor. The usable volumes of the collection tanks for PCPs P–50A, P–50B, and P–50C, cannot hold the entire inventories of their respective lubricating oil systems as required by Section III.O of Appendix R, 10 CFR Part 50. By removing the need to modify or replace the oil collection tanks to meet the literal requirement of 10 CFR 50, Appendix R, Section III.O, the proposed action would avoid unnecessarily exposing workers to radiation. It would also spare resources.

Environmental Impacts of the Proposed Action

Each oil collection tank for PCPs P–50A, P–50B, and P–50C has a nominal capacity of 79 gallons. Each pump motor nominally has 87 gallons of lubricating oil in the upper-bearing lubricating oil system and 18 gallons in the lower-bearing lubricating oil system, for a total of 105 gallons. The upper and lower lubricating oil systems are independent of each other.

In the unlikely event that operators allowed leakage in a PCP upper oil system to drain the entire system without taking action to stop the pump, approximately 8 gallons of oil could overflow the oil collection tank onto the floor in containment. Approximately 26 gallons could overflow onto the floor in the less likely event that both the upper and lower oil systems developed gross leakage and operators took no action.

Any lubricating oil that overflowed an oil collection tank would remain inside the containment building and would not be released to the environment. A portion of the spilled oil could flow down to lower floor elevations and eventually into the containment sump. The motor oil has a flash point of over 400°F and the containment atmosphere is nominally 80 to 100°F when the PCPs are in operation. The oil would not come in contact with hot pipes, hot equipment surfaces, or electrical ignition sources in the tank areas or on the flow paths to the sump. The oil would not become a fire hazard, since it would drain to a safe location.

Cleanup of any oil spill would generate minor amounts of waste materials requiring disposal and expose plant workers to a small amount of radioactive material. However, the waste materials and radiation exposure from cleanup would be essentially the same as from routine lubricating oil system activities associated with normal plant operation and maintenance. Routine activities which generate waste oil and cleanup materials include periodic PCP oil changes, pumpdown of oil collection tanks, PCP oil system piping and equipment repairs, and cleaning of equipment and floors.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action. Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

1. Limiting the Amount of Oil in the PCP Lubrication Systems

Limiting the amount of oil in the PCP lubrication systems according to the capacity of the collection systems would violate the equipment operating requirements, which could lead to early equipment failure.

2. Modifying the Oil Collection Tank Capacity

Modifying the oil collection tank capacity would require significant resources and result in potential occupational exposure without a commensurate benefit to the environment.

3. Denying the Proposed Action

As an alternative to the proposed action, the NRC staff considered denying the proposed action (i.e., the ''no action'' alternative). Denying the application would not change the current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of Palisades Nuclear Generating Plant, dated June 1972, and the associated final addendum (NUREG–0343) dated February 1978.

Agencies and Persons Consulted

In accordance with its stated policy, on March 23, 2000, the staff consulted with the Michigan State official, Mr. Michael McCardy, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated August 13 and November 3, 1999, and March 15, 2000, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, N.W., Washington, D.C., and 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 24th day of March 2000.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Section 1 Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–7831 Filed 3–29–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293]

Entergy Nuclear Generation Company; Pilgrim Nuclear Power Station Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption for Facility Operating License No. DPR–35, issued to Entergy Nuclear Generation Company (Entergy/the licensee), for operation of Pilgrim Nuclear Power Station, (Pilgrim), located in Plymouth County, Massachusetts.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR Part 50, Appendix E, Item IV.F.2.c regarding conduct of a full-participation exercise of the offsite emergency plan biennially. Under the proposed exemption, the licensee would reschedule the Federally-observed full-participation emergency exercise from December 2001 to May 2002 and all future Nuclear Regulatory Commission (NRC)—and Federal Emergency Management Agency (FEMA)—evaluated exercises would occur biennially from the year 2002.

The proposed action is in accordance with the licensee's application for exemption dated July 30, 1999, as supplemented on September 23, 1999.

The Need for the Proposed Action

Title 10 of the Code of Federal Regulation, (10 CFR) Part 50, Appendix E, Item IV.F.2.c requires each licensee at each site to conduct an exercise of its offsite emergency plan biennially. The NRC and FEMA observe these exercises and evaluate the performance of the licensee, State, and local authorities having a role under the emergency plan.

The licensee would be required to conduct an exercise of its onsite and offsite emergency plans in December 2001, which is at the end of the required interval. To support the efficient and effective use of Federal resources, as discussed during the annual NRC Region I and FEMA (Regions I, II, and

III) exercise scheduling meeting held in White Plains, New York, in December 1998, the planned December 2001 exercise for Pilgrim was shifted to May 2002, which is beyond the required interval.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action involves an administrative activity (a schedular change in conducting an exercise) unrelated to plant operations.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Operation of Pilgrim Nuclear Power Station, Boston Edison Company,'' dated May 1972 .

Agencies and Persons Consulted

In accordance with its stated policy, on August 5, 1999, the staff consulted with the Massachusetts State official, Mr. James Muckerhide of the Massachusetts Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments. In addition, staff members of NRC Region I and FEMA were contacted by phone and provided favorable recommendations to approve the requested exemption.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 30, 1999, as supplemented on September 23, 1999, which is 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 24 day of March 2000.

For the Nuclear Regulatory Commission.

Alan B. Wang,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–7829 Filed 3–29–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

March 1, 2000.

Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of March 1, 2000, of three rescission proposals and two deferrals contained in one special message for FY 2000. The message was transmitted to Congress on February 9, 2000.

Rescissions (Attachments A and C)

As of March 1, 2000, three rescission proposals totaling $128 million have been transmitted to the Congress. Attachment C shows the status of the FY 2000 rescission proposals.

Deferrals (Attachments B and D)

As of March 1, 2000, $976 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 2000.

Information From Special Message

The special message containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the edition of the **Federal Register** cited below:

65 FR 9017, Wednesday, February 23, 2000

Jacob J. Lew,

Director.

Attachment A.—Status of FY 2000 Rescissions

[In millions of dollars]

	Budgetary *resources*
Rescissions proposed by the President	128.0
Rejected by the Congress	.....
Currently before the Congress for less than 45 days	128.0

ATTACHMENT B.—STATUS OF FY 2000 DEFERRALS

[In millions of dollars]

	Budgetary *resources*
Deferrals proposed by the President	1,622.0
Routine Executive releases through February 2000 (OMB/Agency releases of $646.3 million)	−646.3
Overturned by the Congress	.....
Currently before the Congress	975.7

BILLING CODE 3110–01–C

ATTACHMENT C
Status of FY 2000 Rescission Proposals - As of March 1, 2000
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF ENERGY								
Atomic Energy Defense Activities								
Defense Environmental Restoration and Waste Management..	R00-1	13,000		2-9-00	*			
Energy Programs								
SPR Petroleum Account.....	R00-2	12,000		2-9-00	*			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Public and Indian Housing								
Housing Certificate Fund.....	R00-3	103,000		2-9-00	*			
TOTAL, RESCISSIONS.....		**128,000**						

* No funds are being withheld.

ATTACHMENT D
Status of FY 2000 Deferrals - As of March 1, 2000
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 3-1-00
DEPARTMENT OF STATE									
Other									
United States Emergency Refugee and Migration Assistance Fund	D00-1	172,858		2-9-00					172,858
INTERNATIONAL ASSISTANCE PROGRAMS									
International Security Assistance									
Economic Support Fund	D99-2	1,449,159		2-9-00	646,296				802,864
TOTAL, DEFERRALS		**1,622,017**			**646,296**				**975,721**

[FR Doc. 00–7804 Filed 3–29–00; 8:45 am]
BILLING CODE 3110–01–U

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; Revisions to the Existing System of Records

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: The Office of Management and Budget (OMB) is deleting from its inventory eleven systems of records because the information is no longer maintained by OMB due to organizational changes. An additional three systems of records will be updated to more accurately reflect position titles, addresses, and descriptions of the systems.

DATES: This proposed action will be effective without further notice on March 30, 2000, unless comments are received which result in a contrary determination.

ADDRESSES: Darrell A. Johnson, Freedom of Information Act Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Comments up to three pages in length may be submitted via facsimile to (202) 395–3952. Electronic mail comments may be submitted via Internet to djohnson@omb.eop.gov. Please include the full body of electronic mail comments in the text and not as an attachment. Please include the name, title, organization, postal address, and E-mail address in the text of the message.

FOR FURTHER INFORMATION CONTACT: Darrell A. Johnson, FOIA Officer, Office of Management and Budget, at (202) 395–5715.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Office of Management and Budget conducted a review of its Privacy Act systems of records and determined that eleven systems of records can be deleted from its inventory because the data is neither collected nor maintained by OMB. The systems of records to be deleted are: OMB/SPD/01, ''Clearance Office Information System''; FAI–1, ''Federal Procurement and Logistics Personnel Information System''; FAI–2, ''Individual Credentialing Services Program''; OMB/LIBRY/01, ''Library Circulation System''; OMB/BUDGO/01, ''Payroll and Leave Records''; OMB/BUDGO/03, ''Personnel Summary''; OMB/BUDGO/04, ''Professional Staff Roster''; OMB/RECDS/01, ''Researcher Request File''; OMB/ADSER/01, ''Staff Directory Card''; OMB/BUDGO/02, ''Staff Travel Records''; and OMB/CAVAD/01, ''Veterans Education and Training Load Model.'' In addition, three other systems of records in OMB's inventory are being revised to incorporate address and title changes as well as to update descriptions of the systems and other data. These three systems are OMB/LEGIS/01, ''Private Relief Legislation''; OMB/PERSL/01, ''Recruiting and Applicant Records''; and OMB/ADSER/02, ''Staff Parking Application File'', and are published in their entirety. One of the revisions is the deletion from the routine use description of disclosures that are made internally within OMB. Those disclosures will continue to be made, but are authorized by 5 U.S.C. 552a(b)(1).

Robert L. Nabors II,

Executive Secretary and Assistant Director for Administration.

For the reasons discussed in the preamble, OMB is updating three systems of records which are being printed in their entirety as shown below.

OMB/LEGIS/01

SYSTEM NAME:

Private Relief Legislation.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Legislative Information Center, Office of Management and Budget, New Executive Office Building, 725 17th St., NW, Washington, DC 20503.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subject of proposed or enacted private relief legislation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information contained in these records consists of only those private relief bills requiring Office of Management and Budget review as specified in OMB Circular No. A–19, Revised September, 1979. The information maintained may include copies of a draft bill proposed by an agency as defined in the Circular, copies of bills introduced in the Congress, and if applicable, Congressional committee reports, agency memorandums and letters, OMB memoranda and letters, and other documents as may be needed in connection with the legislative coordination and clearance process. Certain individual records may also contain correspondence from and to the individual about whom the information is maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Office of Management and Budget Circular No. A–19, Revised September, 1979.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in an electronically powered rotary file.

RETRIEVABILITY:

Information is retrieved by name of individual, bill number, or private law number.

SAFEGUARDS:

Access to the building is controlled and monitored by security personnel. Access to the records is limited to those whose official duties require access to the information.

RETENTION AND DISPOSAL:

Permanent records are maintained on private relief bills introduced during the current and prior two sessions of Congress and then transferred to the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisory Legislative Research Assistant, Legislative Information Center, Office of Management and Budget, New Executive Office Building, 725 17th St, NW, Washington, DC 20503.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the systems of records, contact the Freedom of Information Act Officer, Office of Management and Budget, New Executive Office Building, 725 17th Street NW, Washington, DC 20503.

RECORD ACCESS PROCEDURES:

See Notification procedure.

CONTESTING RECORD PROCEDURES:

See Notification procedure.

RECORD SOURCE CATEGORIES:

See ''Categories of records in the system.''

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Not applicable.

OMB/ADSER/02

SYSTEM NAME:

Staff Parking Application File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Administration Office, Office of Management and Budget, New Executive Office Building, 725 17th Street NW, Washington, DC 20503.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OMB employees requesting a parking permit or joining a carpool.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains completed OMB Form 73 submitted by OMB employees who desire a parking permit. The form contains the following information on person making the application: Name, office or division, room number, telephone extension, home address, home telephone number, zip code, and make of car. For each rider the following information is recorded, name, home address, and work location and office phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property Management Regulation (FPMR) 41 CFR 101–20.104 and Office of Management and Budget Office Memorandum No. 91–14.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Forms are maintained in a file cabinet.

RETRIEVABILITY:

Records are kept by type of parking permit issued and by name. Access is limited to the Associate/Assistant Director for Administration, staff of the Administrative Services section, staff who wish to join a carpool, and upon request, the individual to which the information pertains.

SAFEGUARDS:

Access to the building is controlled and monitored by security personnel. Access to the records is limited to those whose official duties require access to the information.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Associate/Assistant Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th and Pennsylvania Ave. NW, Washington, DC 20503.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the systems of records, contact the Freedom of Information Act Officer, Office of Management and Budget, New Executive Office Building, 725 17th Street NW, Washington, DC 20503.

RECORD ACCESS PROCEDURES:

See Notification procedure.

CONTESTING RECORD PROCEDURES:

See Notification procedure.

RECORD SOURCE CATEGORIES:

See ''Categories of records in the system.''

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Not applicable.

OMB/PERSL/01

SYSTEM NAME:

Recruiting Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Administration Office, Office of Management and Budget, New Executive Office Building, 725 17th St. NW, Washington, DC 20503.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons identified through OMB's recruitment program have applied or who have been referred for employment consideration for a internship, summer employment or a permanent position.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the education and training; appraisal of potential; honors, awards, or fellowships; and home address of these persons and is obtained from resumes provided by the applicants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Section 3109, 3301, 3302, 3304, 3309, 3318, 3319, and Executive Orders 10577 and 11103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM,

Including categories of users and the purpose of such uses:

a. Office of Personnel Management (OPM) to the extent the information is relevant to OPM's decision on a OMB request.

b. A congressional office in response to an inquiry from the congressional office made at the applicant's request.

c. A requesting Federal agency, Commission or other public office if that applicant has indicated to OMB that he or she is available for referral to other agencies for consideration.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Individual records are indexed by name, by school, by area of interest, and by the type of appointment the applicant is seeking.

SAFEGUARDS:

Access to and use of the system and its records is limited to selected OMB staff whose official duties require having access. Files are kept in the OMB Administration Office and in the EOP computer center. Both facilities are locked and alarmed. Only OMB staff involved in recruiting or hiring personnel have access to this data.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Associate/Assistant Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th and Pennsylvania Ave. NW, Washington, DC 20503.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the systems of records, contact the Freedom of Information Act Officer, Office of Management and Budget, New Executive Office Building, 725 17th Street NW, Washington, DC 20503.

RECORD ACCESS PROCEDURE:

See Notification procedure.

CONTESTING RECORD PROCEDURES:

See Notification procedure.

RECORD SOURCE CATEGORIES:

See ''Categories of records in the system.''

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Not applicable.

[FR Doc. 00–7802 Filed 3–29–00; 8:45 am]

BILLING CODE 3110–01–U

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, April 13, 2000; Thursday, April 27, 2000; and Thursday, May 11, 2000.

The meeting will start at 10:00 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: March 24, 2000.

John F. Leyden,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 00–7788 Filed 3–29–00; 8:45 am]

BILLING CODE 6325–01–U

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb note, Title I of Pub. L. 104–333, 110 Stat. 4097, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held from 9 a.m. to 12 p.m. on Thursday, April 27, 2000, at the Presidio Golden Gate Club, Fisher Loop, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purpose of this meeting is to discuss housing issues. Public comment on this topic will be received and memorialized in accordance with the Trust's Public Outreach Policy.

TIME: The meeting will be held from 9 a.m. to 12 p.m. on Thursday, April 27, 2000.

ADDRESSES: The meeting will be held at the Presidio Golden Gate Club, Fisher Loop, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Craig Middleton, Deputy Director for Operations and Governmental Affairs, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: (415) 561–5300.

Dated: March 24, 2000.

Karen A. Cook,

General Counsel.

[FR Doc. 00–7817 Filed 3–29–00; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 12b–1, SEC File No. 270–188, OMB Control No. 3235–0212

Notice is hereby given that under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501], the Securities and Exchange Commission (the ''Commission'') is soliciting public comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'').

Rule 12b–1 [17 CFR 270.12b–1] under the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Act'') permits a registered open-end investment company (''mutual fund'') to distribute its own shares and pay expenses of distribution provided, among other things, that the mutual fund adopts a written plan (''rule 12b–1 plan'') and has in writing any agreements relating to the implementation of the rule 12b–1 plan. The rule in part requires that (i) the adoption or material amendment of a rule 12b–1 plan be approved by the mutual fund's directors and shareholders; (ii) the board review quarterly reports of amounts spent under the rule 12b–1 plan; and (iii) the board considers continuation of the rule 12b–1 plan at least annually. Rule 12b–1 also requires funds relying on the rule to preserve for six years, the first two years in an easily accessible place, copies of the rule 12b–1 plan, related agreements and reports, as well as minutes of board meetings that describe the factors considered and the basis for adopting or continuing a rule 12b–1 plan.

The board and shareholder approval requirements of rule 12b–1 are designed to ensure that fund shareholders and directors receive adequate information to evaluate and approve a rule 12b–1 plan. The requirement of quarterly reporting to the board is designed to ensure that the rule 12b–1 plan continues to benefit the fund and its shareholders. The recordkeeping requirements of the rule are necessary to enable Commission staff to oversee compliance with the rule.

Based on information filed with the Commission by funds, Commission staff estimates that there are 4,500 mutual

funds with rule 12b–1 plans. As discussed above, rule 12b–1 requires the board of each fund with a rule 12b–1 plan to (i) review quarterly reports of amounts spent under the plan and (ii) annually consider the plan's continuation (which generally is combined with the fourth quarterly review). This results in a total number of annual responses per fund of four and an estimated total number of industry responses of 18,000 (4,500 funds ×4 annual responses per fund=18,000 responses).

Based on conversations with fund industry representatives, Commission staff estimates that for each of the 4,500 mutual funds that currently have a rule 12b–1 plan, the average annual burden of complying with the rule is 50 hours to maintain the plan. This estimate takes into account the time needed to prepare quarterly reports to the board of directors, the board's consideration of those reports, and the board's annual consideration of the plan's continuation. Commission staff therefore estimates that the total burden of the rule's paperwork requirements is 225,000 hours (4,500 funds × 50 hours per fund = 225,000 hours).

The estimate of burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

If a currently operating fund seeks to (i) adopt a new rule 12b–1 plan or (ii) materially increase the amount it spends for distribution under its rule 12b–1 plan, rule 12b–1 requires that the fund obtain sharehold approval. As a consequence, the funds will incur the cost of a proxy. Commission staff estimates that four funds per year prepare a proxy in connection with the adoption or material amendment of a rule 12b–1 plan. Commission staff further estimates that the cost of each fund's proxy is $15,000. Thus the total annualized cost burden of rule 12b–1 to the fund industry is $60,000 (4 funds requiring a proxy × $15,000 per proxy).

The collections of information required by rule 12b–1 are necessary to obtain the benefits of the rule. Notices to the Commission will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are requested on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: March 24, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7841 Filed 3–29–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27158]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 24, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 18, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 18, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc., et al. (70–8307)

American Electric Power Company, Inc. (''AEP''), a registered holding company, and AEP Resources Service Company (''RESCO''),[1] a wholly owned service subsidiary of AEP, both located in 1 Riverside Plaza, Columbus, Ohio 43215, have filed a post-effective amendment under sections 6(a), 7, 12(b) and 13(b) of the Act, and rules 45, 54, 90 and 91 under the Act, to their application-declaration filed under the Act.

By order dated April 12, 1982 (HCAR No. 22468) (''1982 Order''), RESCO was authorized to sell management, technical and training expertise and certain technical and procedural resources (''Consulting Services'') to nonaffiliated entities. By order dated April 5, 1995 (HCAR No. 26267), the Commission authorized RESCO to provide project development, engineering, design, construction and construction management, operating fuel management, maintenance and power plant overhaul and other similar kinds of managerial and technical services (''Power Project Services''). Under the terms of the April 1995 Order, RESCO was authorized to provide Power Project Services to both affiliated and nonaffiliated exempt wholesale generators (''EWGs'') (as defined in the Act and rules under the Act), foreign utility companies (''FUCOs'') (as defined in the Act and rules under the Act), qualifying cogeneration facilities (''QFs'') and small power production facilities (as defined in the Public Utility Regulatory Policies Act of 1978 (''PURPA'') and rules under PURPA), and other projects relating to the generation, transmission and distribution of electric power (collectively, ''Power Projects''). RESCO was also authorized in the April 1995 Order to provide Consulting Services and Power Project Services in foreign jurisdictions. In addition, the 1995 Order authorized RESCO to provide energy management and demand-side management services in the United States (collectively with Power Project Services and Consulting Services, ''Authorized Services''). The April 1995 Order also authorized an exemption under section 13(b) from the requirements of rules 90 and 91 as applicable to transactions under certain

[1] RESCO's name was changed from AEP Energy Services, Inc. on March 7, 1997.

circumstances.[2] By Order dated March 7, 1997 (HCAR No. 26682), RESCO was authorized to form one or more partly or wholly owned subsidiaries (''New Subsidiaries'') to provide one or more of the Authorized Services.

To the extent not exempt of otherwise authorized by the Commission, RESCO also requests an exemption from the ''at-cost''requirements of rules 90 and 91 for Authorized Services rendered by RESCO or any New Subsidiary to any partially owned associate Power Project, exempt telecommunications company (as defined in section 34 of the Act), or energy-related company (as defined in Rule 58 under the Act) or New Subsidiary, provided that the ultimate purchaser of the Authorized Services is not an associate public utility company or a subsidiary of AEP whose activities and operations are primarily related to the provision of services or goods to associate public utility companies. In addition the Applicants request that the exemption apply to Authorized Services RESCO provides to any subsidiary of AEP Resources, Inc., (''Resources'') [3] a nonutility subsidiary of AEP, (i) that is engaged solely in the business of developing, owning, operating and/or providing Authorized Services to those exempt Power Projects enumerated above, or (ii) that does not derive directly or indirectly, any material part of its income from sources within the United States and is not a public utility company operating within the United States.

By orders dated April 5, 1995, December 28, 1995 and December 16, 1998 (HCAR Nos. 26267, 26442 and 26952, respectively) the Commission authorized AEP to: (1) Guarantee the debt of RESCO in an amount not to exceed $51 million through December 31, 2001; and (2) issue guarantees and assumptions of liability on behalf of RESCO to third parties in an aggregate amount not to exceed $200 million through December 31, 2001 (collectively, the ''Guarantee Authority'').

Applicants now propose to extend the period of Guarantee Authority through June 30, 2004. Applicants also propose that the Guarantee Authority be increased to allow AEP to (1) guarantee the debt of RESCO to third parties in an amount not to exceed $400 million and (2) issue guarantees and assumptions of liability on behalf of RESCO to third parties in an amount not to exceed $400 million. Applicants state that the authority sought is necessary, in part, because RESCO has entered into an agreement with National Power Cooperative, Inc. (''National''), an affiliate of Buckeye Power, Inc., to design, engineer, procure all materials and equipment and construct for National a 510 megawatt gas-fired peaking unit. In addition, Applicants are investigating several opportunities to, among other things, design, engineer and procure equipment and materials to construct generating stations and other projects relating to the generation, transmission and distribution of electric power.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7842 Filed 3–29–00; 8:45 am]

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[2] The exemption applies to a transaction when a Power Project entity is: (a) a FUCO, or an EWG which derives no part of its income, directly, or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States; or (b) an EWG which sells electricity at market-based rates which have been approved by the Federal Energy Regulatory Commission (''FERC'') or the appropriate state public utility commission, provided that the purchaser of such electricity is not an associate company of RESCO within the AEP System; or (c) a QF that sells electricity exclusively (i) at rates negotiated at arms'-length to one or more industrial or commercial customers purchasing such electricity for their own use and not for resale, and/or (ii) to an electricity utility company, other than any associate company of RESCO within the AEP System, at the purchaser's ''avoided cost'' as determined in accordance with the regulations under the Public Utility Regulatory Policies Act of 1978; or (d) an EWG or QF that sells electricity at rates based upon its cost of service, as approved by FERC or any state public utility commission having jurisdiction, provided that the purchaser of such electricity is not an associate company of RESCO with the AEP System.

[3] Resources is involved in preliminary development activities related to Power Projects.

SECURITIES AND EXCHANGE COMMISSION

[Release 34–42568; File No. 600–22]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Order Extending Temporary Registration as a Clearing Agency

March 23, 2000.

Notice is hereby given that on February 8, 2000, MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') an application pursuant to Section 19(a) of the Securities Exchange Act of 1934 (''Act'') [1] requesting that the Commission grant MBSCC full registration as a clearing agency or in the alternative extend MBSCC's temporary registration as a clearing agency until such time as the Commission is able to grant MBSCC permanent registration.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to extend MBSCC's temporary registration as a clearing agency through March 31, 2001.

On February 2, 1987, pursuant to Sections 17A(b) and 19(a) of the Act [3] and Rule 17Ab2–1 promulgated thereunder,[4] the Commission granted MBSCC registration as a clearing agency on a temporary basis for a period of eighteen months.[5] The Commission subsequently has extended MBSCC's registration through March 31, 2000.[6]

As discussed in detailed in the original order granting MBSCC's registration, one of the primary reasons for MBSCC's registration was to enable it to provide for the safe and efficient clearance and settlement of transactions in mortgage-backed securities. Since its original temporary registration order, MBSCC has implemented many improvements and continues to work towards enhancing the safety and efficiency of its operations. For example, during the past year, MBSCC amended its risk management rules to: (i) Implement a net-out report, (ii) modify financial reporting by participants, (iii) modify certain special provisions applicable to non-domestic participants, (iv) add a provision for additional assurances, and (v) clarify MBSCC's role as a agent in a liquidation.[7] MBSCC also modified its rules regarding letters of credit to implement the Uniform Letter of Credit developed by the Unified Clearing Group.[8] In addition, MBSCC amended its rules to add net position and net-out position components to the formula MBSCC uses to calculate market margin differential deposits to the participants fund.[9] MBSCC adopted rules to

[1] 15 U.S.C. 78s(a).

[2] Letter from Anthony Davidson, Managing Director and General Counsel, MBSCC (February 8, 2000).

[3] 15 U.S.C. 78q–1(b) and 78s(a).

[4] 17 CFR 240.17Ab2–1.

[5] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

[6] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994) 59 FR 67743; 37372 (June 26, 1996) 61 FR 35281; 38784 (June 27, 1997), 62 FR 36587; 39776 (March 20, 1998), 63 FR 14740; and 41211 (March 24, 1999), 64 FR 15854.

[7] Securities Exchange Act Release No. 41714 (August 6, 1999), 64 FR 44250.

[8] Securities Exchange Act Release No. 41803 (August 27, 1999), 64 FR 48692.

[9] Securities Exchange Act Release No. 42173 (November 23, 1999), 64 FR 67363.

facilitate a smooth Year 2000 transition.[10]

MBSCC has functioned effectively as a registered clearing agency for over ten years. Accordingly, in light of MBSCC's past performance and the need for continuity in the services MBSCC provides to its participants, the Commission believes that it is necessary and appropriate in the public interest and for the prompt and accurate clearance and settlement of securities transactions to extend MBSCC's temporary registration through March 31, 2001. During this temporary registration period, the Commission anticipates that it will act on MBSCC's application for permanent registration. Any comments received during MBSCC's temporary registration will be considered in conjunction with the Commission's review of MBSCC's request for permanent registration as a clearing agency under Section 17A of the Act.[11]

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments with respect to whether the Commission should grant MBSCC permanent registration as a clearing agency. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the request for permanent registration as a clearing agency that are filed with the Commission, and all written communications relating to the extension between the Commission and any person, other than those that may be withheld from the public in accordance with 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. 600–22 and should be submitted by April 20, 2000.

Conclusion

It is therefore ordered pursuant to Sections 17A(b) and 19(a) of the Act that MBSCC's temporary registration as a clearing agency (File No. 600–22) be and hereby is extended through March 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7844 Filed 3–29–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42573; File No. SR–NASD–99–53]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 4 to Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Establishment of Nasdaq Order Display Facility and to Modifications of the Nasdaq Trading Platform

March 23, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder, [2] notice is hereby given that on March 23, 2000, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly-owned subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') Amendment No. 4 to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The proposed rule change and Amendment Nos. 1 and 2 were published for comment in the **Federal Register** on December 6, 1999.[3] On March 16, 2000, Nasdaq filed Amendment No. 3 to the proposal.[4] The Commission is publishing this notice to solicit comments on Amendment No. 4 to the proposed rule change from interested persons.[5]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq and the NASD propose the following amendments in response to comment letters submitted to the Commission regarding the proposal as originally noticed. The amended rule language is as follows: [6]

Proposed additions are *italicized* and proposed deletions are placed in [brackets].

4720. SelectNet Service—Deleted

* * * * *

4611. Registration as a Nasdaq Market Maker

(a)–(e) No Change.

(f) Unless otherwise specified by the Association, each Nasdaq market maker that is registered as a market maker in a Nasdaq[National Market security]-*listed security* shall also at all times be registered as a market maker in the Nasdaq National Market Execution System (NNMS) with respect to that security and be subject to the NNMS Rules as set forth in the Rule 4700 Series. [Participation in the Small Order Execution System (SOES) shall be voluntary for any Nasdaq market maker registered to make a market in a Nasdaq SmallCap security.]

(g) No Change.

* * * * *

4613. Character of Quotations

(a) Two-Sided Quotations

(1) For each security in which a member is registered as a market maker, the member shall be willing to buy and sell such security for its own account on a continuous basis and shall enter and maintain *a* two-sided quotation[s] *(''Principal Quote''), which is attributed to the market maker by a special maker participant identifier (''MMID'') and is displayed in the Nasdaq Quotation Montage* [in The Nasdaq Stock Market] *at all times*, subject to the procedures for excused withdrawal set forth in Rule 4619.

(A) A registered market maker in a *Nasdaq-listed* security [listed on The Nasdaq Stock Market] must display a

[10] Securities Exchange Act Release No. 41910 (September 23, 1999), 64 FR 52816.

[11] 15 U.S.C. 78q–1.

[12] 17 CFR 200.30–3(a)(16).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 42166 (Nov. 22, 1999), 64 FR 69125.

[4] *See* letter from Richard G. Ketchum, President, NASD, to Belinda Blaine, Associate Director, Division of Market Regulation (''Division''), Commission (March 15, 2000) (''Amendment No. 3''). In Amendment No. 3, the NASD responded to comment letters and submitted substantive, clarifying, and technical amendments to the proposal.

[5] This 19b–4 filing, representing Amendment No. 4 to SR–NASD–99–53, reflects the substantive amendments proposed in Amendment No. 3 to the filing, and contains some technical changes and clarifying information that the Commission has requested.

[6] The amended rule language contained in this notice reflects the Commission's recent approval of SR–NASD–99–11, regarding the establishment of the Nasdaq National Market System (''NNMS''). *See* Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 3987 (January 25, 2000) (Order for File No. SR–NASD–99–11 functionally integrating the Small Order Execution System (''SOES'') and SelectNet system to become the foundation of the NNMS.) In addition, the amended rule language replaces, in the entirety, the rule language contained in the original filing, as well as Amendment Nos. 1, 2 and 3.

quotation size for at least one normal unit of trading (or a larger multiple thereof) when it is not displaying a limit order in compliance with SEC Rule 11Ac1–4, provided, however, that a registered market maker may augment its displayed quotation size to display limit orders priced at the market maker's quotation. *Unless otherwise designated, a ''normal unit of trading'' shall be 100 shares.*

(2) No Change.

(b) Agency Quote—Amendments Pending Pursuant to SR–NASD–99–09.

(c)–(e) No Change.

IM–4613. Autoquote Policy—No Change

4618. Clearance and Settlement

(a)–(b) No Changes.

(c) All transactions through the *facilities of the* Nasdaq National Market Execution System[, SOES, and SelectNet services] shall be cleared and settled through a registered clearing agency using a continuous net settlement system.

* * * * *

4619. Withdrawal of Quotations and Passive Market Making

(a)–(b) No Change.

(c) Excused withdrawal status may be granted to a market maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency and is withdrawn from participation in the Automated Confirmation Transaction service, thereby terminating its registration as a market maker in Nasdaq issues. Provided however, that if the Association finds that the market maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to Rule 4620[, the Rules for the Small Order Execution System, as set forth in the Rule 4750 Series,] and the Rule 4700 Series governing the Nasdaq National Market Execution System.

(d) No Change.

* * * * *

4620. Voluntary Termination of Registration

(a) A market maker may voluntarily terminate its registration in a security by withdrawing its *Principal* [quotations] *Quote* from The Nasdaq Stock Market. A market maker that voluntarily terminates its registration in a security may not re-register as a market maker in that security for twenty (20) business days. Withdrawal from participation as a market maker in a Nasdaq [National Market]-*listed* security in the Nasdaq National Market Execution System shall constitute termination of registration as a market maker in that security for purposes of this Rule; provided, however, that a market maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency and is withdrawn from participation in the Automated Confirmation Transaction System and thereby terminates its registration as a market maker in Nasdaq-*listed* [National Market and SmallCap] issues may register as a market maker at any time after a clearing arrangement has been reestablished and the market maker has complied with ACT participant requirements contained in Rule 6100.

* * * * *

4632. Transaction Reporting

(a)–(d) No Change.

(e) Transactions Not Required To Be Reported.

The following types of transactions shall not be reported:

(1) transactions executed through the Computer Assisted Execution System (CAES), *or* the *facilities of the* Nasdaq National Market Execution System (''NNMS'')[, or the SelectNet service];

(2)–(6) No Change.

(f) No Change.

4642. Transaction Reporting

(a)–(d) No Change.

(e) Transactions Not Required To Be Reported.

The following types of transactions shall not be reported:

(1) Transactions executed through the Computer Assisted Execution System (CAES)[; the Small Order Execution System (SOES) or the SelectNet service] *or facilities of the Nasdaq National Market Execution System (''NNMS'').*

(2)–(5) No Change.

(f) No Change.

* * * * *

4700. NASDAQ NATIONAL MARKET EXECUTION SYSTEM (NNMS)

4701. Definitions—*Unless stated otherwise, the terms described below shall have the following meaning.*

[(d)] *(a)* The term ''active NNMS securities'' shall mean those NNMS eligible securities in which at least one NNMS Market Maker is currently active in NNMS.

[(i)] *(b)* The term ''Agency Quote'' shall mean the quotation that a registered NNMS Market Maker is permitted to display pursuant to the requirements of NASD Rule 4613(b).

(c) The term ''Attributable Quote/Order'' shall have the following meaning:

(i) For NNMS Market Makers and NNMS ECNs, a bid or offer Quote/Order that is designated for display (price and size) next to the participant's MMID in the Nasdaq Quotation Montage once such Quote/Order becomes the participant's best attributable bid or offer.

(ii) For UTP Exchanges, the best bid and best offer quotation with price and size that is transmitted to Nasdaq by the UTP Exchange, which is displayed next to the UTP Exchange's MMID in the Nasdaq Quotation Montage.

[(h)] *(d)* The term ''Automated Confirmation Transaction'' service or ''ACT'' shall mean the automated system owned and operated by The Nasdaq Stock Market, Inc. which compares trade information entered by ACT Participants and submits ''locked-in'' trades to clearing.

[(g)] *(e)* The term ''automatic refresh size'' shall mean the default size to which an NNMS Market Maker's quote will be refreshed pursuant to NASD Rule 4710(b)(2), if the market maker *elects to utilize the Quote Refresh Functionality and* does not designate to Nasdaq an alternative refresh size. The [maximum] automatic refresh size default [size] shall be 1,000 shares.

(f) The term ''Directed Order'' shall mean an order that is entered into the system by an NNMS participant that is directed to a particular Quoting Market Participant.

(g) The term ''Displayed Quote/Order'' shall mean both Attributable and Non-Attributable (as applicable) Quotes/Orders transmitted to Nasdaq by Quoting Market Participants.

(h) The term ''Firm Quote Rule'' shall mean SEC Rule 11Ac1–1.

(i) The term ''Liability Order'' shall mean an order that when delivered to a Quoting Market Participant imposes an obligation to respond to such order in a manner consistent with the Firm Quote Rule.

(j) The term ''limit order'' shall mean an order to buy or sell a stock at a specified price or better.

(k) The term ''market order'' shall mean an unpriced order to buy or sell a stock at the market's current best price.

(l) The term ''marketable limit order'' shall mean a limit order that, at the time it is entered into the NNMS, if it is a limit order to buy, is priced at the current inside offer or higher, or if it is a limit order to sell, is priced at the inside bid or lower.

(m) The term ''mixed lot'' shall mean an order that is for more than a normal unit of trading but not a multiple thereof.

(n) The term ''Non-Attributable Quote/Order'' shall mean a bid or offer Quote/Order that is entered by a Nasdaq Quoting Market Participant and is designated for display (price and size) on an anonymous basis in the Nasdaq Order Display Facility.

(o) The term ''Non-Directed Order'' shall mean an order that is entered into the system by an NNMS participant and is not directed to any particular Quoting Market Participant.

(p) The term ''Non-Liability Order'' shall mean an order that when delivered to a Quoting Market Participant imposes no obligation to respond to such order under the Firm Quote Rule.

[(a)] *(q)* The term ''Nasdaq National Market Execution System,'' [or] ''NNMS,'' *or ''system''* shall mean the automated system owned and operated by The Nasdaq Stock Market, Inc. which enables NNMS Participants to execute transactions in active NNMS authorized securities; to have reports of the transactions automatically forwarded to the National Market Trade Reporting System, if required, for dissemination to the public and the industry, and to ''lock in'' these trades by sending both sides to the applicable clearing corporation(s) designated by the NNMS Participant(s) for clearance and settlement; and to provide NNMS Participants with sufficient monitoring and updating capability to participate in an automated execution environment.

[(c)] *(r)* The term ''NNMS eligible securities'' shall mean designated Nasdaq-*listed* [National Market (NNM)] equity securities.

(s) The term ''NNMS ECN'' shall mean a member of the Association that meets all of the requirements of NASD Rule 4623, and that participates in the NNMS with respect to one or more NNMS eligible securities.

(i) The term ''NNMS Auto-Ex ECN'' shall mean an NNMS ECN that participates in the automatic-execution functionality of the NNMS system, and accordingly executes Non-Directed Orders via automatic execution for the purchase or sale of an active NNMS security at the Nasdaq inside bid and/or offer price.

(ii) The term ''NNMS Order-Delivery ECN'' shall mean an NNMS ECN that participates in the order-delivery functionality of the NNMS system, accepts delivery of Non-Directed Orders, and provides an automated execution of Non-Directed Orders (or an automated rejection of such orders if the price is no longer available) for the purchase or sale of an active NNMS security at the Nasdaq inside bid and/or offer price.

[(b)] *(t)* The term ''NNMS Market Maker'' shall mean a member of the Association that is registered as a Nasdaq Market Maker and as a Market Maker for purposes of participation in NNMS with respect to one or more NNMS eligible securities, and is currently active in NNMS and obligated to execute orders *through the automatic-execution functionality of the NNMS system* for the purchase or sale of an active NNMS security at the Nasdaq inside bid and/or [ask] *offer* price.

[(e)] *(u)* The terms ''NNMS Participant'' shall mean [either] an NNMS Market Maker*, NNMS ECN, UTP Exchange,* or NNMS Order Entry Firm registered as such with the Association for participation in NNMS.

[(f)] (*v*) The term ''NNMS Order Entry Firm'' shall mean a member of the Association who is registered as an Order Entry Firm for purposes of participation in NNMS which permits the firm to enter orders [of limited size] for execution against NNMS Market Makers.

(w) The term ''Nasdaq Quotation Montage'' shall mean the portion of Nasdaq WorkStation presentation that displays for a particular stock two columns (one for bid, one for offer), under which is listed in price/time priority the MMIDs for each NNMS Market Maker, NNMS ECN, and UTP Exchange registered in the stock and the corresponding quote (price and size) next to the related MMID.

(x) The term ''Nasdaq Quoting Market Participant'' shall include only the following: (1) NNMS Market Makers; or (2) NNMS ECNs.

(y) The term ''odd-lot order'' shall mean an order that is for less than a normal unit of trading.

(z) The term ''Quote/Order'' shall mean a single quotation or shall mean an order or multiple orders at the same price submitted to Nasdaq by a Nasdaq Quoting Market Participant that is displayed in the form of a single quotation. When this term is used in connection with a UTP Exchange, it shall mean the best bid and/or the best offer quotation transmitted to Nasdaq by the UTP Exchange.

(aa) The term ''Quoting Market Participant'' shall include any of the following: (1) NNMS Market Makers; (2) NNMS ECNs; and (3) UTP Exchange Specialists.

(bb) The term ''Reserve Size'' shall mean the system-provided functionality that permits a Nasdaq Quoting Market Participant to display in its Displayed Quote/Order part of the full size of a proprietary or agency order, with the remainder held in reserve on an undisplayed basis to be displayed in whole or in part after the displayed part is executed.

(cc) The term ''Nasdaq Order Display Facility'' shall mean the portion of Nasdaq WorkStation presentation that displays without attribution to particular Quoting Market Participant's MMID the three best price levels in Nasdaq on both the bid and offer side of the market and the aggregate size of Attributable and Non-Attributable Quotes/Orders at each price level.

(dd) The term ''UTP Exchange'' shall mean any registered national securities exchange that has unlisted trading privileges in Nasdaq National Market securities pursuant to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination Of Quotation and Transaction Information For Exchange-Listed Nasdaq/National Market System Securities Traded On Exchanges On An Unlisted Trading Privilege Basis (''Nasdaq UTP Plan'').

4705. NNMS Participant Registration

(a) Participation in NNMS as an NNMS Market Maker requires current registration as such with the Association. Such registration shall be conditioned upon the NNMS Market Maker's initial and continuing compliance with the following requirements:

(1) execution of an NNMS Participant application agreement with the Association;

(2) membership in, or access arrangement with, a clearing agency registered with the Commission which maintains facilities through which NNMS compared trades may be settled;

(3) registration as a market maker in The Nasdaq Stock Market pursuant to the Rule 4600 Series and compliance with all applicable rules and operating procedures of the Association and the Commission;

(4) maintenance of the physical security of the equipment located on the premises of the NNMS Market Maker to prevent the *improper use or access to Nasdaq systems, including* unauthorized entry of information into NNMS; and

(5) Acceptance and settlement of each NNMS trade that NNMS identifies as having been effected by such NNMS Market Maker, or if settlement is to be made through another clearing member, guarantee of the acceptance and settlement of such identified NNMS trade by the clearing member on the regularly scheduled settlement date.

(b) Pursuant to Rule 4611(f), participation as an NNMS Market Maker is required for any Nasdaq market maker

registered to make a market in an NNM*S* security.

(c) Participation in NNMS as an NNMS Order Entry Firm requires current registration as such with the Association. Such registration shall be conditioned upon the NNMS Order Entry Firm's initial and continuing compliance with the following requirements:

(1) execution of an NNMS Participant application agreement with the Association;

(2) membership in, or access arrangement with, a clearing agency registered with the Commission which maintains facilities through which NNMS compared trades may be settled;

(3) compliance with all applicable rules and operating procedures of the Association and the Securities and Exchange Commission;

(4) maintenance of the physical security of the equipment located on the premises of the NNMS Order Entry Firm to prevent the *improper use or access to Nasdaq systems, including* unauthorized entry of information into NNMS; and

(5) acceptance and settlement of each NNMS trade that NNMS identifies as having been effected by such NNMS Order Entry Firm or if settlement is to be made through another clearing member, guarantee of the acceptance and settlement of such identified NNMS trade by the clearing member on the regularly scheduled settlement date.

(c) Participation in NNMS as an NNMS ECN requires current registration as an NASD member and shall be conditioned upon the following:

(1) the execution of an NNMS Participant application agreement with the Association.

(2) compliance with all requirements in NASD Rule 4623 and all other applicable rules and operating procedures of the Association and the Securities and Exchange Commission;

(3) membership in, or access arrangement with, a clearing agency registered with the Commission which maintains facilities through which NNMS compared trades may be settled;

(4) maintenance of the physical security of the equipment located on the premises of the NNMS ECN to prevent the improper use or access to Nasdaq systems, including unauthorized entry of information into NNMS; and

(5) acceptance and settlement of each trade that is executed through the facilities of the NNMS, or if settlement is to be made through another clearing member, guarantee of the acceptance and settlement of such identified NNMS trade by the clearing member on the regularly scheduled settlement date.

[(d)] *(e)* The registration required hereunder will apply solely to the qualification of an NNMS Participant to participate in NNMS. Such registration shall not be conditioned upon registration in any particular eligible or active NNMS securities.

[(e)] *(f)* Each NNMS Participant shall be under a continuing obligation to inform the Association of noncompliance with any of the registration requirements set forth above.

(g) The Association and its subsidiaries shall not be liable for any losses, damages, or other claims arising out of the NNMS or its use. Any losses, damages, or other claims, related to a failure of the NNMS to deliver, display, transmit, execute, compare, submit for clearance and settlement, or otherwise process an order, Quote/Order, message, or other data entered into, or created by, the NNMS shall be absorbed by the member, or the member sponsoring the customer, that entered the order, Quote/Order, message, or other data into the NNMS.

4706 Order Entry Parameters

(a) Non-Directed Orders—An NNMS Participant may enter a Non-Directed Order into the NNMS in order to access the best bid/best offer as displayed in Nasdaq. A Non-Directed Order must be a market or marketable limit order, must be a round lot or a mixed lot, and must indicate whether it is a short sale, short-sale exempt, or long sales. If after entry but before delivery, a Non-Directed Order becomes non-marketable, the system will hold the order for 90 seconds, after which the order will be returned to the NNMS participant entering the order. The system will not process a Non-Directed Order to sell short if the execution of such order would violate NASD Rule 3350. Limit orders may be entered into the system prior to the market's open, but will be held in queue, and if not marketable on the open, will be returned to the participant entering the order. Non-Directed Orders will be processed as described in Rule 4170(b). The NNMS shall not accept Non-Directed Orders that are All-or-None or have a minimum size of execution.

(b) Directed Orders—A participant may enter a Directed Order into the NNMS to access a specific Attributable Quote/Order displayed in the Nasdaq Quotation Montage. A Directed Order must be a Non-Liability Order, and as such, at the time of order entry must be designated as: (i) an ''All-or-None'' order (''AON'') that is at least one normal unit of trading (e.g., 100 shares) in excess of the Attributable Quote/Order of the Quoting Market Participant to which the order is directed; or (ii) a ''Minimum Acceptable Quantity'' order (''MAQ''), with a MAQ value of at least one normal unit of trading in excess of Attributable Quote/Order of the Quoting Market Participant to which the order is directed. A Directed Order may have a time in force of 1 to 99 minutes.

(c) Entry of Agency and Principal Orders—NNMS Participants are permitted to enter into the NNMS both agency and principal orders for delivery and execution processing.

(d) Order Size—Any round or mixed lot order up to 999,999 shares may be entered into the NNMS for normal execution processing. Odd-lot orders, and the odd-lot portion of a mixed lot, are subject to a separate execution process, as described in Rule 4710(e).

(e) Open Quotes—The NNMS will only deliver an order or an execution to a Quoting Market Participant if that participant has an open quote.

(f) Odd-Lot Orders—The system will accept odd-lot orders for processing through a separate facility. Odd-lot orders must be Non-Directed Orders, and may be market, marketable limit or limit orders. The system shall accept odd-lot orders at a rate no faster than one order per/second from any single participant. Odd-lot orders, and the odd-lot portion of a mixed lot order, shall be processed as described in Rule 4170(e).

4707 Entry and Display of Quotes/Orders

(a) Entry of Quotes/Orders—Nasdaq Quoting Market Participants may enter Quotes/Orders into the NNMS subject to the following requirements and conditions:

(1) Nasdaq Quoting Market Participants shall be permitted to transmit to the NNMS multiple principal and agency Quotes/Orders at a single as well as multiple price levels. Such Quote/Order shall indicate whether its is an ''Attributable Quote/Order'' or ''Non-Attributable Quote/Order,'' and the amount of Reserve Size (if applicable).

(2) Upon entry of a Quote/Order into the system, the NNMS shall time-stamp it, which time-stamp shall determine the ranking of the Quote/Order for purposes of processing Non-Directed Orders as described in Rule 4710(b).

(3) Consistent with Rule 4613, an NNMS Market Maker is obligated to maintain a two-sided Attributable Quote/Order (other that an Agency Quote) at all times, for at least one normal unit of trading.

(4) Nasdaq Quoting Market Participants may continue to transmit to

the NNMS only their best bid and best offer Attributable Quotes/Orders. Notwithstanding NASD Rule 4613 and subparagraph (a)(1) of this rule, nothing in these rules shall require a Nasdaq Quoting Market Participant to transmit to the NNMS multiple Quotes/Orders.

(b) Display of Quotes/Orders in Nasdaq—The NNMS will display a Nasdaq Quoting Market Participant's Quotes/Orders as follows:

(1) Attributable Quotes/Orders—The price and size of a Nasdaq Quoting Market Participant's best priced Attributable Quote/Order on both the bid and offer side of the market will be displayed in the Nasdaq Quotation Montage under the Nasdaq Quoting Market Participant's MMID, and also will be displayed in the Nasdaq Order Display Facility as part of the aggregate trading interest at a particular price when the price of such Attributable Quote/Order falls within the best three price levels in Nasdaq on either side of the market. Upon execution or cancellation of the Nasdaq Quoting Market Participant's best-priced Attributable Quote/Order on a particular side of the market, the NNMS will automatically display the participant's next best Attributable Quote/Order on that side of the market.

(2) Non-Attributable Quotes/Orders—The price and size of a Nasdaq Quoting Market Participant's Non-Attributable Quote/Order on both the bid and offer side of the market will be displayed in the Nasdaq Order Display Facility as part of the aggregate trading interest at a particular price when the price of such Non-Attributable Quote/Order falls within the best three price levels in Nasdaq on either side of the market. A Non-Attributable Order will not be displayed in the Nasdaq Quotation Montage under the Nasdaq Quoting Market Participant's MMID. Non-Attributable Quotes/Orders that are the best priced Non-Attributable bids or offers in the system will be displayed in the Nasdaq Quotation Montage under an anonymous MMID, which shall represent and reflect the aggregate size of all Non-Attributable Quotes/Orders in Nasdaq at that price level. Upon execution or cancellation of a Nasdaq Quoting Market Participant's Non-Attributable Quote/Order, the NNMS will automatically display a Non-Attributable Quote/Order in the Nasdaq Order Display Facility (consistent with the parameters described above) if it falls within the is within the best three price levels in Nasdaq on either side of the market.

(c) Reserve Size—Reserve Size shall not be displayed in Nasdaq, but shall be electronically accessible as described in Rule 4710(b).

(d) Summary Scan—*The ''Summary Scan'' functionality, which is a query-only non-dynamic functionality, displays without attribution to Quoting Market Participants' MMIDs the aggregate size of Attributable and Non-Attributable Quotes/Orders for all levels (on both the bid and offer side of the market) below the three price levels displayed in the Nasdaq Order Display Facility.*

4710. Participant Obligations in NNMS

(a) Registration

Upon the effectiveness of registration as a NNMS Market Maker or, NNMS ECN, NNMS Order Entry Firm, the NNMS participant may commence activity within NNMS for exposure to orders or entry of orders, as applicable. The operating hours of NNMS may be established as appropriate by the Association. The extent of participation in Nasdaq by an NNMS Order Entry Firm shall be determined solely by the firm in the exercise of its ability to enter orders into Nasdaq.

(b) [Market Makers] *Obligations to and Processing of Non-Directed Orders*

(1) [An NNMS Market Maker] *General Provisions—A Quoting Market Participant* in an NNMS Security shall be subject to the following requirements *for Non-Directed Orders:*

(A) For each NNM security in which it is registered [as an NNMS Market Maker, the market maker], *a Quoting Market Participant* must *accept and* execute individual *Non-Directed* orders against its quotation including its Agency Quote (if applicable), in an amount equal to or smaller than the combination of the Displayed [quotation] *Quote/Order* and Reserve Size (*if applicable*) of such [quotation(s)] *Quote/Order, when the Quoting Market Participant is at the best bid/best offer in Nasdaq.* [For purposes of this rule, the term ''reserved size'' shall mean that a NNMS Market Maker or a customer thereof wishes to display publicly part of the full size of its order or interest with the remainder held in reserve on an undisplayed basis to be displayed in whole or in part as the displayed part is executed. To utilize the reserve size function, a minimum of 1,000 shares must initially be displayed in the market maker's quote (including the Agency Quote), and the quotation must be refreshed to 1,000 shares consistent with subparagraph (b)(2)(A) of this rule.] *Quoting Market Participants shall participate in the NNMS as follows:*

(i) NNMS Market Makers and NNMS Auto-Ex ECNs shall participate in the automatic-execution functionality of the NNMS, and shall accept the delivery of an execution up to the size of the participant's Displayed Quote/Order and Reserve Size.

(ii) NNMS Order-Delivery ECNs shall participate in the order-delivery functionality of the NNMS, and shall accept the delivery of an order up to the size of the NNMS Order-Delivery ECN's Displayed Quote/Order and Reserve Size. The NNMS Order-Delivery ECN shall be required to execute such order in a manner consistent with the Firm Quote Rule.

(iii) UTP Exchanges shall participate in the NNMS as described in subparagraph (f) of this rule and as otherwise described in the NNMS rules and the UTP Plan.

(B) Processing of Non-Directed Orders—Upon entry of a Non-Directed Order into the system, the NNMS will ascertain who the next Quoting Market Participant in queue to receive an order is and shall deliver an execution to NNMS Quoting Market Participants that participate in the automatic-execution functionality of the system, or shall deliver a Liability Order to Quoting Market Participants that participate in the order-delivery functionality of the system. Non-Directed Orders entered into the NNMS system shall be *delivered to or* automatically executed against *Quoting Market Participants'* Displayed [quotations] *Orders/Quotes* and Reserve Size, including Agency Quotes (if applicable), in price[/] *and then* time priority*, subject to the following processing.* For *Quotes/Orders* [quotations] at the same price level, the NNMS system will *attempt to access interest in the system in the following priority and order:*

(i) Displayed Quotes/Orders of NNMS Market Makers, NNMS ECNs that do not charge a quote-access fee to non-subscribers, and Non-Attributable agency quotes/orders of UTP Exchanges (as permitted by subparagraph (f) of this rule), in time priority between such participants;

(ii) Displayed Quotes/Orders of NNMS ECNs that charge a quote-access fee to non-subscribers, in time priority between such participants;

(iii) Reserve Size of NNMS Market Makers and NNMS ECNs that do not charge a quote-access fee to non-subscribers, in time priority between such participants;

(iv) Reserve Size of NNMS ECNs that charge a quote-access fee to non-subscriber, in time priority between such participants; and

(v) Principal Quotes/Orders of UTP Exchanges, in time priority between such participants[yield priority to all Displayed quotations over reserve size, so that the system will execute against Displayed quotations in time priority and then against reserve size in time priority].

The following exceptions shall apply to the above execution parameters. First, if a Nasdaq Quoting Market Participant enters a Non-Directed Order into the system, before sending such Non-Directed Order to the next Quoting Market Participants in queue, the NNMS will first attempt to match off the order against the Nasdaq Quoting Market Participant's own Quote/Order if the participant is at the best bid/best offer in Nasdaq. Second, if Displayed Quotes/Orders at a price level are simultaneously exhausted and there is Reserve Size available at that price, when Displayed Quotes/Orders are refreshed from Reserve Size the system will establish order-receipt priority for these refreshed Quotes/Orders based on the size of a participant's Displayed Quote/Order and then based on the original order-entry time for same-sized refreshed Displayed Quotes/Orders.

(C) Decrementation Procedures—The size of a [displayed quotation] *Quote/Order displayed in the Nasdaq Order Display Facility and/or the Nasdaq Quotation Montage* will be decremented upon the *delivery of a Liability Order or the delivery of an* execution of a[n NNMS] *Non-Directed* order in an amount equal to [or greater than one normal unit of trading] *the system-delivered order or execution*; provided, however, that [the execution of] *if* an NNMS order that is a mixed lot (*i.e.,* an order that is for more than a normal unit of trading but not a multiple thereof)*, the system will only deliver a Liability Order or an execution for the number of round lots contained in the mixed lot order, and* will only decrement [a displayed quotation's] *the* size of a *Displayed Quote/Order* by the number of shares represented by the number of round lots contained in the mixed lot order. *The odd-lot portion of the mixed lot will be executed at the same price against the next NNMS Market Maker in the odd-lot rotation, as described in subparagraph (e) of this rule.*

(i) If an NNMS Auto-Ex ECN has its bid or offer Attributable Quote/Order and Reserve Size decremented to zero without transmission of another Attributable Quote/Order to Nasdaq, the system will zero out the side of the quote that is exhausted. If both the bid and offer are decremented to zero without transmission of a revised Attributable Quote/Order, the ECN will be placed into an excused withdrawal state until the ECN transmits to Nasdaq a revised Attributable Quote/Order.

(ii) If an NNMS Order-Delivery ECN declines or partially fills a Non-Directed Order without immediately transmitting to Nasdaq a revised Attributable Quote/Order that is at a price inferior to the previous price, or if an NNMS Order-Delivery ECN fails to respond in any manner within 5 seconds of order delivery, the system will cancel the delivered order and send the order (or remaining portion thereof) back into the system for immediate delivery to the next Quoting Market Participant in queue. The system then will zero out the ECN's Quote/Orders at that price level on that side of the market, and the ECN's quote on that side of the market will remain at zero until the ECN transmits to Nasdaq a revised Attributable Quote/Order. If both the bid and offer are zeroed out, the ECN will be placed into an excused withdrawal state until the ECN transmits to Nasdaq a revised Attributable Quote/Order.

(iii) If an NNMS ECN's Quote/Order has been zeroed out or if the ECN has been placed into excused withdrawal as described in subparagraphs (b)(1)(C)(i) and (ii) of this rule, the system will continue to access the ECN's Non-Attributable Quotes/Orders that are in the NNMS, as described in Rule 4707 and subparagraph (b) of this rule.

(D) *Interval Delay*—After the NNMS system has executed *all Displayed Quotes/Orders and Reserve Size interest at a price level* [an order against a market maker's displayed quote and reserve size (if applicable), that market maker shall not be required to execute another order at its bid or offer in the same security until a predetermined time period has elapsed from the time the order was executed, as measured by the time of execution in the Nasdaq system. This period of time shall initially be established as 5 seconds, but may be modified upon Commission approval and appropriate notification to NNMS participants.]*, the following will occur:*

(i) If the NNMS system cannot execute in full all shares of a Non-Directed Order against the Displayed Quotes/Orders and Reserve Size interest at the initial price level and a price two price levels (i.e., two minimum trading increments) away, the system will pause for 5 seconds before accessing the interest at the next price level in the system; provided, however, that once the Non-Directed order can be filled in full within two price levels, there will be no interval delay between price levels and the system will execute the remainder of order in full; or

(ii) If the Non-Directed Orders is specially designated by the entering market participant as a ''sweep order,'' the system will execute against all Displayed Quotes/Orders and Reserve Size at the initial price level and the two price levels being displayed in the NODF without pausing between the displayed price levels. Thereafter, the system will pause 5 seconds before moving to the next price level, until the Non-Directed Order is executed in full.

The interval delay described in this subparagraph may be modified upon Commission approval and appropriate notification to NNMS Participants.

(E) All entries in NNMS shall be made in accordance with the requirements set forth in the NNMS User Guide, as published from time to time by Nasdaq.

(2) Refresh Functionality

(A) Reserve Size Refresh—Once *a Nasdaq Quoting Market Participant's* [an NNMS Market Maker's displayed quotation] *Displayed Quote/Order* size on either side of the market in the security has been decremented to zero due to NNMS [executions] processing Nasdaq will refresh the [market maker's] displayed size out of Reserve Size to a size-level designated by the *Nasdaq Quoting Market Participant* [NNMS Market Maker], or in the absence of such size-level designation, to the automatic refresh size. [If the market maker is using the reserve size function for its proprietary quote or Agency Quote the NNMS Market Maker must refresh to a minimum of 1,000 shares, consistent with subparagraph (b)(1)(A) of this rule]. *To utilize the Reserve Size functionality, a minimum of 1,000 shares must initially be displayed in the Nasdaq Quoting Market Participant's Displayed Quote/Order, and the Displayed Quote/Order must be refreshed to at least 1,000 shares. This functionality will not be available for use by UTP Exchanges.*

(B) [Auto]Quote Refresh *(''QR'')*—Once an NNMS Market Maker's Displayed *Quote/Order* [quotation] size and Reserve Size on either side of the market in the security has been decremented to zero due to NNMS executions, the NNMS Market Maker may elect to have The Nasdaq Stock Market refresh the market maker's quotation as follows:

(i) Nasdaq will refresh the market maker's quotation price on the bid or offer side of the market, whichever is decremented to zero, by an *price* interval designated by the NNMS Market Maker; and

(ii) Nasdaq will refresh the market maker's displayed size to a level

designated by the NNMS Market Maker, or in the absence of such size level designation, to the automatic refresh size.

(iii) This functionality shall produce an Attributable Quote/Order. In addition, if an NNMS Market Maker is utilizing the QR functionality but has an Attributable Quote/Order in the system that is priced at or better than the quote that would be created by the QR, the NNMS will display the Attributable Quote/Order, not the QR-produced quote.

(iv) An NNMS Market Maker's Agency Quote shall not be subject to the functionality described in this subparagraph, nor shall this functionality be available to Quoting Market Participants other than NNMS Market Makers.

(3) *Entry of Locking/Crossing Quotes/Orders* [Except as otherwise provided in subparagraph (b)(10) of this rule, at any time a locked or crossed market, as defined in Rule 4613(e), exists for an NNMS security, a market maker with a quotation for that security (including an Agency Quote) that is causing the locked or crossed market may have orders representing shares equal to the size of the bid or offer that is locked or crossed executed by the NNMS system against the market maker's quote (including an Agency Quote) at the quoted price if that price is the best price. During locked or crossed markets, the NNMS system will execute orders against those market makers that are locked or crossed in predetermined time intervals. This period of time initially shall be established as five (5) seconds, but may be modified upon approval by the Commission and appropriate notification to NNMS participants.] *The system shall process locking/crossing Quotes/Orders as follows:*

(A) Locked/Crossed Quotes/Orders During Market Hours—If during market hours, a Quoting Market Participant enters into the NNMS a Quote/Order that will lock/cross the market (as defined in NASD Rule 4613(e)), the system will not display the Quote/Order as a quote in Nasdaq; instead the system will treat the Quote/Order as a marketable limit order and enter it into the system as a Non-Directed Order for processing as follows:

(i) For locked-market situations, the order will be routed to the Quoting Market Participant next in queue whom would be locked, and the order will be executed at the lock price;

(ii) For crossed-market situations, the order will be entered into the system and routed to the next Quoting Market Participants in queue who would be crossed, and the order will be executed at the price of the Displayed Quote/Order that would have been crossed.

Once the lock/cross is cleared, if the participant's order is not completely filled, the system will reformat the order and display it in Nasdaq (consistent with the parameters of the Quote/Order) as a Quote/Order on behalf of the entering Quoting Market Participant.

(B) Locked/Crossed Quotes/Orders at the Open—If the market is locked or crossed at 9:30 a.m., Eastern Time, the NNMS will clear the locked and/or crossed Quotes/Order by executing the oldest bid(offer) against the oldest offer(bid) against which it is marketable at the price of the oldest Quote/Order. Nasdaq then will begin processing Non-Directed Orders as described in subparagraph (b) of this rule.

[(4) For each NNM security in which a market maker is registered, the market maker may enter orders into the NNMS for its proprietary account as well as on an agency or riskless principal basis.]

[(5)] *(4)* An NNMS Market Maker may terminate its obligation by keyboard withdrawal (or its equivalent) from NNMS at any time. However, the market maker has the specific obligation to monitor its status in NNMS to assure that a withdrawal has in fact occurred. Any transaction occurring prior to the effectiveness of the withdrawal shall remain the responsibility of the market maker.

[(6)] *(5)* [An NNMS Market Maker will be suspended from NNMS if its bid or offer has been decremented to zero due to NNMS executions and will be permitted a standard grace period, the duration of which will be established and published by the Association, within which to take action to restore a two-sided quotation in the security for at least one normal unit of trading. An NNMS Market Maker that fails to reenter a two-sided quotation within the allotted time will be deemed to have withdrawn as a market maker (''Timed Out of the Box''). Except as provided below in this subparagraph and in subparagraph (b)(7) of this rule, an NNMS Market Maker that withdraws in an NNM security may not re-register as a market maker in that security for twenty (20) business days.] *If an NNMS Market Maker's Attributable Quote/Order is reduced to zero on one side of the market due to NNMS executions, the NNMS will close the Market Maker's quote in the NNMS with respect to both sides of its market, and the NNMS Market Maker will be permitted a standard grace period of three minutes within which to take action to restore its Attributable Quote/Order, if the market maker has not authorized use of the QR functionality or does not otherwise have an Attributable Quote/Order on both sides of the market in the system. An NNMS Market Maker that fails to transmit an Attributable Quote/Order in a security within the allotted time will have its quotation restored by the system at the lowest bid price and the highest offer price in that security. Except as provided in subparagraph (b)(6) of this rule, an NNMS Market Maker that withdraws from a security may not re-register in the system as a market maker in that security for twenty (20) business days. The requirements of this subparagraph shall not apply to a market maker's Agency Quote.*

[(A) Notwithstanding the above, a market maker can be reinstated if:

(i) the market maker makes a request for reinstatement to Nasdaq Market Operations as soon as practicable under the circumstances, but within at least one hour of having been Timed Out of the Box, and immediately thereafter provides written notification of the reinstatement request;

(ii) it was a Primary Market Maker at the time it was Timed Out of the Box;

(iii) the market maker's firm would not exceed the following reinstatement limitations:

a. for firms that simultaneously made markets in less than 250 stocks during the previous calendar year, the firm can receive no more than four (4) reinstatements per year;

b. for firms that simultaneously made markets in 250 or more but less than 500 stocks during the previous calendar year, the firm can receive no more than six (6) reinstatements per year;

c. for firms that simultaneously made markets in 500 or more stocks during the previous calendar year, the firm can receive no more than twelve (12) reinstatements per year; and

(iv) the designated Nasdaq officer makes a determination that the withdrawal was not an attempt by the market maker to avoid its obligation to make a continuous two-sided market. In making this determination, the designated Nasdaq officer will consider, among other things:

a. whether the market conditions in the issue included unusual volatility or other unusual activity, and/or the market conditions in other issues in which the market maker made a market at the time the firm was Timed Out of the Box;

b. the frequency with which the firm has been Timed Out of the Box in the past;

c. procedures the firm has adopted to avoid being inadvertently Timed Out of the Box; and

d. the length of time before the market maker sought reinstatement.

(B) If a market maker has exhausted the reinstatement limitations in subparagraph[s] (b)(6)(A)(iii) above, the designated Nasdaq officer may grant a reinstatement request if he or she finds that such reinstatement is necessary for the protection of investors or the maintenance of fair and orderly markets and determines that the withdrawal was not an attempt by the market maker to avoid its obligation to make a continuous two-sided market in instances where:

(i) a member firm experiences a documented problem or failure impacting the operation or utilization of any automated system operated by or on behalf of the firm (chronic system failures within the control of the member will not constitute a problem or failure impacting a firm's automated system) or involving an automated system operated by Nasdaq;

(ii) the market maker is a manager or co-manager of a secondary offering from the time the secondary offering is announced until ten days after the offering is complete; or

(iii) absent the reinstatement, the number of market makers in a particular issue is equal to two (2) or less or has otherwise declined by 50% or more from the number that existed at the end of the prior calendar quarter, except that if a market maker has a regular pattern of being frequently Timed Out of the Box, it may not be reinstated notwithstanding the number of market makers in the issue.

[(7)] *(6)* Notwithstanding the provisions of subparagraph [(6)] *(5)* above:

(A) an NNMS Market Maker that obtains an excused withdrawal pursuant to Rule 4619 prior to withdrawing from NNMS may reenter NNMS according to the conditions of its withdrawal; and

(B) a NNMS Market Maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency, and is thereby withdrawn from participation in ACT and NNMS for NNM securities, may reenter NNMS after a clearing arrangement has been reestablished and the market maker has compiled with ACT participant requirements. Provided however, that if the Association finds that the ACT market maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused.

[(8)] *(7)* The Market Operations Review Committee shall have jurisdiction over proceedings brought by market makers seeking review of their removal from NNMS pursuant to subparagraphs (b)*(5)*[(6) or (b)(7)] of this rule.

[(9)] *(8)* In the event that a malfunction in the [NNMS Market Maker's] *Quoting Market Participant's* equipment occurs, rendering [on-line] communications with NNMS inoperable, the [NNMS Market Maker] *Quoting Market Participant* is obligated to immediately contact Nasdaq Market Operations by telephone to request withdrawal from NNMS *and a closed-quote status,* and *if the Quoting Market Participants is an NNMS Market Maker* an excused withdrawal from Nasdaq[. Such request must be made] pursuant to Rule 4619. If withdrawal is granted, Nasdaq Market Operations personnel will enter the withdrawal notification into NNMS from a supervisory terminal *and shall close the quote.* Such manual intervention, however, will take a certain period of time for completion and, *unless otherwise permitted by the Association pursuant to its authority under Rule 11890,* the [NNMS Market Maker] *Quoting Market Participants* will continue to be obligated for any transaction executed prior to the effectiveness of [his] the withdrawal *and closed-quote status.*

[(10) In the event that there are no NNMS Market Makers at the best bid (offer) disseminated by Nasdaq, market orders to sell (buy) entered into NNMS will be held in queue until executable, or until 90 seconds has elapsed, after which such orders will be rejected and returned to their respective order entry firms.]

(c) Directed Order Processing—A participant may enter a directed order into the NNMS to access a specific Quote/Order in the Nasdaq Quotation Montage and to begin the negotiation process with a particular Quoting Market Participant. The system will deliver an order to the Quoting Market Participant designated as the recipient of the order. Upon delivery, the Quoting Market Participants shall owe no liability under the Firm Quote Rule to that order and the system will not decrement the receiving Quoting Market Participant's Quote/Order.

[(c)] *(d)* NNMS Order Entry Firms

All entries in NNMS shall be made in accordance with the procedures and requirements set forth in the NNMS User Guide. Orders may be entered in NNMS by the NNMS Order Entry Firm through either its Nasdaq terminal or computer interface. The system will transmit to the firm on the terminal screen and printer, if requested, or through the computer interface, as applicable, an execution report generated immediately following the execution.

[(d) Order Entry Parameters

(1) NNMS will only accept market and marketable limit orders for execution and will not accept market or marketable limit orders designated as All-or-None (''AON'') orders; provided, however, that NNMS will not accept any limit orders, marketable or unmarketable, prior to 9:30 a.m., Eastern Time. For purposes of this subparagraph, an AON order is an order for an amount of securities equal to the size of the order and no less.

(2) Additionally, the NNMS will only accept orders that are unpreferenced, thereby resulting in execution in rotation against NNMS Market Makers, and will not accept preferenced orders.

(3) NNMS will not accept orders that exceed 9,900 shares, and no participant in the NNMS system shall enter an order into the system that exceeds 9,900.]

[(e) Electronic Communication Networks

An Electronic Communications Networks, as defined in SEC Rule 11Ac1–1(a)(8), may participate in the NNMS System if it complies with NASD Rule 4623 and executes with the Association a Nasdaq Workstation Subscriber Agreement, as amended, for ECNs.]

(e) Odd-Lot Processing

(1) Participation in Odd-Lot Process—All NNMS Market Makers may participate in the Odd-Lot Process for each security in which the market maker is registered.

(2) Execution Process

(a) Odd-lot orders will be executed against an NNMS Market Maker only if it has an odd-lot exposure limit in an amount that would fill the odd-lot order. A NNMS Market Maker may, on a security-by-security basis, set an odd-lot exposure limit from 0 to 999,999 shares.

(b) An odd-lot order shall be executed automatically against the next available NNMS Market Maker when the odd-lot order becomes executable (i.e., when the best price in Nasdaq moves to the price of the odd-lot limit order). Such odd-lot orders will execute at the best price available in the market, in rotation against NNMS Market Makers who have an exposure limit that would fill the odd-lot order.

(c) For odd-lots that are part of a mixed lot, once the round-lot portion is executed, the odd-lot portion will be executed at the round-lot price against the next NNMS Market Maker in rotation (as described in subparagraph (e)(2)(b) of this rule) even if the round-

lot price is no longer the best price in Nasdaq.

(d) Odd-lot executions will decrement the odd-lot exposure limit of an NNMS Market Maker but will not decrement the size of NNMS Market Maker's Displayed Quote/Order.

(e) After the NNMS system has executed an odd-lot against an NNMS Market Maker, the system will not deliver another odd-lot order against the same market maker until a predetermined time period has elapsed from the time the last execution was delivered, as measured by the time of execution in the Nasdaq system. This period of time shall initially be established as 5 seconds, but may be increased upon Commission approval and appropriate notification to NNMS Participants or may be decreased to an amount less than five seconds by the NNMS Market Maker.

(f) UTP Exchanges

Unless specified otherwise in these rules or in the Nasdaq UTP Plan, UTP Exchanges shall participate in the NNMS as follows:

(1) Order Entry—UTP Exchanges shall be permitted to enter Directed and Non-Directed orders into the system subject to the conditions and requirements of Rules 4706. Directed and Non-Directed Orders entered by UTP Exchanges shall be processed (unless otherwise specified) as described subparagraphs (b) and (c) of this rule.

(2) Display of UTP Exchange Quotes/Orders in Nasdaq

(a) *UTP Exchange Principal Orders/Quotes—UTP Exchanges shall be permitted to transmit to the NNMS a single bid Quote/Order and a single offer Quote/Order. Upon transmission of the Quote/Order to Nasdaq, the system shall time stamp the Quote/Order, which time stamp shall determine the ranking of the Quote/Order for purposes of processing Non-Directed Orders. The NNMS shall display the best bid and best offer Quote/Order transmitted to Nasdaq by a UTP Exchange in the Nasdaq Quotation Montage under the MMID for the UTP Exchange, and shall also display such Quote/Order in the Nasdaq Order Display Facility as part of the aggregate trading interest when the UTP Exchange's best bid/best offer Quote/Order falls within the best three price levels in Nasdaq on either side of the market.*

(b) UTP Exchange Agency Quotes/Orders—A UTP Exchange may transmit to the NNMS orders that meet the following requirements: are for the benefit of the account of a natural person executing securities transactions with or through or receiving investment banking services from a broker/dealer; are not for the benefit of a broker and/or dealer; and are designated as Non-Attributable Quotes/Orders (''UTP Agency Order/Quote''). Upon transmission of a UTP Agency Quote/Order to Nasdaq, the system shall time stamp the order, which time stamp shall determine the ranking of these Quote/Order for purposes of processing Non-Directed Orders, as described in subparagraph (b) of this rule. A UTP Agency Quote/Order shall not be displayed in the Nasdaq Quotation Montage under the MMID for the UTP Exchange. Rather, UTP Agency Quotes/Orders shall be reflected in the Nasdaq Order Display Facility and Nasdaq Quotation Montage in the same manner in which Non-Attributable Quotes/Orders from Nasdaq Quoting Market Participants are reflected in Nasdaq, as described in Rule 4707(b)(2).

(3) Non-Directed Order Processing—UTP Exchanges shall participate in the automatic-execution functionality of the system, shall accept an execution of an order up to the size of the UTP Exchange's displayed Quote/Order, and shall otherwise participate in the Non-Directed Order processing described in subparagraph (b) of this rule. UTP Exchanges shall be subject to the decrementation procedures described in subparagraph (b)(1)(C) of this rule.

(4) *Directed Order Processing—UTP Exchanges shall participate in the Directed Order processing as described in subparagraph (c) of this rule.*

4711–4714—No Change

4718. Termination of System Service

The Association or its subsidiaries may, upon notice, terminate System service to a participant in the event that a participant fails to abide by any of the rules or operating procedures of the System or any other relevant rule or requirement, or fails to pay promptly for services rendered.

* * * * *

4750. SMALLCAP SMALL ORDER EXECUTION SYSTEM (SOES)

4751–4757—Deleted

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD and Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD and Nasdaq have prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In the original filing, the NASD and Nasdaq proposed enhancing the Nasdaq quotation montage and Nasdaq's main trading platform—the Nasdaq National Market System (''NNMS'').[7] In particular, Nasdaq proposed to: (1) Add a new display to the Nasdaq Workstation II (''NWII'') called the Nasdaq Order Display Facility (''NODF''), which would show the best bid/best offer in Nasdaq and two price levels away, accompanied by the aggregate size at each price level of the ''displayed'' trading interest of market makers, electronic communication networks (''ECN''), and UTP Exchanges; (2) make substantial enhancements to the NNMS, which would improve the efficiency of the current trading platform; (3) allow market makers and ECNs to designate orders for ''display'' in Nasdaq on either an attributable (*i.e., not* anonymous) or non-attributable (*i.e.*, anonymous) basis; (4) establish the Order Collector Facility (''OCF'') as part of the NNMS, which would allow Nasdaq market makers and ECNs to give the Nasdaq system multiple quotes/orders at a single as well as multiple price levels, which would be displayed in the Nasdaq Quotation Montage and the NODF, consistent with an order's parameters; (5) establish the OCF as a single point of order entry and single point of delivery of liability orders and executions; and (6) create an odd-lot processing facility in Nasdaq.

The Commission received approximately 21 comment letters.[8] In

[7] *See* note 3, *above*.

[8] *See* letters from: Investment Company Institute, dated January 11, 2000 (''ICI Letter''); Chicago Stock Exchange, dated January 11, 2000 (''CHX Letter''); Bloomberg, dated January 11, 2000 (''Bloomberg Letter''); Merrill Lynch, dated January 20, 2000 (''Merrill Letter''); Morgan Stanley Dean Witter, dated February 3, 2000 (''Morgan Stanley Letter''); Salomon Smith Barney, dated February 3, 2000 (''Salomon Letter''); Goldman, Sachs & Co., dated February 15, 2000 (''Goldman Letter''); ITG, dated January 10, 2000 (''ITG Letter''); BNY ESI & Co., dated January 11, 2000 (''BNY Letter''); Heartland Securities, Corp. dated December 17, 1999 (''Heartland Letter''); Automated Trading Desk, dated December 26, 1999 (''Automated Trading Desk Letter''); The Security Traders Association of New York, dated December 22, 1999 (''STANY Letter''); NexTrade Holdings, Inc., undated (''NexTrade Letter); Thelen Reid & Priest, LLP on behalf of the Electronic Traders Association, dated

Continued

the NASD's and Nasdaq's view, the overwhelming majority of these comments were extremely positive. However, some commenters stated that notwithstanding their overall support, there were aspects of the proposal that raised concerns. A few commenters opposed the proposal in its entirety. In response to the commenters, the NASD and Nasdaq propose to amend the following aspects of the proposal: (1) Odd-lot processing; (2) five-second interval delay between price levels; (3) the order execution algorithm as it relates to ECNs and UTP Exchanges, and displayed size refreshed from reserve; and (4) UTP Exchange participation in the system. The NASD and Nasdaq are working to address concerns regarding Nasdaq technology, competition, system roll-out, and any other relevant comments.

A. Odd-Lot Processing

A number of the commenters raised concerns regarding the odd-lot process. As originally proposed, all market makers in a stock would execute odd-lots entered into the system at the inside bid/offer, in a ''round-robin'' rotation, regardless of whether the market maker is at the inside bid/offer. Odd-lot executions would not decrement or be driven off a market maker's quoted size in the NODF or the Nasdaq Quote Montage. One commenter stated that it would be unfair to execute odd-lots against dealers without current trading interest in a particular security.[9] Various commenters stated that the odd-lot process could be ''gamed'' by splitting up large round lot orders into multiple odd-lot orders in order to jump the processing queue for round lots (*e.g.,* a 1,000 share order would be split up into 10 orders for 99 shares) or to access size greater than the depth at the inside market. Commenters also thought that the originally proposed odd-lot process could create certain arbitrage opportunities.[10]

In light of the concerns raised in comment letters, the NASD and Nasdaq propose to amend the odd-lot process to: (1) Add an ''odd-lot exposure limit'' for market makers; (2) provide a market maker interval delay between odd-lot executions against the same market maker; and (3) establish an odd-lot order entry parameter of one order per second, per firm. While odd-lots would still be processed in a round-robin fashion against a market maker even if it is not at the inside, odd-lots would be processed only against those market makers who have an available exposure limit.

A market maker could set its exposure limit, on a security-by-security basis, from 0 to 999,999 shares. The system would not execute an odd-lot order against a market maker unless the market maker had a sufficient exposure limit to fill the odd-lot order. If no market maker had an odd-lot exposure, the system would suspend the processing of odd-lots until the exposure limit was refreshed. Odd-lot executions would decrement the exposure limit (but not the quote/order sizes displayed in the Nasdaq Quotation Montage and/or NODF) by the size of the odd-lot order. When a market maker's odd-lot exposure limit was reduced to zero, the participant would be taken out of the odd-lot rotation unless, and until, the market maker set a new exposure limit.

Next, there also would be a maximum five-second interval delay between executions against the same market maker in the same security. Once an odd-lot is executed against a market maker, if the market maker had an available exposure limit there would be a five-second interval delay before the market maker was subject to another odd-lot execution. During the five-second interval delay, the market maker could adjust its odd-lot exposure limit up or down. A market maker would also be able to adjust the interval-delay time down (*i.e.*, down to 0–4 seconds), so that it receives executions more frequently than five seconds apart. Lastly, the system would be programmed to accept odd-lot orders at a rate of, no faster than, one order per second from any single NNMS participant. This would prevent a single firm from flooding the system with odd-lots.[11]

B. Five-Second Interval Delay Between Price Levels

As originally proposed, if all trading interest is exhausted at a particular price level, there would be a five-second interval delay before the system would attempt to execute an order at a new price level (*e.g.,* the next tick down). Commenters believed the proposed five-second interval delay between price levels was too long and/or unnecessary for liquid stocks and could cause queuing of orders within the system.[12] The rationale underlying the five-second interval delay was the concern that in the present high-speed trading environment it is beneficial to allow sufficient time for market makers to automatically update their quotes to ensure that a series of orders do not exhaust the interest at or near the inside, resulting in a partial execution at a significantly inferior price. Nevertheless, the NASD and Nasdaq recognize that the concerns raised by commenters have merit. In response, the NASD and Nasdaq propose that the system have a more limited interval delay parameter, as follows.

First, the system would limit the five-second interval delay to situations where an order is partially filled at one price level, and the remaining shares of the order would not be filled in full at the next two trading increments (''ticks'') away (*i.e.,* within ⅛ of a point for stocks currently priced above $10, or within 10 cents in a decimals environment with a five-cent minimum trading increment). In these situations, there would be a five-second interval delay or pause before the order moved to the next increment away from the original increment. At any point after a delay, if the remainder of the order could be filled in full within two ticks, there would be no further delays and the order would be filled completely. In other words, if a large market order

January 11, 2000 (ETA Letter); USbancorp, Piper Jaffray, dated December 30, 1999 (''USbancorp Letter''); Island, dated January 11, 2000 (''Island Letter''); Securities Traders Association, dated December 22, 1999 (''STA Letter''); American Century Investment Management, dated January 10, 2000 (''American Century Letter''): Instinet, dated February 16, 2000 (''Instinet Letter''); Franklin Portfolio on behalf of the Nasdaq Institutional Trader's Advisory Council (''ITAC Letter''); and Mount Pleasant Brokerage date December 27, 1999 (''Mount Pleasant Letter'').

[9] *See e.g.,* STANY Letter; STA Letter; Morgan Stanley Letter; Salomon Smith Barney Letter; Merrill Lynch Letter; and USbancorp.

[10] In the NNMS (which Nasdaq expects will be implemented on May 15, 2000), odd-lots are processed against only those market makers who are at the inside bid or offer, in round-robin fashion. An odd-lot execution does not decrement a market maker's quote. However, if a market maker has reserve size in the system, an odd-lot execution will decrement the reserve size held in Nasdaq. The system cannot decrement displayed quotes in Nasdaq, because Nasdaq only can display round lots (*i.e.,* 100 shares or multiples thereof). Since reserve size is not displayed in the Nasdaq Quotation Montage, but rather is held within the system, it is possible to decrement reserve size by the amount of an odd-lot execution.

[11] Some commenters suggested that the system decrement a market maker's quote (as displayed in the Nasdaq Quotation Montage and the NODF) as a method of addressing the concerns with the odd-lot processing. Nasdaq considered this approach but determined that it would be extremely complex and difficult to approach from a systems perspective. For example, because Nasdaq only displays quotations in round lots, the system could not decrement a quote to reflect an odd-lot execution until there were enough odd-lot executions against the same quote to equal one round lot. Accordingly, Nasdaq has proposed the alternative outlined above, as it addresses the concerns raised by commenters and also is technologically more feasible.

[12] *See e.g.,* STA Letter; STANY Letter; American Century Letter; ICI Letter; ETA Letter; USbancorp Letter; Salomon Smith Barney Letter; and Merrill Lynch Letter.

moves through many prices, it would delay before every price move except for the last two. Additionally, orders would be processed in time sequence. Thus, if an order was in interval delay because it met the above parameters, the orders behind the ''interval-delay order'' would not jump the queue.

For example, assume that at 10:00:01 a.m., the inside market in Stock G is $104.50 to $104.55. At 10:00:02 a.m., Order 1, which is a market sell order for 2,000 shares, is entered into the system. At 10:00:03 a.m., Order 2, which is a market sell order for 5,000 shares is entered into the system, and one second later Order 3, also a 5,000 share market sell order, is entered into the system. Thus, the following quotes/orders are being displayed in the system.

MMA $104.50–100 (total, including reserve)
ECN1 $104.45–1,900 (total, including reserve)
MMC $104.40–1,000 (total, including reserve)
MMD $104.35–1,000 (total, including reserve)
MME $104.30–1,000 (total, including reserve)
MMF $104.25–2,000 (total, including reserve)

As amended, the first 100 shares for Order 1 executes against MMA at $104.50, and since there would be sufficient size at $104.45 to satisfy the remaining shares 1,900 shares of the order, the remaining shares executes against ECN1 at $104.45, with no delay.[13] As to Order 2, since it could not be filled in full at the $104.40 price level or within two ticks away, 1,000 shares would execute at $104.40 and there would be a five-second interval delay between each price level until the order can be filled within two ticks. Note that during the interim, Order 3 would remain in queue behind Order 2, until Order 2 is executed in full.

Second, a market participant would be able to set a parameter on an individual order so that the order would trade through all interest (*i.e.,* displayed and reserve interest) at the three price levels being displayed in the NODF at the time of entry, without pausing five seconds in between each displayed price (''Sweep Order''). However, a Sweep Order may only execute through a maximum of the two price levels displayed in the NODF (and into the third price level). If the Sweep Order were not executed in full at the third price level, the order would pause for five seconds between each subsequent price level. For example, if a 10,000 share market order were entered into the system and received the appropriate designation, the order would sweep all the shares at the three price levels in the NODF at the time of entry, and would pause for five seconds before moving to the fourth (as well as subsequent) price level(s) if the order were not fully executed at such level.

The NASD and Nasdaq believe that these two approaches provide a balance between the need of institutional investors and market professionals for speed, while providing greater price continuity for individual investors.

C. Processing of Non-Directed Orders and ECNs and UTP Exchange Participation

As originally proposed, the system would execute non-directed orders entered into the system in general price/time priority. However, within a price level, the system would execute non-directed orders against displayed quotes/orders of market makers and ECNs that participate in the automatic-execution functionality of the system (''Auto-Ex ECNs''), within time priority of this class of market participants. The system then would execute against the displayed quotes/orders of ECNs that participate in order-delivery (''Order-Delivery ECNs''). After displayed size of Nasdaq market makers and ECNs was exhausted, the system would execute against reserve size of market makers and Auto-Ex ECNs, and then reserve size of Order-Delivery ECNs. Lastly, the system would execute against the quotes of UTP Exchanges.

i. *ECNs.* Some commenters believe that Order-Delivery ECNs should have the same standing to receive non-directed orders against their quotes as market makers and Auto-Ex ECNs. These commenters believe that executing first against market makers and Auto-Ex ECNs and then against Order-Delivery ECNs who are displaying orders at the same price raises competitive concerns. In light of these concerns, the NASD and Nasdaq propose to alter the order execution algorithm with respect to ECNs. The NASD and Nasdaq believe that all ECNs (who are NASD members), market makers, and non-attributed UTP Exchange agency interest, at a given price level should be executed against in strict time priority, unless an ECN charges a fee to non-subscribers for accessing its quote. ECNs that charge an access fee should be executed after non-attributed UTP Exchange agency interest, market makers, and ECNs who do not charge an access fee because such a fee represents an increase in trading costs and clearly an inferior price.[14] This prioritization is consistent with common industry practice today, where a market participant would route its orders first to market makers and ECNs that do not charge a fee and then to ECNs that charge an access fee, to ensure the investor incurs the lowest possible trading costs. The NASD and Nasdaq believe that any other prioritization would be inconsistent with the statutory mandate of providing investors with best execution of their orders.

ii. *UTP Exchange Participation.* As noted above, as originally proposed, UTP Exchanges would receive non-directed orders behind market makers and ECNs who are at the same price. The system would deliver orders from UTP Exchanges to the next market participant in queue, even if the receiving market participant participates in the automatic execution functionality of the system. Some Nasdaq market participants stated that mandating order delivery for orders from UTP Exchanges was cumbersome from a technology prospective. In addition, the Chicago Stock Exchange (''CHX'') believed that the system would disadvantage customer orders that reside on the floor of its exchange because such orders would be executed last even if they had time priority.

Subsequent to the filing of the original proposal, the NASD and Nasdaq have had constructive discussions with the CHX. First, the NASD and Nasdaq has offered to provide automatic execution (against market participants that accept auto-ex) for non-directed orders emanating from the floor of the CHX, if CHX agrees to provide automatic execution for orders directed to the CHX by Nasdaq.[15] This is consistent with Nasdaq's previously-articulated position that it is willing to provide automatic execution against its market if a UTP Exchange is willing to provide

[13] As explained in the original filing, if ECN1 were an ECN that participates in automatic execution, it could protect itself from incurring dual liability by using the request to cancel feature in the system, even though there was no interval delay between price levels. That is, if while Nasdaq was executing against ECN1's quote an internal subscriber also wished to execute against the 1,900 shares for $104.45 in the ECN, before filling the subscriber's order ECN1 could send a request to cancel the order to Nasdaq. If Nasdaq had executed against the 1,900 shares at $104.45, ECN1 would send a message to its customer declining the execution because the order had been filled.

[14] The NASD and Nasdaq note that Commission staff and at least one commentor raised concerns about ECN fees and best execution. *See* ITG Letter.

[15] To be clear, the NASD and Nasdaq are proposing to eliminate from the proposal the requirement that all non-directed orders entered into the system by UTP Exchanges be delivered to the next market participant in queue even if that market participant is a market maker or Auto-Ex ECN.

automatic execution against its specialist's quotes.

Second, the NASD and Nasdaq has offered the CHX, and will offer to all other UTP Exchanges, the ability to display agency interest on a non-attributable basis in the NODF. That is, a UTP Exchange's agency orders would be aggregated into the NODF. These orders would not be displayed next to the UTP Exchange's MMID in the Nasdaq Quotation Montage, but instead would be aggregated into the SIZE MMID (which represents all non-attributable/anonymous interest at the best price in the system). The system would execute against the UTP-Exchange's non-attributable agency interest in strict price/time priority with other orders/quotes from Nasdaq market makers and ECNs that do not charge a quote-access fee. This approach should assure that a customer's order in a Nasdaq security, regardless of where it is entered in the National Market System, would be executed on a price/time priority basis. A UTP Exchange's principal (*i.e.,* non-agency) interest would continue to be displayed next to its MMID in the Nasdaq Quotation Montage and accessed after Nasdaq market maker and ECN interest (as well as UTP Exchange agency interest). The NASD and Nasdaq believe that the CHX has preliminarily agreed to this approach. The NASD and Nasdaq intend to work with all relevant UTP Plan participants to resolve the linkage issue.

iii. *Reserve Size.* One commenter suggested that when displayed size is completely exhausted, quotes/orders refreshed out of reserve size should be accessed in a slightly different manner than as described in the original proposal. Specifically, the commenter suggested that after the displayed size of market participants quoting at the same price level is exhausted simultaneously and then displayed size is refreshed from reserve, the system should establish a quoting market participant's priority to receive non-directed orders based on the new size of the displayed quotes (instead of the market participant's time of original quote/order entry) with time priority governing as to any two (or more) market participants at the same size.[16] In this narrow instance, there would be parity among the market participants with none, arguably, having time priority because their displayed interest was taken out simultaneously. The NASD and Nasdaq proposes to amend the filing to incorporate this approach into the order execution algorithm since it appears logical, in this instance, to reward Nasdaq Quoting Market Participants displaying greater size.

For example, assume that MMA and MMB are each at the inside bid quoting 1,000 shares. MMA, who is first in time to receive an order, has a reserve refresh size of 1,000 shares, and MMB who is second in time has a reserve refresh size of 3,000. A sell market order for 2,000 shares is entered into the system, and the system executes against MMA for 1,000 shares and MMB for 1,000 shares. As originally proposed, MMA and MMB would now be refreshed out of reserve to 1,000 and 3,000 shares respectively, but MMA would have priority to receive the next non-directed order in the system because MMA had original time priority. As amended, because MMB would be displaying 3,000 shares and MMA only 1,000 shares, MMB would receive the next order, as it is displaying a larger size refreshed out of reserve. The NASD and Nasdaq believe that this could encourage market participants to display greater size to the market, which could enhance liquidity and transparency.

iv. *Order Execution Algorithm.* Based on the above, the NASD and Nasdaq propose to amend the order execution algorithm to execute non-directed orders entered into the system as follows: (1) displayed quotes of market makers, ECNs that do not charge a quote-access fee to non-subscribers, non-attributable agency quotes of UTP Exchanges, in time priority between such participants; (2) displayed quotes of ECNs that charge a quote-access fee to non-subscribers, in time priority between such participants; (3) reserve size of market makers and ECNs that do not charge a quote-access fee to non-subscribers in time priority between such participants; (4) reserve size of ECNs that charge a quote-access fee to non-subscribers in time priority between such participants; and (5) principal quotes of UTP Exchanges, in time priority between such participants. The exception to the above would be if a non-directed order was from a market maker or ECN at the inside, the system would match off a non-directed order against that market maker or ECN (in lieu of sending it to the next market participant in queue). Second, if displayed size is exhausted and there is still reserve size available at that price, for the purpose of delivering the next order, the system would determine priority first based on the displayed size of the refreshed quotes and then based on time.

2. Statutory Basis

The NASD and Nasdaq believe that the proposed amendments are consistent with the provisions of Sections 15A(b)(6) and (b)(11) of the Act,[17] as well as Sections 11A(a)(1)(C) and 11A(a)(1)(D) of the Act.[18] Section 15A(b)(6)[19] requires that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 15A(b)(11) of the Act[20] requires that the rules of a registered national securities association be designed to produce fair and informative quotations, prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing, and publishing quotations. Section 11A(a)(1)(C) of the Act[21] states that is in the public interest and appropriate for the protection of investors and the maintenance of fair and order markets to assure (1) economically efficient execution of securities transactions; (2) fair competition among brokers and dealers; (3) the availability to brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors' orders in the best market; and (5) an opportunity for investors' orders to be executed without the participation of a dealer. Section 11A(a)(1)(D)[22] states that Congress finds that the linking of all markets for qualified securities through communication and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders.

The NASD and Nasdaq believe that the amendments to the odd-lot process balance the concerns raised by commenters regarding potential gaming

[16] *See* Goldman Sachs Letter.

[17] 15 U.S.C. 78o–3(b)(6) and (b)(11).

[18] 15 U.S.C. 78k–1(a)(1)(C) and (a)(1)(D).

[19] 15 U.S.C. 78o–3(b)(6).

[20] 15 U.S.C. 78o–3(b)(11).

[21] 15 U.S.C. 78k–1(a)(1)(C).

[22] 15 U.S.C. 78k–1(a)(1)(D).

and the need for a fair and orderly method of executing odd-lot orders. The NASD and Nasdaq believe this proposed change would prevent fraudulent and manipulative acts, since it would reduce the opportunity for gaming. Additionally, the proposed changes to the five-second interval delay, provide a balance between the need of institutional investors and market professionals for speed, while providing greater price continuity for individual investors. Thus, the NASD and Nasdaq believe the proposal is consistent with Sections 15A(b)(6) and (b)(11),[23] as well as Section 11A(a)(1)(C) of the Act.[24]

The NASD and Nasdaq believe the proposed changes to the order execution algorithm addresses competitive concerns raised by some ECNs, in that all ECNs that do not charge a quote-access fee (whether they accept automatic execution or order delivery) would be treated in time priority. Additionally, the change as it relates to ECNs that charge a fee addresses concerns about best execution. Specifically, this change ensures that an investor's order would be routed to the market participant in Nasdaq that is displaying the best price, when considering quote access fees. Accordingly, the NASD and Nasdaq believe that these changes are consistent with Sections 15A(b)(6) and (b)(11) of the Act,[25] and Sections 11A(a)(1)(C) and 11A(a)(1)(D).[26]

The NASD and Nasdaq believe that the changes regarding the handling of agency orders from UTP Exchanges is consistent with Congress view of a national market system. That is, this approach assures that a customer's order in a Nasdaq security, no matter where it is entered in the National Market System, would be executed on a price/time priority basis. Accordingly, the NASD and Nasdaq believe the proposal is consistent with Sections 11A(a)(1)(C) and 11A(a)(1)(D) of the Act.[27]

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD and Nasdaq do not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[23] 15 U.S.C. 78o–3(b)(6) and (b)(11).

[24] 15 U.S.C. 78k–1(a)(1)(C).

[25] 15 U.S.C. 78o–3(b)(6) and (b)(11).

[26] 15 U.S.C. 78k–1(a)(1)(C) and (a)(1)(D).

[27] 15 U.S.C. 78k–1(a)(1)(C) and (a)(1)(D).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 4, including whether Amendment No. 4 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to Amendment No. 4 to file number NASD–99–53 and should be submitted by April 20, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7840 Filed 3–29–00; 8:45 am]

BILLING CODE 8010–01–P

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42571; File No. SR–NASD–99–37]

Self Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Use of Hard To Borrow Lists

March 23, 2000.

I. Introduction

On August 4, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Rule 3370. The proposal permits the use of a ''Hard to Borrow'' list to comply with affirmative determination requirements for short sales. The NASD submitted Amendment No. 1 to the proposed rule change on November 1, 1999.[3] Notice of the proposed rule change, as amended, was published in the **Federal Register** on January 7, 2000.[4] The Commission received no comments on the proposal.[5] This order approves the proposed rule change.

II. Description of the Proposal

NASD Rule 3370 was designed to prevent abusive short selling and ensure that short sellers satisfy their settlement obligations. The rule currently requires a member or associated person to make an affirmative determination prior to executing certain short sales that it will receive delivery of the subject security, or be able to borrow or otherwise provide delivery of the security, by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Alden Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated October 26, 1999.

[4] *See* Securities Exchange Act Release No. 42306 (January 3, 2000), 64 FR 49261 (''Notice'').

[5] Per the Commission's request, NASD submitted an additional, technical amendment to the proposed rule change deleting a sentence from the descriptive portion of the Notice. The sentence stated that member firms that rely on ''Hard to Borrow'' lists would be required under the proposed rule change to maintain such lists. This requirement is not stated in the actual text of the proposed rule change, which was published as part of the Notice. *See* Letter from Mary N. Revell, Associate General Counsel, NASD Regulation, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated March 14, 2000.

settlement date. The rule also provides that the member or associated person must record the identity of both the individual and the firm contacted who offered assurances that the subject security would be delivered by settlement date or be available for borrowing by settlement date. The rule does not specify the manner in which compliance with its requirements must be recorded.

NASD Rule 3370 currently permits members and associated persons to rely on ''blanket'' or standing assurances that securities will be available for borrowing on settlement date to satisfy their affirmative determination obligations, provided that the information used to generate the ''blanket'' or standing assurance is less than 24 hours old and the member delivers the security on settlement date.[6] ''Blanket'' assurances are commonly referred to as ''Easy to Borrow'' lists. The rule further provides that if a member relying on a blanket or standing assurance fails to deliver the security on settlement date, the NASD will deem such conduct inconsistent with the terms of the rule, absent mitigating circumstances adequately documented by the member.

A ''Hard to Borrow'' list is a list that includes all securities of a given category that are difficult to borrow or unavailable for borrowing. A user of such list may believe it reasonable to infer, under appropriate circumstances, that a specific security absent from the list is easy to borrow. Currently, however, NASD Rule 3370 does not specifically allow a member to rely on a ''Hard to Borrow'' list in this way.

The proposed rule change will permit members and associated persons to rely on a ''Hard to Borrow'' list for any short sales executed in The Nasdaq Stock Market (''Nasdaq'') National Market (''NM'') or exchange-listed securities, provided that (a) the creator of the list attests in writing that any Nasdaq NM or exchange-listed securities not included on the list are easy to borrow or are available for borrowing, and (b) any securities restricted pursuant to Uniform Practice Code (''UPC'') 11830 are included on the list.

Securities restricted pursuant to UPC 11830 are Nasdaq securities that, as published by the NASD, show an aggregate clearing short position of 10,000 shares or more and that are equal to at least 0.5% of the total shares outstanding of the issue. The NASD represents that in practice, securities falling into this category are difficult to borrow. By explicit terms of the proposal, a ''Hard to Borrow'' list must include all such securities in order to qualify for use.

Under the proposed rule change, the member will be able to refer to the ''Hard to Borrow'' list before executing a short sale in a given security. If that security is not on the list, the member or associated person will be considered to have made the requisite affirmative determination and will be permitted to execute the short sale without taking any further steps to satisfy the affirmative determination rule. Conversely, if the security is on the list, then a member or associated person will not be permitted to execute the short sale without taking additional steps to ensure the security's availability.

As with the current rule's provisions with respect to ''Easy to Borrow'' lists, a member or associated person will be permitted to use a ''Hard to Borrow'' list under the proposal only if the information used to generate the list is less than 24 hours old and the member delivers the security on settlement date. The proposal provides that if the member does not deliver the security on settlement date, the NASD shall consider such conduct—absent documented mitigating circumstances—inconsistent with the terms of NASD Rule 3370.

The proposed rule change will permit the use of ''Hard to Borrow'' lists only for Nasdaq NM and exchange-listed securities. For Nasdaq SmallCap and other over-the-counter equity securities not in this category, members will continue to be required to take active steps to determine stock availability. According to NASD Regulation, Nasdaq NM and exchange-listed securities are liquid and highly capitalized, and are less likely to be subject to shore sale abuses than Nasdaq SmallCap and other over-the-counter equity securities, which generally are more thinly traded and illiquid and potentially more vulnerable to short sale abuses.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder, and, in particular, with the requirements of Section 15A[7] of the Act applicable to a registered securities association.[8] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 15A(b)(6)[9] of the Act, which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the proposal is likely to reduce the time and effort required for a member or associated person to make the requisite determination that a security is available for borrowing. This is because a person using a ''Hard to Borrow'' list needs to check the security against what is usually a relatively short roster of unavailable issues rather than locate it in a long ''Easy to Borrow'' list that may include thousands of names.

Thus the Commission finds that the proposed rule change will promote the objectives of Section 15A(b)(6) by reducing the administrative burdens on members in complying with the affirmative determination rule, thereby expediting the execution of short sales on behalf of investors and possibly affording them better executions.

At the same time, the Commission believes that NASD Rule 3370 as amended under the proposal will continue to assure that short sales are effected only when the securities being sold are in fact readily available for borrowing, and will continue to protect against conduct inconsistent with the purposes of the rule.

When the creator of a ''Hard to Borrow'' list attests in writing, as the proposal requires, that any securities not included on the list are available for borrowing or are easy to borrow, reliance on such ''Hard to Borrow'' list is substantially similar to reliance on an ''Easy to Borrow'' list, which is already permitted under NASD Rule 3370.[10] The proposed rule change further stipulates that in order to qualify for use, a ''Hard to Borrow'' list must

[6] *See* Securities Exchange Act Release No. 36859 (February 20, 1996), 61 FR 7127 (February 26, 1996) (File No. SR–NASD–95–62), approving reliance on ''blanket'' assurances.

[7] 15 U.S.C. 78*o*–3

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] According to NASD Regulation, it will be the responsibility of the member or associated person using the list to determine that the creator of the list is reliable. As noted below, if the security is not delivered by settlement date, the member or associated person will be deemed to have acted in a manner inconsistent with the terms of the rule, absent mitigating circumstances. In addition, NASD Regulation may investigate whether the creator of the list, if a member, has acted in a manner inconsistent with NASD Rule 2110 regarding standards of commercial honor and principles of trade. Telephone conversation between Thomas R. Gira, Vice President, Market Regulation, Mary N. Revell, Associate General Counsel, NASD Regulation, *et al.*, and Gordon Fuller, Special Counsel, and Ira Brandriss, Attorney, Division of Market Regulation, Commission (February 18, 2000).

include any Nasdaq security that has a clearing short position large enough to warrant the special requirements of UPC 11830.[11]

As in the case of reliance on an ''Easy to Borrow'' list, a member or associated person will be permitted to rely upon a ''Hard to Borrow'' list only when the information on the list is no more than 24 hours old. Likewise, the member or associated person will be obligated to maintain a written record of the determination that the security was available for borrowing, including the identity of the individual and firm that offered the assurance that securities absent from the list were available for borrowing or easy to borrow.

Moreover, NASD Rule 3370, as amended, will put members on notice that even if they have relied on the information provided by a ''Hard to Borrow'' list, if they in fact fail to deliver the security by settlement date, they will be deemed to have acted in a manner inconsistent with the rule.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 15A(b)(6).

It is Therefore Ordered, pursuant to Section 19(b)(2)[12] of the Act, that the proposed rule change (SR–NASD–99–37) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7843 Filed 3–29–00; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before May 30, 2000.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Cynthia Pitts, Program Analyst, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, S.W., Suite 6050.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, Program Analyst, 202–205–6098 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Disaster Home Loan Application''.

Form No's: 5C and 739.

Description of Respondents: Applicant's Requesting SBA Disaster Home Loan.

Annual Responses: 56,418.

Annual Burden: 89,140.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Linda M. Roberts, Director, Office of Security Operations, Small Business Administration, 409 3rd Street, S.W., Suite 5600.

FOR FURTHER INFORMATION CONTACT: Linda M. Roberts, Director, 202–205–6223 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Statement of Personal History''.

Form No: 912.

Description of Respondents: Applicant's for Assistance or Temporary Employment in Disaster.

Annual Responses: 50,000.

Annual Burden: 12,500.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to James Hammersley, Director, Office of Secondary Market & 504, Small Business Administration, 409 3rd Street, S.W., Suite 8300 .

FOR FURTHER INFORMATION CONTACT: James Hammersley, Director, 202–205–7505 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''7(a) Loan Closing Forms''.

Form No's: 147, 148, 159, 160, 160A, 529B, 928 and 1059.

Description of Respondents: SBA Loan Applicants.

Annual Responses: 45,000.

Annual Burden: 135,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 00–7845 Filed 3–29–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3271]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Galleries for Cypriot Art''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Galleries for Cypriot Art,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY from on or about April 3, 2000, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–5997). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 24, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 00–7865 Filed 3–29–00; 8:45 am]

BILLING CODE 4710–08–P

[11] The Commission notes that because UPC 11830 applies only to Nasdaq securities, this extra measure of protection is provided only for Nasdaq securities.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3269]

Amendment to Culturally Significant Objects Imported for Exhibition; Determinations: ''Kremlin Gold—1000 Years of Russian Gems & Jewels''

AGENCY: Department of State.

ACTION: Amendment.

SUMMARY: On March 2, 2000, Public Notice 3237 was published on page 11362 of the **Federal Register** (Volume 65, Number 42) by the Department of State pursuant to Pub. L. 89–259 relating to the exhibit ''Kremlin Gold—1000 Years of Russian Gems & Jewels.'' In error, the notice places the Houston Museum in Chicago. The correct location is Houston, Texas.

Dated: March 22, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 00–7863 Filed 3–29–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3270]

Culturally Significant Objects Imported for Exhibition; Determinations: ''The Triumph of the Baroque: Architecture in Europe, 1600–1750''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''The Triumph of the Baroque: Architecture in Europe, 1600–1750,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC from May 21, 2000 through October 9, 2000 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including the exhibit objects, contact Jacqueline Caldwell, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6982). The address is U.S. Department of State, SA–44 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 23, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 00–7864 Filed 3–29–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities Under OMB Review

AGENCY: Federal Aviation administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collections of information was published on January 14, 2000, [FR 65, page 2454].

DATES: Comments must be submitted on of before May 1, 2000. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

1. *Title:* Commercial Space Transportation Licensing Regulations.

Type of Request: Extension of a currently approved collection.

Control Number: 2120–0608.

Form(s): N/A.

Affected Public: An estimated 6 licensees authorized to conduct licensed launch activities.

Abstract: The required information will be used to determine if applicant proposals for conducting commercial space launches can be accomplished in a safe manner according to regulations and license orders issued by the Office of the Associate Administrator for Commercial Space Transportation.

Estimated Annual Burden Hours: 3236.

2. *Title:* Changes in Permissible Stage 2 Airplane Operations.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0652.

Form(s): N/A.

Affected Public: 100 operators.

Abstract: Public Law amended the Airport Noise and Capacity Act (ANCA) of 1990. The primary focus of ANCA was the prohibition on stage 2 airplane flights in the contiguous U.S. after 12/31/99. The changes to ANCA give the FAA new authority to allow certain non-revenue Stage 2 flights after the statutory compliance date. Operators need a special flight authorization to bring Stage 2 airplanes into the United States. Operators only need to provide information when they need a special flight authorization after 12/31/99. Only minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is only of the ones enumerated in the law.

Estimated Annual Burden Hours: 25 burden hours annually.

Address

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention: FAA Desk Officer.

Comments Are Invited On

Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collections; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on March 24, 2000.

Patricia W. Carter,

Acting Manager, Standards and Information Division, APF–100.

[FR Doc. 00–7857 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Modification of the Memphis Class B Airspace Area, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meetings; correction.

SUMMARY: This notice corrects the date comments are to be received after the two fact-finding informal airspace meetings (65 FR 13818, March 14, 2000). The purpose of these meetings is to provide interested parties an opportunity to present views, recommendations, and comments on the proposal to modify the Memphis Class B Airspace Area. All comments received during these meetings will be considered prior to any revision or issuance of a notice of proposed rulemaking.

TIMES AND DATES: *Meetings.* These informal airspace meetings will be held on Thursday, April 27, 2000, at 7 pm; and Thursday, May 4, 2000, at 7 pm. The comments were originally requested by March 30, 2000. However, an error was inadvertently made in the month. Comments must be received by June 5, 2000, in lieu of March 30, 2000.

ADDRESSES: On April 27, 2000, the meeting will be held at the FedEx World Tech Center, 50 FedEx Parkway (off Bailey Station Road), Collierville, TN. On May 4, 2000, the meeting will be held at the Memphis Airport Traffic Control Tower, Memphis, International Airport, 2515 Winchester Road, Memphis, TN. There is limited space available at the May 4th meeting.

Comments: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Brigitte Lewkowicz, Airspace Specialist, Air Traffic Division, ASO–500, FAA, Southern Regional Office, telephone (404) 305–5559.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) These meetings will be informal in nature and will be conducted by a representative of the FAA, Southern Region. A representative from the FAA will present a formal briefing on the proposed changes to the Class B airspace area. Each participant will be given an opportunity to deliver comments or make a presentation at the meetings.

(b) These meetings will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the FAA panel will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the panel to allocate an appropriate amount of time for each presenter.

(d) These meetings will not be adjourned until everyone on the list has had an opportunity to address the panel.

(e) Position papers or other handout material relating to the substance of these meetings will be accepted. Participants wishing to submit handout material should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(f) These meetings will not be formally recorded.

Agenda for the Meetings

Opening Remarks and Discussion of Meeting Procedures.
Briefing on Background for Proposals.
Public Presentations.
Closing Comments.

Issued in Washington, DC, on March 15, 2000.

Steve Rohring,

Acting Manager, Airspace and Rules Division.

[FR Doc. 00–7192 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

[FHWA Docket No. FHWA–2000–6757]

Request for Comments on a High Speed Rail Proposal for the Congestion and Air Quality Improvement Program (CMAQ)

AGENCY: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), DOT.

ACTION: Notice; request for comments.

SUMMARY: This notice requests comments on the conditions under which high speed rail projects should be eligible for congestion mitigation and air quality improvement (CMAQ) funding. Eligibility under the CMAQ program has already been granted for high speed rail improvements located within air quality nonattainment and maintenance areas. At issue is if, and under what conditions, State Departments of Transportation (State DOTs) should be permitted to use the State's CMAQ allocation to fund high speed rail improvements located *outside* of nonattainment or maintenance areas. Several States have recently explored the possibility of using CMAQ funds for such projects prompting the need for this notice. Funding under the CMAQ program has generally been limited to expenditures within nonattainment and maintenance areas, and projects or programs located outside of such areas have not usually been eligible. However, it may be possible to realize emission reductions, the primary purpose of the CMAQ program, within nonattainment and maintenance areas even if the project is located outside of such areas. The FHWA and the FTA seek your input regarding whether, and under what conditions, these emission reductions might allow States to allocate CMAQ program funds for projects outside of nonattainment and maintenance areas to meet the statutory requirements and be eligible, and whether there are other considerations which make this proposition either more or less reasonable.

DATES: To assure consideration, comments on the high speed rail proposal for the CMAQ program must be received on or before May 1, 2000.

ADDRESSES: Submit written, signed comments to the docket number that appears in the heading 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 between 9 a.m. and 5 p.m., et., 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: For the FHWA program office: Mr. Michael J. Savonis, Office of Planning and Environment, (202) 366–2080; and for legal issues, Mr. Harold Aikens, Office of the Chief Counsel, (202) 366–0764. For the FTA program office: Mr. Abbe Marner, Office of Planning, (202) 366–4317; and for legal issues, Mr. Scott Biehl, Office of the Chief Counsel, (202) 366–0952. Office hours are from 8 a.m. to 4:30 p.m., et., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours a 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 **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.*

Opportunity for Comment

The FHWA and the FTA seek your input on whether, and under what conditions, States should be permitted to use CMAQ funds for projects, such as high speed rail, located outside of nonattainment or maintenance area boundaries, if they can demonstrate air quality benefits within the nonattainment or maintenance area.

Several States have recently explored the possibility of using CMAQ funds for such projects prompting the need for this notice. Issues being considered include: (1) Should the project be required to demonstrate benefits ''primarily'' within the nonattainment or maintenance area boundary? (2) If the current policy is reasonable, what distance should constitute ''close proximity''?

Background

This serves as a follow-up to a notice that was published on October 26, 1998 (63 FR 57154) where the FHWA and the FTA requested comments on the interim implementation guidance for the CMAQ program. Comments were requested by November 30, 1998. In addition, the FHWA and the FTA hosted five outreach forums across the country to provide an opportunity for those stakeholders and industry directly involved and affected by the program to also assist in developing the final guidance for the CMAQ program. Since the closing of that comment period of the October 26, 1998 notice, several States have requested permission from the FHWA and the FTA to use CMAQ funds for high speed rail projects, and some national organizations have expressed views in this area also. Because of this, the FHWA and the FTA have decided to solicit stakeholder input on this specific issue.

The CMAQ program, established under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102–240, 105 Stat. 1914, and reauthorized with some changes by section 1110 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 142, was designed to assist nonattainment and maintenance areas in attaining the National Ambient Air Quality Standards (NAAQS) by funding transportation projects and programs that will improve air quality.

The primary purpose of the CMAQ program after reauthorization remains the same: to fund projects and programs which reduce transportation-related emissions in air quality nonattainment and maintenance areas. The CMAQ program is the only program under title 23, U.S.C., with funds dedicated to helping nonattainment and maintenance areas to achieve and maintain the NAAQS.

Current Policy

Both the FHWA and the FTA have generally limited funding under the CMAQ program to projects in nonattainment and maintenance areas, and projects located outside of such areas have not usually been eligible. The rationale behind this approach is based on several considerations evaluated collectively. First, under 23 U.S.C. 149(b), a State may use CMAQ funds for a transportation project or program if it is ''for an area that is or was designated as a nonattainment area,'' and likely to contribute to the attainment of a national air quality standard or the maintenance of a national air quality standard. This plain language indicates that the primary focus of CMAQ funding is on assisting nonattainment and maintenance areas to achieve their air quality goals, rather than on assisting other parts of the country. Projects with emission benefits within those areas clearly meet the statutory test, while for projects located outside of those areas, some ambiguity is introduced.

Second, the formula by which CMAQ funds are apportioned under 23 U.S.C. 104(b)(2) is based solely on the population living in the States' nonattainment and maintenance areas and weighted by the severity of the pollution they face. Populations living outside of these areas are given no weight in the apportionment of CMAQ funds. Since funding is allocated on the basis of nonattainment and maintenance populations, the law sets up an expectation that funding will be targeted at projects that demonstrably benefit those areas. Again, the primary focus on nonattainment and maintenance areas is established.

Third, the conference report (H.R. Conf. Rep. No. 104–345, at 88 (1995)) to the National Highway System Designation Act of 1995, Public Law 104–5 109 Stat. 568, seems to contain language regarding congressional intent. The law specifically allowed the use of CMAQ funds in maintenance areas which had been left out of previous legislation. It states on page 88:

> [A] State [may] use its funds apportioned under the CMAQ program in any such maintenance area, as well as in other nonattainment areas, within a State.

This provision uses the word, ''in,'' with respect to maintenance or nonattainment areas, instead of the legislative language in 23 U.S.C. 149(b) which cites that CMAQ funds are to be used ''for'' nonattainment and maintenance areas.

Finally, the transferability provisions in section 110(c) of title 23, U.S.C., which were added in 1998, contain references to ''geographic areas'' eligible for CMAQ funding. This section states that when national CMAQ authorizations exceed $1.35 billion, CMAQ funds may be used for other purposes than air quality improvement. But even then, ''any * * * [CMAQ] funds * * * transferred under this section may only be obligated in geographic areas eligible for the obligation of funds eligible under the * * * [CMAQ program].'' This provision appears to indicate in the first part that there are ''geographic areas'' (*i.e.,* nonattainment and maintenance areas) to which CMAQ funding is directed, and in the second part that even when greater flexibility is allowed in the use of CMAQ funds, those funds must be used for projects within those geographic areas.

Based on these considerations, the FHWA and the FTA have administered the program under a general policy that CMAQ funds should be used for projects in nonattainment and maintenance areas if there are any. Program guidance, however, was developed with one additional consideration in mind. Nonattainment (or maintenance) area boundaries do not always completely overlap metropolitan or urbanized area boundaries. As a result, on March 7, 1996, the FHWA and the FTA expanded the ability of States to fund certain projects by including the following provision in an updated, comprehensive CMAQ guidance: ''Program funds may * * * not be used for projects which are outside of nonattainment and maintenance area boundaries * * * except in cases where the project is located in close proximity to the nonattainment or maintenance areas and the benefits will be realized primarily within the nonattainment or maintenance area boundaries.'' 61 FR 50890, 50897. The concern was the possibility that an otherwise eligible project could be located just outside of a nonattainment or maintenance area and might be ruled ineligible. An example of such a project could be a park and ride lot where vanpools form or a transit station where service extends into the central business district. For projects like these, it appears that the basic intent of the law was satisfied, and funding could be allowed. Before obligating funds to any project outside of the nonattainment

and maintenance area boundary, an air quality analysis is required.

The 1996 policy quoted above is substantively unchanged in the current CMAQ guidance of the FHWA and the FTA, which was issued on April 28, 1999 (See FHWA web site: *http://www.fhwa.dot.gov/environment/cmaq—abs.htm).*

High Speed Rail Projects

Under current guidance, passenger rail, and in some cases freight rail, projects are eligible for CMAQ funding: (1) If they are located within, or within close proximity to, the nonattainment or maintenance area boundaries; (2) they can demonstrate an emission reduction; and (3) they meet the other criteria for CMAQ funding. CMAQ funds have already been used for a variety of freight and passenger rail services in New York, Ohio, Maine, and Illinois, to name a few.

High speed rail service is a passenger transportation option that usually links well-populated metropolitan areas that could be as much as 100 to 500 miles apart. It usually has few station stops since more would increase travel times. The metropolitan areas that service such links may, or may not, be in nonattainment or maintenance area boundaries. Supporters of high speed rail point out that, as population and income growth spurs additional travel demand, it can provide a viable transportation option to move people between highly congested areas with beneficial air quality impacts. The basic concept is that such a service could replace automobile and air trips with train travel and that the net impact could be a reduction in total emissions when the emissions reduced are compared with the increase in emissions from the new train service.

If a project to improve a high speed rail service is located within a nonattainment or maintenance area boundary, such as a station improvement regarding access or passenger amenities or a new station stop entirely, the eligibility (with regard to location) would not be in question. The project would, of course still have to meet the other eligibility criteria and title 23, U.S.C., requirements. Similarly, a high speed rail service may link two or more nonattainment (or maintenance) areas. If station stops occur in nonattainment or maintenance areas *only*, there may be justification for CMAQ funding since riders on that service must board in a nonattainment or maintenance area. Thus, the predominance of emission reductions will likely occur in those areas.

On the other hand, the project could be located well outside of any nonattainment or maintenance area boundaries. These might include buying right-of-way or laying track between stations or constructing new station stops in cities not designated as nonattainment or maintenance. Such projects may provide access to or from nonattainment or maintenance areas, in some cases, and thus reduce some emissions in these areas. But, in this case, the questions are raised, ''to what extent are emissions reduced in these areas?'' And, ''does the project primarily produce benefits in the nonattainment or maintenance area?''

Finally, there is the question of the purchase of locomotives and rolling stock which may operate both within and outside of the nonattainment area. Should equipment purchases be deemed eligible, or should eligibility be pro-rated based on miles operated within the nonattainment or maintenance area, or should these purchases be ruled ineligible? Other questions that might be considered include the eligibility of facilities located outside the area that support operations within the area, such as dispatching and maintenance facilities. The FHWA and the FTA solicit your input on all of the above issues.

Some Key Issues To Consider

One of the most important issues regarding the eligibility of high speed rail projects outside of nonattainment and maintenance areas, is the rationale for funding this type of project in light of the CMAQ program's purpose: To assist attainment and maintenance of the NAAQS. Specifically, under what rationale could these projects be considered eligible for CMAQ funding, with respect to the factors discussed in the ''Current Policy'' section of this notice. If a project located outside of a nonattainment or maintenance area can reduce emissions by even one gram per day, should it be eligible for CMAQ funding? Should it be eligible if 50 percent of all its emission reductions accrue to the nonattainment or maintenance area? Should that performance standard be 95 percent, rather than 50 percent? Do the relative percentages matter, or should there be another performance standard that is based on a threshold level of emission reductions in the nonattainment or maintenance area above which the project is eligible? Does the cost of a project relative to expected emission reductions have a bearing? And finally, given the high data requirements and relatively rudimentary analytical methods that are currently in practice, can Federal, State, and local agencies discern with confidence what the actual emission reductions are both inside and outside of a nonattainment area?

A second issue to consider is that, if high speed rail projects outside of nonattainment and maintenance areas are considered eligible, it will likely set a precedent for other types of projects that extend significantly beyond existing nonattainment area boundaries. Freeway surveillance and management using Intelligent Transportation Systems (ITS) technology in key corridors like I–95 is one such possibility, as is a statewide emission inspection and maintenance program. Freight rail projects to raise bridge elevations and allow for double stack containers, which could potentially reduce truck traffic and emissions, is yet another.

A third issue to consider is the degree to which metropolitan areas participate in funding decisions under the CMAQ program. At the same time the CMAQ program was initially authorized in 1991 under the ISTEA, changes were introduced to the Federal-aid planning process that enhanced the role of metropolitan planning organizations (MPOs). By provided funding to many metropolitan areas, the CMAQ program has played a part in this. As noted in FHWA's publication, ''CMAQ Indirect Benefits,'' (1997) (FHWA–PD–97–045), ''CMAQ helped to bring transportation decision making to the local level.'' This has, in turn, assisted the funding flexibility that has been the hallmark of the CMAQ program. By allowing projects outside of nonattainment and maintenance areas, there is the potential to shift emphasis from a metropolitan focus to more of a Statewide program.

Fourth, the regional nature of some pollutants and the local nature of others may be relevant. Ozone can be transported over hundreds of miles. And, an emission reduction in volatile organic compounds, a precursor of ozone, that is well outside of any nonattainment area boundary may have an impact on the ozone levels within the boundary. This must be balanced by the concern that diesel engines, such as those used in high speed rail (if not electrified), are significant emitters of oxides of nitrogen, the other precursor of ozone. Unlike ozone, carbon monoxide pollution is predominantly a local phenomenon due to the existence of ''hot spots'' of high concentration. Should the eligibility of a project outside of a nonattainment or maintenance area depend on the nature of the State's air pollution problems? Specifically, could a justification be made for reducing emissions outside of an ozone area (but not outside of a

carbon monoxide area) that lead to ozone reductions inside nonattainment and maintenance area boundaries? Similar concerns may exist for coarse particulate matter (PM–10) which may be more hot spot oriented and fine particulate matter (PM–2.5) which may exhibit the same transport phenomenon as ozone.

Fifth, there is only a fixed amount of funds that are available for CMAQ projects in each State in each year. Any expansion of CMAQ eligibility to allow the expenditures for projects outside of nonattainment or maintenance areas will reduce the amount available in each State in each year. Any expansion of CMAQ eligibility to allow the expenditures for projects outside of nonattainment or maintenance areas will reduce the amount available in each State in each year. Any expansion of CMAQ eligibility to allow the expenditures for projects outside of nonattainment or maintenance areas will reduce the amount available for projects within such areas.

Both the FHWA and the FTA invite interested parties to submit comments on all of the issues mentioned above.

Authority: 23 U.S.C. 315; sec. 1110, Pub. L. 105–178, 112 Stat. 107 (1999); 49 CFR 1.48 and 1.51.

Issued on: March 24, 2000.

Walter L. Sutton, Jr.,

Acting Deputy Administrator,

Nuria I. Fernandez,

Acting Administrator.

[FR Doc. 00–7855 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration (MARAD)

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the information collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. Described below is the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection was published on January 20, 2000 [65 FR 3266].

DATES: Comments must be submitted on or before May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Melvin Geller, Office of National Security Plans, Maritime Administration, 400 Seventh Street, SW, Room P1–1303, Washington, DC 20590, telephone number 202–366–5910. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration

Title of Collection: ''EUSC/Parent Company''.

OMB Control Number: 2133–0511.

Type oc Request: Approval of an existing information collection.

Affected Public: Foreign register American vessel owners.

Form(s): None.

Abstract: The collection of information consists of an inventory of foreign register vessels owned by Americans. Specifically, the collection consists of responses from vessel owners verifying or correcting vessel ownership data and characteristics found in commercial publications. The information obtained could be vital in a national or international emergency, and is essential to the logistical support planning operations conducted by MARAD officials. The information obtained will be used for contingency planning for sealift requirements primarily as a source of ships to move essential oil and bulk cargoes in support of the national economy.

Annual Estimated Burden Hours: 46 hours.

Addressee

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention MARAD Desk Officer.

Comments Are Invited on

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Dated: March 27, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–7911 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held at 9:00 a.m. on Wednesday, April 12, 2000, at the Governor's Club, 777 South Flagler Drive, 1209e West Palm Beach, Florida. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; New Business; and Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than April 7, 2000, Marc C. Owen, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW, Washington, DC 20590; 202–366–6823.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC on March 24, 2000.

Marc C. Owen,

Advisory Board Liaison.

[FR Doc. 00–7787 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–61–U

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Advisory Council on Transportation Statistics

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act (Public law 72–363; 5 U.S.C. App.2) notice is hereby given of a meeting of the Bureau of Transportation Statistics (BTS) Advisory Council on Transportation Statistics (ACTS) to be held Monday, April 10, 2000, 10:00 to 4:00 pm. The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC, in conference room 3202–04 of the Nassif Building.

The Advisory Council, called for under Section 6007 of Public Law 102–240, Intermodal Surface Transportation Efficiency Act of 1991, December 18, 1991, and chartered on June 19, 1995, was created to advise the Director of BTS on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information.

The agenda for this meeting will include, Director's programs update, data quality issues, safety conference, Committee on Transportation Statistics (CTSTAT), identification of substantive issues, review of plans and schedule, other items of interest, discussion and agreement of date(s) for subsequent meetings, and comments from the floor.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Lillian ''Pidge'' Chapman, Council Liaison, on (202) 366–1270 prior to April 5, 2000. Attendance is open to the interested public but limited to space available. With the approval of the Chair, members of the public may present oral statements at the meeting. Noncommittee members wishing to present oral statements, obtain information, or who plan to access the building to attend the meeting should also contact Ms. Chapman.

Members of the public may present a written statement to the Council at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Chapman (202) 366–1270 at least seven days prior to the meeting.

Issued in Washington, DC, on March 22, 2000.

Ashish Sen,

Director.

[FR Doc. 00–7774 Filed 3–29–00; 8:45 am]

BILLING CODE 4910–FE–U

DEPARTMENT OF THE TREASURY

Submission for OMB review; comment request

March 24, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 1, 2000, to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0008.

Form Number: None.

Type of Review: Extension.

Title: Pools and Associations—Annual Letter.

Description: The information is collected for the determination of an acceptable percentage for each pool and association to allow Treasury certified companies credit on their Schedule F for authorized ceded reinsurance in determining the companies underwriting limitations.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 1 hour, 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 150 hours.

OMB Number: 1510–0013.

Form Number: FMS Form 2208.

Type of Review: Extension.

Title: States Where Licensed for Surety.

Description: Information is collected from insurance companies in order to provide Federal bond approving officers with this information. The listing of states, by company, appear in Treasury's Circular 570, ''Surety Companies Acceptable on Federal Bonds.''

Respondents: Business or other for-profit.

Estimated Number of Respondents: 318.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 318 hours.

Clearance Officer: Juanita Holder, Financial Management Service, 3700 East West Highway, Room 144, PGP II, Hyattsville, MD 20782.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, (202) 395–7860.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–7866 Filed 3–29–00; 8:45 am]

BILLING CODE 4810–35–U

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 23, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 1, 2000, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0013.

Form Number: IRS Form 56.

Type of Review: Extension.

Title: Notice Concerning Fiduciary Relationship.

Description: Form 56 is used to inform the IRS that a person is acting for another person in a fiduciary capacity so that the IRS may mail tax notices to the fiduciary concerning the person for whom he/she is acting. The data is used to ensure that the fiduciary relationship is established or terminated and to mail or discontinue mailing designated tax notices to the fiduciary.

Respondents: Business or other for-profit, individuals or households.

Estimated Number of Respondents/Recordkeepers: 25,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 8 min.
Learning about the law or the form: 32 min.
Preparing the form: 46 min.
Copying, assembling, and sending the form to the IRS: 15 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 292,800 hours.

OMB Number: 1545–0892.

Form Number: IRS Form 8300.

Type of Review: Extension.

Title: Report of Cash Payments Over $10,000 Received in a Trade or Business.

Description: Anyone in a trade or business who, in the course of such trade or business, receives more than $10,000 in cash or foreign currency in one or more related transactions must report it to the IRS and provide a

statement to the payor. Any transaction which must be reported under Title 31 on Form 4789 is exempted from reporting the same transaction on Form 8300.

Respondents: Business or other for-profit, farms, Federal Government.

Estimated Number of Respondents/ Recordkeepers: 46,800.

Estimated Burden Hours per Respondent/Recordkeeper: 21 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 63,539 hours.

OMB Number: 1545–1225.

Form Number: IRS Form 5310–A.

Type of Review: Extension.

Title: Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business.

Description: Plan administrators are required to notify IRS of any plan mergers, consolidations, spinoffs, or transfer of plan assets or liabilities to another plan. Employers are required to notify IRS of separate lines of business for their deferred compensation plans. Form 5310–A is used to make these notifications.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 15,000.

Estimated Burden Hours per Respondent/Recordkeeper:

	Recordkeeping	Learning about the law or the form	Preparing, copying, assembling, and sending the form to the IRS
Part I	1hr., 26 min	1hr., 35 min	1hr., 41 min.
Part II	3 hr., 50 min	12 min	16 min.
Part III	4 hr., 32 min	35 min	42 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 142,800 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; (202) 395–7860.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–7867 Filed 3–29–00; 8:45 am].

BILLING CODE 4830–01–U.

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain
Iraq
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: March 23, 2000.

Philip West,

International Tax Counsel (Tax Policy).

[FR Doc. 00–7808 Filed 3–29–00; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Customs Service

Continuation of the National Customs Automation Program Prototype

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

ACTION: General notice.

SUMMARY: This document announces that funding has been made available to Customs for the continued operation of the National Customs Automation Program Prototype (NCAP/P). Consequently, notwithstanding publication of a recent notice announcing a scheduled termination of the NCAP/P due to a cessation of funding, funds have been made available and therefore the NCAP/P has remained in operation. The NCAP/P will continue to operate for the previously approved participants as long as funding remains available. Customs is no longer accepting new applications for participation in NCAP/P.

FOR FURTHER INFORMATION CONTACT: Keith Fleming, U.S. Customs Service, at (202) 927–1049, or Virginia Noordewier, U.S. Customs Service, at (202) 927–3296.

SUPPLEMENTARY INFORMATION:

Background

The vision of the Automated Commercial Environment (ACE) is to establish a Trade Compliance Process that achieves high levels of compliance and reduces the cycle time required for imports to clear Customs. The National Customs Automation Program Prototype (NCAP/P) is the prototype for the first implementation of this automated process.

On March 27, 1997, Customs published a notice in the **Federal Register** (62 FR 14731) announcing its intention to implement the NCAP/P on a test basis; on August 21, 1998, Customs published in the **Federal Register** (63 FR 44949) a notice which modified the test with updated procedures and which replaced the previous notice. On October 15, 1998, Customs also published in the **Federal Register** (63 FR 55426) a notice announcing the proposed expansion of the prototype to five additional ports of entry.

The NCAP/P plan called for a four-stage implementation of new cargo processing features over a period of up to three years. The NCAP/P commenced on April 27, 1998, with the implementation of the cargo release stage. On October 13, 1998, Customs implemented the second stage which provided for cargo release with examination. On February 10, 2000, Customs published a notice in the **Federal Register** (65 FR 6688) advising the public that, due to the cessation of necessary funding, the NCAP/P would conclude 30 days after publication of the notice and that, from that day

forward, NCAP/P participants must revert to non-NCAP/P processing for all cargo shipments.

Following publication of the February 10, 2000, notice and prior to the scheduled termination date (March 13, 2000), funds became available for the continued operation of NCAP/P at its current locations through September 30, 2000. Each NCAP/P participant was individually advised by Customs that, due to this new availability of funds, the NCAP/P would not conclude as stated in the February 10, 2000, notice. The purpose of this notice is to advise the general public of the continued operation of the prototype.

Continuation of NCAP/P

For the reasons stated above, the NCAP/P has remained in operation at its current locations and will continue to operate for previously approved participants through September 30, 2000, or for any longer period during which funds for the operation of NCAP/P are available. Customs is not accepting new applications for participation in the NCAP/P.

Dated: March 24, 2000.

Robert J. McNamara,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 00–7801 Filed 3–29–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 00–21]

Cancellations of Customs Broker Licenses

AGENCY: Customs Service, Department of the Treasury.

ACTION: Brokers' licenses cancellations.

I, the Commissioner of Customs, pursuant to section 641(f) Tariff Act of 1930, as amended (19 U.S.C. 1641(f)) and section 111.51(a) of the Customs Regulations (19 111.51(a)), hereby cancel the following Customs brokers' licenses without prejudice.

Port	Individual	License No.
Seattle	Airgo Freight Inc.	15005
San Francisco	R.A. Leslie & Company, Inc.	08015
Boston	MBC Freight Consultants (USA), Inc.	12373
Chicago	Robson Enterprises, Inc.	09163
New York	Thyssen Haniel Logistics, Inc.	12132
New York	Majestic Customs House Broker, Inc.	11877
New York	V.A.B. Customs Brokers	12869

Dated: March 17, 2000.

Raymond W. Kelly,

Commissioner.

[FR Doc. 00–7910 Filed 3–29–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

List of Foreign Entities Violating Textile Transshipment and Country of Origin Rules

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

ACTION: General notice.

SUMMARY: This document notifies the public of foreign entities which have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws. This list is authorized to be published by section 333 of the Uruguay Round Agreements Act.

DATES: This document notifies the public of the semiannual list for the 6-month period starting March 31, 2000, and ending September 30, 2000.

FOR FURTHER INFORMATION CONTACT: For information regarding any of the operational aspects, contact Scott Greenberg, National Seizures and Penalties Officer, Seizures and Penalties Division, Office of Field Operations, (415) 782–9442. For information regarding any of the legal aspects, contact Alex Daman, Office of Chief Counsel, (202) 927–6900.

SUPPLEMENTARY INFORMATION:

Background

Section 333 of the Uruguay Round Agreements Act (URAA) (Pub. L. 103–465, 108 Stat. 4809) (signed December 8, 1994), entitled Textile Transshipments, amended Part V of title IV of the Tariff Act of 1930 by creating a section 592A (19 U.S.C. 1592a), which authorizes the Secretary of the Treasury to publish in the **Federal Register**, on a semiannual basis, a list of the names of any producers, manufacturers, suppliers, sellers, exporters, or other persons located outside the Customs territory of the United States, when these entities and/or persons have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws, provided that certain conditions are satisfied.

The violations of the customs laws referred to above are the following: (1) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products; (2) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the Customs territory of the United States of textile or apparel products; (3) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labeled as to country of origin or source; and (4) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

If a penalty claim has been issued with respect to any of the above violations, and no petition in response to the claim has been filed, the name of the party to whom the penalty claim was issued will appear on the list. If a petition, supplemental petition or second supplemental petition for relief from the penalty claim is submitted under 19 U.S.C. 1618, in accord with the time periods established by §§ 171.32 and 171.33, Customs Regulations (19 CFR 171.32, 171.33) and the petition is subsequently denied or the penalty is mitigated, and no further petition, if allowed, is received within 30 days of the denial or allowance of mitigation, then the administrative action shall be deemed to be final and administrative remedies will be deemed to be exhausted. Consequently, the name of the party to whom the penalty

claim was issued will appear on the list. However, provision is made for an appeal to the Secretary of the Treasury by the person named on the list, for the removal of its name from the list. If the Secretary finds that such person or entity has not committed any of the enumerated violations for a period of not less than 3 years after the date on which the person or entity's name was published, the name will be removed from the list as of the next publication of the list.

Reasonable Care Required

Section 592A also requires any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Reliance solely upon information regarding the imported product from a person named on the list is clearly not the exercise of reasonable care. Thus, the textile and apparel importers who have some commercial relationship with one or more of the listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must involve reliance on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A of the Tariff Act of 1930, an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

(1) Has the importer had a prior relationship with the named party?

(2) Has the importer had any detentions and/or seizures of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?

(3) Has the importer visited the company's premises and ascertained that the company has the capacity to produce the merchandise?

(4) Where a claim of an origin conferring process is made in accordance with 19 CFR 102.21, has the importer ascertained that the named party actually performed the required process?

(5) Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?

(6) Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?

(7) What is the history of this country regarding this commodity?

(8) Have you asked questions of your supplier regarding the origin of the product?

(9) Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

The law authorizes a semiannual publication of the names of the foreign entities and/or persons. On October 5, 1999, Customs published a Notice in the **Federal Register** (64 FR 54067) which identified 26 (twenty-six) entities which fell within the purview of section 592A of the Tariff Act of 1930.

592A List

For the period ending March 31, 2000, Customs has identified 25 (twenty-five) foreign entities that fall within the purview of section 592A of the Tariff Act of 1930. This list reflects no additions of new entities and 1 removal to the 26 entities named on the list published on October 5, 1999. The parties on the current list were assessed a penalty claim under 19 U.S.C. 1592, for one or more of the four above-described violations. The administrative penalty action was concluded against the parties by one of the actions noted above as having terminated the administrative process.

The names and addresses of the 25 foreign parties which have been assessed penalties by Customs for violations of section 592 are listed below pursuant to section 592A. This list supersedes any previously published list. The names and addresses of the 25 foreign parties are as follows (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Austin Pang Gloves & Garments Factory, Ltd., Jade Heights, 52 Tai Chung Kiu Road, Flat G, 19/F, Shatin, New Territories, Hong Kong. (10/99)

Beautiful Flower Glove Manufactory, Kar Wah Industrial Building, 8 Leung Yip Street, Room 10–16, 4/F, Yuen Long, New Territories, Hong Kong. (10/99)

BF Manufacturing Company, Kar Wah Industrial Building, Leung Yip Street, Flat 13, 4/F, Yeun Long, New Territories, Hong Kong. (10/99)

Cupid Fashion Manufacturing Ltd., 17/F Block B, Wongs Factory Building, 368–370 Sha Tsui Road, Tsuen Wan, Hong Kong. (9/97)

Ease Keep, Ltd., 750 Nathan Road, Room 115, Kowloon, Hong Kong. (10/99)

Excelsior Industrial Company, 311–313 Nathan Road, Room 1, 15th Floor, Kowloon, Hong Kong. (9/98)

Eun Sung Guatemala, S.A., 13 Calle 3–62 Zona Colonia Landivar, Guatemala City, Guatemala. (3/98)

Everlast Glove Factory, Goldfield Industrial Centre, 1 Sui Wo Road, Room 15, 15th Floor, Fo Tan, Shatin, New Territories, Hong Kong. (3/99)

Fabrica de Artigos de Vestuario E–Full, Lda. Rua Um doi Bairro da Concordia, Deificio Industrial Vang Tai, 8th Floor, A–D, Macau. (10/99)

Fabrica de Artigos de Vestuario Fan Wek Limitada, Av. Venceslau de Morais, S/N 14 B–C, Centro Ind. Keck Seng (Torre 1), Macau. (10/99)

Fabrica de Artigos de Vestuario Pou Chi, Avenida General Castelo Branco, 13, Andar, ''C'' Edificio Wang Kai, Macau. (10/99)

Glory Growth Trading Company, No. 6 Ping Street, Flat 7–10, Block A, 21st Floor, New Trade Plaza, Shatin, New Territories, Hong Kong. (9/98)

Great Southern International Limited, Flat A, 13th floor, Foo Cheong Building, 82–86 Wing Lok Street, Central, Hong Kong. (9/98)

G.T. Plus Ltd., Kowloon Centre, 29–43 Ashley Road, 4/Fl, Tsimshatsui, Kowloon, Hong Kong. (3/99)

Jiangxi Garments Import and Export Corp., Foreign Trade Building, 60 Zhangqian Road, Nanchang, China. (3/98)

Liable Trading Company, 1103 Kai Tak Commercial Building, 62–72 Stanley Street, Kowloon, Hong Kong. (9/98)

Lucky Mind Industrial Limited, Lincoln Centre, 20 Yip Fung Street, Flat 11, 5/F, Fan Ling, New Territories, Hong Kong. (10/99)

Mabco Limited, 6/F VIP Commercial Centre, 116–120 Canton Road, Kowloon, Hong Kong. (3/99)

McKowan Lowe & Company Limited, 1001–1012 Hope Sea Industrial Centre, 26 Lam Hing Street, Kowloon Bay, Kowloon, Hong Kong. (9/98)

Rex Industries Limited, VIP Commercial Center, 116–120 Canton Road, 11th Floor, Tsimshatsui, Kowloon, Hong Kong. (9/98)

Sannies Garment Factory, 35–41 Tai Lin Pai Road, Gold King Industrial Building, Flat A & B, 2nd Floor, Kwai Chung, New Territories, Hong Kong. (9/98)

Shing Fat Gloves & Rainwear, 2 Tai Lee Street, 1–2 Floor, Yuen Long, New Territories, Hong Kong. (9/98)
Sun Kong Glove Factory, 188 San Wan Road, Units 32–35, 3rd Floor, Block B, Sheung Shui, New Territories, Hong Kong. (9/98)
Sun Weaving Mill Ltd., Lee Sum Factory Building, Block 1 & 2, 23 Sze Mei Street, Sanpokong, Bk 1/2, Kowloon, Hong Kong. (9/97)
Takhi Corporation, Huvsgalchdyn Avenue, Ulaanbaatar 11, Mongolia. (3/98)

Any of the above parties may petition to have its name removed from the list. Such petitions, to include any documentation that the petitioner deems pertinent to the petition, should be forwarded to the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC. 20229.

Additional Foreign Entities

In the October 5, 1999, **Federal Register** notice, Customs also solicited information regarding the whereabouts of 32 foreign entities, which were identified by name and known address, concerning alleged violations of section 592. Persons with knowledge of the whereabouts of those 32 entities were requested to contact the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

In this document, a new list is being published which contains the names and last known addresses of 32 entities. This reflects the addition of one new entity and the removal of one entity to the list of 32 entities published on October 5, 1999.

Customs is soliciting information regarding the whereabouts of the following 32 foreign entities concerning alleged violations of section 592. Their names and last known addresses are listed below (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Au Mi Wedding Dresses Company, Dragon Industry Building, 98, King Law Street, Unit F, 9/F, Lai Chi Kok, Kowloon, Hong Kong. (10/99)
Balmar Export Pte. Ltd., No. 7 Kampong Kayu Road, Singapore, 1543. (3/98)
Envestisman Sanayi A.S., Buyukdere Cad 47, Tek Is Merkezi, Istanbul, Turkey. (9/97)
Essence Garment Making Factory, Splendid Centre, 100 Larch Street, Flat D, 5th Floor, Taikoktsui, Kowloon, Hong Kong. (3/98)
Fabrica de Artigos de Vest. Dynasty, Lda., Avenida do Almirante Magalhaes Correia, Edificio Industrial Keck Seng, Block III, 4th Floor ''UV'', Macau. (3/98)
Fabrica de Artigos de Vestuario Lei Kou, No. 45 Estrada Marginal de Areia Preta, Edif.Ind.Centro Polytex, 6th Floor, D, Macau. (9/98)
Fabrica de Vestuario Wing Tai, 45 Estrada Marginal Da Areia Preta, Edif. Centro Poltex, 3/E, Macau. (3/98)
Galaxy Gloves Factory, Annking Industrial Building, Wang Yip East Street Room A, 2/F, Lot 357, Yuen Long Industrial Estate, Yuen Long, New Territories, Hong Kong. (3/98)
Golden Perfect Garment Factory, Wong's Industrial Building, 33 Hung To Road, 3rd Floor, Kwun Tong, Kowloon, Hong Kong. (9/98)
Golden Wheel Garment Factory, Flat A, 10/F, Tontex Industrial Building, 2–4 Sheung Hei Street, San Po Kong, Kowloon, Hong Kong. (10/99)
Grey Rose Maldives, Phoenix Villa, Majeedee Magu, Male, Republic of Maldives. (3/98)
K & J Enterprises, Witty Commercial Building, 1A–1L Tung Choi Street, Room 1912F, Mong Kok, Kowloon, Hong Kong. (9/98)
Konivon Development Corp., Shun Tak Center, 200 Connaught Road, No. 3204, Hong Kong. (3/98)
Kwuk Yuk Garment Factory, Kwong Industrial Building, 39–41 Beech St., Flat A, 11th Floor, Tai Kok Tsui, Kowloon, Hong Kong. (3/98)
Land Global Ltd., Block c, 14/F, Y.P. Fat Building, Phase 1, 77 Hoi Yuen Road, Kowloon, Hong Kong. (9/97)
Lai Cheong Gloves Factory, Kar Wah Industrial Building, 8 Leung Yip Street, Room 101, 1–F, Yuen Long, New Territories, Hong Kong. (3/00)
Leader Glove Factory, Tai Ping Industrial Centre, 57, Ting Kok Road, 25/F, Block 1, Flat A, Tai Po, New Territories, Hong Kong. (3/98)
Maxwell Garment Factory, Unit C, 21/F, 78–84, Wang Lung Street, Tseun Wan, New Territories, Hong Kong. (3/99)
New Leo Garment Factory Ltd, Galaxy Factory Building, 25–27 Luk Hop Street, Unit B, 18th Floor, San Po Kong, Kowloon, Hong Kong. (9/98)
Patenter Trading Company, Block C. 14/F, Yip Fat Industrial Building, Phase 1, 77 Hoi Yuen Road, Kowloon, Hong Kong. (9/97)
Penta-5 Holding (HK) Ltd., Metro Center II, 21 Lam Hing Street, Room 1907, Kowloon Bay, Kowloon, Hong Kong. (9/98)
Round Ford Investments, 37–39 Ma Tau Wai Road, 13/f Tower B, Kowloon, Hong Kong. (9/97)
Shanghai Yang Yuan Garment Factory, 2 Zhaogao Road, Chuanshin, Shanghai, China. (9/97)
Silver Pacific Enterprises Ltd., Shun Tak Center, 200 Connaught Road, No. 3204, Hong Kong. (3/98)
Tak Hing Textile Company Limited, Wo Fung Industrial Building, 3/F, block D, Lot No. 5180, IN D.D 51, On Lok Village, Fanling, New Territories, Hong Kong. (3/99)
Tat Hing Garment Factory, Tat Cheong Industrial Building, 3 Wing Ming Street, Block C, 13/F, Lai Chi Kok, Kowloon, Hong Kong. (3/98)
Tientak Glove Factory Limited, 1 Ting Kok Road, Block A, 26/F, Tai Po, New Territories, Hong Kong. (3/98)
Wealthy Dart, Wing Ka Industrial Building, 87 Larch Street, 7th Floor, Kowloon, Hong Kong. (3/98)
Wilson Industrial Company, Yip Fat Factory Building, 77 Hoi Yuen Road, Room B, 3/F, Kwun Yong, Kowloon, Hong Kong. (3/98)
Wing Lung Manufactory, Hing Wah Industrial Building, Units 2, 5–8, 4th Floor YLTL 373, Yuen Long, New Territories, Hong Kong. (9/98)
Yogay Fashion Garment Factory Ltd, Lee Wan Industrial Building, 5 Luk Hop Street, San Po Kong, Kowloon, Hong Kong. (3/98)
Zuun Mod Garment Factory Ltd., Tuv Aimag, Mongolia. (9/97)

If you have any information as to a correct mailing address for any of the above 32 firms, please send that information to the Assistant Commissioner, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

Dated: March 24, 2000.

Robert J. McNamara,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 00–7708 Filed 3–29–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0358]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to evaluate veterans' and other eligible person's suitability to change their program of education objectives.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 30, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0358'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supplemental Information for Change of Program or Reenrollment After Unsatisfactory Attendance, Conduct or Progress, VA Form 22–8873.

OMB Control Number: 2900–0358.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans and other eligible persons may change their program of education under conditions prescribed by Title 38 U.S.C., Section 3691. Before VA may approve benefits for a second or subsequent change of program, VA must first determine that the new program is suitable to the claimant's aptitudes, interests, and abilities. VA Form 22–8873 is used to gather the necessary information only if the suitability of the proposed training program cannot be established from information already available in the claimant's VA file. Without the information, VA could not determine further entitlement to education benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 8,250 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 16,500.

Dated: March 13, 2000.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–7914 Filed 3–29–00; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0445]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Small and Disadvantaged Business Utilization (OSDBU), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to identify veteran-owned businesses.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 30, 2000.

ADDRESSES: Submit written comments on the collection of information to Lynette Simmons, Office of Small and Disadvantaged Business Utilization (00SB), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0445'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Lynette Simmons (202) 565–8136.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (P.L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OSDBU invites comments on:

(1) Whether the proposed collection of information is necessary for the proper performance of OSDBU's functions, including whether the information will have practical utility; (2) the accuracy of OSDBU's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: VAAR Subpart 819.70, Veteran-Owned and Operated Small Business (Exceptions to Standard Forms 18 and 129).

OMB Control Number: 2900–0445.

Type of Review: Extension of a currently approved collection.

Abstract: The information will be used by VA to identify veteran-owned businesses and to ensure eligible veteran-owned firms are given an opportunity to participate in VA solicitations for goods and services. Without this information there would be no way to properly monitor this program.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 4,727 hours.

Estimated Average Burden Per Respondent: Additional burden imposed on Standard Forms 18 and 129 is 5 seconds.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,403,500.

Dated: February 29, 2000.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–7915 Filed 3–29–00; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0565]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the

proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine eligibility for plot or interment allowance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 30, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0565'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501—3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: State Application for Interment Allowance Under 38 U.S.C., Chapter 23, VA Form 21–530a.

OMB Control Number: 2900–0565.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: VA Form 21–530a is used to gather information from a State seeking payment of benefits for plot-interment allowances for the burial of an eligible veteran in a cemetery owned by that State and used solely for the interment of persons eligible for burial in a national cemetery.

Affected Public: State, Local or Tribal Government.

Estimated Annual Burden: 20,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 40,000.

Dated: March 13, 2000.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–7916 Filed 3–29–00; 8:45 am]

BILLING CODE 8320–01–U

Federal Register

Thursday,
March 30, 2000

Part II

Environmental Protection Agency

Proposed Reissuance of National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6562–5]

Proposed Reissuance of National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed NPDES general permit.

SUMMARY: EPA Regions 1, 2, 3, 4, 6, 8, 9, and 10 are today proposing to reissue EPA's NPDES Storm Water Multi-Sector General Permit (MSGP). This general permit was first issued on September 29, 1995 (60 FR 50804), and amended on February 9, 1996 (61 FR 5248), February 20, 1996 (61 FR 6412), September 24, 1996 (61 FR 50020), August 7, 1998 (63 FR 42534) and September 30, 1998 (63 FR 52430). Today's proposed MSGP is similar to the 1995 permit, as amended, and will authorize the discharge of storm water from industrial facilities consistent with the terms of the permit.

Public Comment Period: The public comment period for the proposed MSGP will be from today's date until May 30, 2000. All public comments must be submitted to: ATTN: MSGP–2000 Comments, W–99–26, MC 4101, U.S. EPA, Room EB57, 401 M Street SW, Washington, DC 20460.

Please submit the original and three copies of your comments and enclosures (including references). Comments must be received or postmarked by midnight no later than May 30, 2000. To ensure that EPA can read, understand and therefore properly respond to comments, the Agency would prefer that commenters cite, where possible, the paragraph(s) or sections in the notice or supporting documents to which each comment refers. Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed stamped envelope. No fascimiles (faxes) will be accepted. Comments may also be submitted electronically to: ow-docket@epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the docket number W–99–26 (MSGP–2000). No Confidential Business information (CBI) should be submitted through e-mail. Comments and data will also be accepted on disks in WordPerfect 6.1 format or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The record for today's proposed MSGP has been established under docket number W–99–26, and includes supporting documentation as well as printed, paper versions of electronic comments. It does not include any information claimed as CBI.

Public Meetings: Public meetings on the proposed permit will be held at the locations listed below. The public meetings will include a presentation on the draft permits and a question and answer session. Written, but not oral, comments for the official permit record will be accepted at the public meetings.

Dallas, TX: May 1, 2000, 1:00 pm, EPA Region 6 Offices, 12th Floor, 1445 Ross Ave., Dallas, Texas.

Santa Fe, NM: April 24, 2000, 1:00 pm, New Mexico Environment Department Offices, Runnels Building Auditorium, 1190 St. Francis Dr., Santa Fe, New Mexico.

Additional public meets may be scheduled in one or more EPA regions. For times and locations, please visit our MSGP web site at www.epa.gov/owm/sw/industry/msgp/index.htm.

Public Hearings: EPA has not scheduled any public hearings to receive public comment concerning today's proposal in view of the limited attendance at previous hearings which have been held related to the existing MSGP. All persons will continue to have the right to provide written comments at any time during the public comment period. However, interested persons may request a public hearing pursuant to 40 CFR 124.12 concerning the proposed MSGP–2000. Requests for a public hearing must be sent or delivered in writing to the same address as provided above for public comments prior to the close of the comment period. Requests for a public hearing must state the nature of the issues proposed to be raised in the hearing. Pursuant to 40 CFR 124.12, EPA shall hold a public hearing if it finds, on the basis of requests, a significant degree of public interest in the proposed permit. If EPA decides to hold a public hearing, a public notice of the date, time and place of the hearing will be made at least 30 days prior to the hearing. Any person may provide written or oral statements and data pertaining to the proposed permit at the public hearing.

ADDRESSES: The index to the administrative record for the proposed MSGP is available at the appropriate Regional Office or from the EPA Water Docket Office in Washington, DC. The administrative record is stored in two locations. Documents immediately referenced in this reissuance notice are stored at the EPA Water Docket Office at the following address: Water Docket, MC–4101, U.S. EPA, 401 M Street SW, Washington, DC 20460. All other documents which were used to support the original issuance of the MSGP in 1995 are a supplement to the record for this reissuance and are stored at U.S. EPA, 401 M Street SW, Washington, DC 20460. These materials include, for example, the permit applications and sampling data provided to EPA by group applicants. The immediate and supplemental records are available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. For appointments to examine any portion of the administrative record, please call the Water Docket Office at (202) 260–3027. A reasonable fee may be charged for copying. Specific record information can also be made available at the appropriate Regional Office upon request.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed MSGP, contact the appropriate EPA Regional Office or Dan Weese at (202) 260–6809. The name, address and phone number of the EPA Regional Storm Water Coordinators are provided in Section VI.F of this fact sheet.

SUPPLEMENTARY INFORMATION: The following fact sheet provides background information and explanation for today's notice of proposed MSGP reissuance. The actual language of the proposed MSGP appears after this fact sheet.

Fact Sheet

Table of Contents

I. Background

EPA Regions 1, 2, 3, 4, 6, 8, 9, and 10 are today proposing to reissue EPA's NPDES Storm Water Multi-Sector General Permit (MSGP). The MSGP currently authorizes storm water discharges from a particular facility for most areas of the United States where the NPDES permit program has not been delegated. The MSGP was originally issued on September 29, 1995 (60 FR 50804), and amended on February 9, 1996 (61 FR 5248), February 20, 1996 (61 FR 6412), September 24, 1996 (61 FR 50020), August 7, 1998 (63 FR 42534) and September 30, 1998 (63 FR 52430).

The 1995 MSGP was the culmination of the group permit application process described at 40 CFR 122.26(c)(2). A group permit application was one of three options for obtaining an NPDES industrial storm water permit which were provided by the 1990 storm water permit application regulations (47 FR 47990). The 1990 regulations also provided that industrial facilities could apply for coverage under an existing general NPDES permit or apply for an individual permit. In 1992, EPA issued a baseline general permit (57 FR 41175 and 57 FR 44412) to cover industrial facilities which did not select the group application option or submit an application for an individual permit.

In response to the group application option, EPA received applications from approximately 1,200 groups representing nearly all of the categories of industrial facilities listed in the storm water regulations at 40 CFR 122.26(b)(14). To facilitate permit issuance for the group applications, EPA consolidated the groups into 29 industrial sectors, with subsectors also included in certain sectors as appropriate.

In developing the requirements for the 1995 MSGP, EPA utilized and built upon the storm water pollution control requirements of the 1992 baseline general permit. The baseline permit had required a storm water pollution prevention plan (SWPPP) with generic best management practice (BMP) requirements which applied to all facilities covered by the permit. In addition, certain categories of facilities were required to monitor storm water discharges based on EPA's best professional judgment concerning the risks posed by the facilities.

The group permit applications included information concerning the specific types of operations present at the different types of industrial facilities, potential sources of pollutants at the facilities, industry-specific BMPs which are available, and monitoring data from the different types of facilities. Using this information, EPA developed SWPPP requirements for the MSGP which consisted of the generic requirements of the baseline permit plus industry-specific requirements developed from the group application information. Also, the industries required to perform monitoring and the contaminants to be monitored for in the 1995 MSGP were developed using the monitoring data submitted with the group applications rather than EPA's best professional judgment.

On September 30, 1998 (63 FR 52430), EPA terminated the baseline general permit and required facilities which were previously covered by the baseline permit to seek coverage under the MSGP (or submit an individual permit application). EPA believed that the MSGP, with its industry-specific requirements, would provide improved water quality benefits as compared to the baseline permit.

For the reissuance of the MSGP, EPA has re-evaluated the industry-specific requirements of the MSGP. In a few instances, additional requirements have been proposed based on new information which has been obtained since the original MSGP issuance in 1995. These changes are discussed in more detail in Section VIII of this fact sheet. EPA also re-evaluated the monitoring requirements of the existing MSGP. Although no changes are being proposed in the monitoring requirements, EPA is interested in receiving comments on these requirements and exploring alternatives as discussed in Section VI.E of the fact sheet.

A. Pollutants in Storm Water Discharges Associated With Industrial Activities in General

The volume and quality of storm water discharges from a particular facility will depend on a number of factors, including the industrial activities occurring at the facility, the nature of the precipitation, and the degree of surface imperviousness. A discussion of these factors was provided in the fact sheet for the original proposed MSGP (58 FR 61146 Nov. 19, 1993), and is not being repeated here.

B. Summary of Options for Controlling Pollutants

Pollutants in storm water discharges from industrial plants may be reduced using several methods, including: Eliminating pollutant sources; implementing BMPs that prevent the generation of pollutant sources and/or control the discharge of pollutants; and end-of-pipe treatment. A general discussion of each of these was presented in the original MSGP proposal (58 FR 61146, Nov. 19, 1993), and is not being repeated here.

C. The Federal/Municipal Partnership: The Role of Municipal Operators of Large and Medium Municipal Separate Storm Sewer Systems

A key issue in developing a workable regulatory program for controlling pollutants in storm water discharges associated with industrial activity is the proper use and coordination of limited

regulatory resources. This is especially important when addressing the appropriate role of municipal operators of large and medium municipal separate storm sewer systems in the control of pollutants in storm water discharges associated with industrial activity which are conveyed through municipal separate storm sewer systems. The original proposed MSGP discussed several key policy factors (see 58 FR 61146).

II. Organization of Proposed MSGP and Summary of Proposed Changes

The organization of today's proposal has been revised from the 1995 MSGP to reduce the overall size of the permit. In Part XI of the 1995 MSGP, many requirements such as SWPPP and monitoring requirements which were common to each sector were repeated in each sector, greatly adding to length of the permit. For today's proposal, such requirements are found only once in expanded sections of the permit (Parts 4 and 5) which include requirements common to each sector. Requirements which are genuinely unique to a given sector or subsector are found in Part 6 in the permit. Similarly, Section VIII of the fact sheet for the 1995 MSGP repeated certain explanatory information in the discussions of sector-specific requirements, and also included considerable descriptive information about the various sectors. To reduce the length of today's notice, most of this information is not being repeated. Section VIII of today's fact sheet focuses on the changes (if any) which are being proposed for the various sectors. The reorganization and reduction of duplication have reduced the size of the permit by approximately 50%.

Also note that the section/paragraph identification scheme of the proposed MSGP–2000 has been modified from the existing MSGP. The original scheme utilized a sometimes lengthy combination of numbers, letters and Roman numerals (in both upper and lower cases) which many permittees found confusing. Today's proposal identifies sections/paragraphs, and hence permit conditions, using numbers only, except in Part 6 (which also incorporates the sector letters from the 1995 MSGP for consistency). Under the original permit, only the last digit or letter of the section/paragraph identifier appeared with its accompanying section title/paragraph, making it difficult to determine where you were in the permit. In today's proposal, the entire string of identifying numbers is listed at each section/paragraph to facilitate recognizing where you are and in citing and navigating through the permit. For example, paragraph number 1.2.3.5 tells you immediately that you are in Part 1, section 2, paragraph 3, subparagraph 5; whereas under the 1995 MSGP you would only see an ''e'', thereby forcing you to hunt back through the permit to determine that you were in Part I.B.3.e. The exception to the numbering rule is in Part 6, where the Sector letters from the 1995 MSGP have been retained to correspond to the sectors of industry covered by the permit and make it easy to tell that you are in a section of the permit which has conditions which only apply to a specific industrial sector. For example, paragraph 6.F.3.4 immediately tells you that you are in Part 6 and looking at conditions that only apply to sector ''F'' facilities. In some cases, requirements which previously appeared in a single paragraph are now found listed out as separate individual items. The proposed MSGP is also written in EPA's ''readable regulations'' style using terms like ''you'' and ''your'' in referring to permittees, etc.

Following below is a list of the major changes in today's proposal as compared to the existing MSGP. These changes are discussed in more detail later in this fact sheet.

1. Requirements for co-located activities clarified (Part 1.2.1.1).

2. Incidental cooling tower mist discharges included as an authorized non-storm water discharge, subject to certain requirements (Parts 1.2.2.2.13 and 4.4.2.3).

3. Provided eligibility for coverage of inactive mining activities occurring on Federal Lands where an operator has not been identified (Part 1.2.3).

4. Clarified language for situations where a discharge previously covered by an individual permit can be covered under the MSGP–2000 (Part 1.2.3.3).

5. Clarified/added language for compliance with water quality standards and requirements for follow-up actions if standards are exceeded (Parts 1.2.3.5 and 3.3).

6. ESA and NHPA eligibility requirements modified (Parts 1.2.3.6 and 1.2.3.7).

7. Eligibility requirements for discharges to water quality impaired/limited waterbodies added/clarified (Part 1.2.3.8).

8. Clarifies that discharges which do not comply with anti-degradation requirements are not authorized by the permit (Part 1.2.3.9).

9. Deadline of 30 days for submission of an NOT added (Part 1.4.2).

10. Opportunity for termination of permit coverage based on the ''no exposure exemption'' from the Phase II storm water regulations (64 FR 68722, 12/8/99) added (Parts 1.5 and 11.4).

11. Notice of Intent requirements and form modified (Part 2.2 and Addendum D).

12. Permit will accommodate electronic filing of NOIs, NOTs, or DMRs, should these options become available during the term of the permit (Parts 2.3, 7.1, and 11.3)

13. Prohibition on discharges of solid materials and floating debris and requirement to minimize off-site tracking of materials and generation of dust added (Part 4.2.7.2.3).

14. Requirement to include a copy of the permit with the storm water pollution prevention plan (SWPPP) was added (Part 4.7).

15. Special conditions for EPCRA 313 facilities were modified (Part 4.12).

16. Monitoring requirements reorganized and additional clarification/revisions on monitoring periods, waivers, default minimum monitoring for limitations added by State 401 certification, and reporting requirements added. Public specifically requested to comment on alternatives to proposed benchmark monitoring scheme (Parts 5 and 7).

17. Manufacturing of fertilizer from leather scraps (SIC 2873) moved from Sector Z—Leather Tanning and Finishing to Sector C—Chemical and Allied Products (Table 1 and Part 6.C).

18. New effluent limitations guidelines for landfills in Sectors K and L included; the final guidelines were published in the **Federal Register** on January 19, 2000 (65 FR 3007) (Parts 6.K.5 and 6.L.6).

19. Sector AD (Non-Classified Facilities) language clarified to say that facilities cannot choose coverage under Sector AD, but can only be so assigned by permitting authority (Part 6.AD).

20. Additional BMP requirements in Sectors S, T, and Y added (Parts 6.S, 6.T, and 6.Y).

21. NOI to continue coverage under the permit when it expires (without a replacement permit in place) is not required and the reapplication process has been clarified (Part 9.2).

22. Process for EPA to remove facilities from permit coverage clarified (Part 9.12).

In conjunction with the final permit, EPA anticipates making a ''User's Guide'' available that would answer common questions regarding how to obtain coverage and comply with the MSGP. This users guide would most likely be made available via the Internet.

III. Geographic Coverage of Proposed MSGP

The geographic coverage of today's proposed MSGP includes the following areas:

EPA Region 1—for the States of Maine, Massachusetts and New Hampshire; for Indian country located in Massachusetts, Connecticut, Rhode Island and Maine; and for Federal facilities in the State of Vermont.

EPA Region 2—for the Commonwealth of Puerto Rico.

EPA Region 3—for the District of Columbia and Federal facilities in the State of Delaware.

EPA Region 4—for the State of Florida; and for Indian country located in the State of Florida.

EPA Region 6—for the State of New Mexico; for Indian country located in the States of Louisiana, New Mexico, Texas and Oklahoma (except Navajo lands and Ute Mountain Reservation lands); for Oil and gas facilities under SIC codes 1311, 1381, 1382, and 1389 and 5171 and point source (but not non-point source) discharges associated with agricultural production, services, and silviculture in the State of Oklahoma, except those on Indian Country lands; and oil and gas facilities under SIC codes 1311, 1321, 1381, 1382, and 1389 in the State of Texas not on Indian Country lands.

EPA Region 8—for Federal facilities in the State of Colorado; for Indian Country lands in Colorado, Montana, North Dakota, South Dakota, Wyoming and Utah (except Goshute Reservation lands); for Ute Mountain Reservation lands in Colorado and New Mexico; and for Pine Ridge Reservation lands in South Dakota and Nebraska.

EPA Region 9—for the State of Arizona; for the Territories of Johnston Atoll, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, Midway and Wake Islands; for Indian country located in Arizona, California, and Nevada; and for the Goshute Reservation in Utah and Nevada, the Navajo Reservation in Utah, New Mexico, and Arizona, the Duck Valley Reservation in Nevada and Idaho, and the Fort McDermitt Reservation in Oregon and Nevada.

EPA Region 10—for the States of Alaska and Idaho; for Indian country located in Alaska, Oregon (except Fort McDermitt Reservation lands), Idaho (except Duck Valley Reservation lands) and Washington; and for Federal facilities in Washington.

For several reasons, the geographic area of coverage described above differs from the area of coverage of the 1995 MSGP. Indian country in Vermont and New Hampshire has been removed since there are no Federally recognized tribes in these States. Also, state NPDES permit programs have since been authorized in the States of South Dakota, Louisiana, Oklahoma (except for certain oil and gas facilities and agriculture-related point sources in Oklahoma) and Texas (again except for oil and gas facilities). In Oklahoma, EPA maintains NPDES permitting authority over oil and gas exploration and production related industries, and pipeline operations regulated by the Oklahoma Corporation Commission and point source (but not non-point source) discharges associated with agricultural production, services, and silviculture regulated by the Oklahoma Department of Agriculture, except those on Indian Country lands (See 61 FR 65049). Oklahoma received NPDES program authorization only for those discharges covered by the authority of the Oklahoma Department of Environmental Quality (ODEQ). In Texas, EPA maintains NPDES permitting authority over oil and gas discharges regulated by the Texas Railroad Commission (See 63 FR 51164). Texas received NPDES program authorization only for those discharges covered by the authority of the Texas Natural Resource Conservation Commission (TNRCC).

Federal facilities in Colorado, and Indian country located in Colorado (including the portion of the Ute Mountain Reservation located in New Mexico), Montana, North Dakota, South Dakota (including the portion of the Pine Ridge Reservation located in Nebraska), Utah (except for the Goshute and Navajo Reservation lands) and Wyoming were not included in the 1995 MSGP, but are now proposed to be included. At the present time, industrial facilities in these areas are largely covered under an extension of EPA's 1992 baseline general permit for industries (57 FR 41175).

Lastly, subsequent to the issuance of the MSGP in 1995, coverage was extended to the Island of Guam on September 24, 1996 (61 FR 50020) and the Commonwealth of the Northern Mariana Islands on September 30, 1998 (63 FR 52430).

There are some areas where the NPDES permit program has not been delegated (such as Indian country in states not listed above) where neither the MSGP nor an alternate general permit is available for authorization of storm water discharges associated with industrial activity. However, only a very small number of permittees exist in such areas and individual permits are issued as needed.

IV. Categories of Facilities Covered by the Proposed MSGP

The proposed MSGP would authorize storm water discharges associated with industrial activity from the categories of facilities shown in Table 1 below:

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE PROPOSED MSGP

Subsector	SIC code	Activity represented
Sector A. Timber Products		
1*	2421	General Sawmills and Planning Mills.
2	2491	Wood Preserving
3*	2411	Log Storage and Handling.
4*	2426	Hardwood Dimension and Flooring Mills.
	2429	Special Product Sawmills, Not Elsewhere Classified.
	2431–2439 (except 2434)	Millwork, Veneer, Plywood, and Structural Wood.
	2448, 2449	Wood Containers.
	2451, 2452	Wood Buildings and Mobile Homes.
	2493	Reconstituted Wood Products.
	2499	Wood Products, Not Elsewhere Classified.
Sector B. Paper and Allied Products Manufacturing		
1	2611	Pulp Mills.
2	2621	Paper Mills.

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE PROPOSED MSGP—Continued

Subsector	SIC code	Activity represented
3*	2631	Paperboard Mills.
4	2652–2657	Paperboard Containers and Boxes.
5	2671–2679	Converted Paper and Paperboard Products, Except Containers and Boxes.
Sector C. Chemical and Allied Products Manufacturing		
1*	2812–2819	Industrial Inorganic Chemicals.
2*	2821–2824	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers Except Glass.
3	2833–2836	Medicinal chemicals and botanical products; pharmaceutical preparations; invitro and invivo diagnostic substances; biological products, except diagnostic substances.
4*	2841–2844	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
5	2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
6	2861–2869	Industrial Organic Chemicals.
7*	2873–2879	Agricultural Chemicals, Including Facilities that Make Fertilizer Solely from Leather Scraps and Leather Dust.
8	2891–2899	Miscellaneous Chemical Products.
9	3952 (limited to list)	Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's Paints and Artist's Watercolors.
Sector D. Asphalt Paving and Roofing Materials Manufacturers and Lubricant Manufacturers		
1*	2951, 2952	Asphalt Paving and Roofing Materials.
2	2992, 2999	Miscellaneous Products of Petroleum and Coal.
Sector E. Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing		
1	3211	Flat Glass.
	3221, 3229	Glass and Glassware, Pressed or Blown.
	3231	Glass Products Made of Purchased Glass.
	3281	Cut Stone and Stone Products.
	3297	Abrasive, Asbestos, and Miscellaneous Nonmetallic Mineral Products.
2	3241	Hydraulic Cement.
3*	3251–3259	Structural Clay Products.
	3262–3269	Pottery and Related Products.
	3297	Non-Clay Refractories.
4*	3271–3275	Concrete, Gypsum and Plaster Products.
	3295	Minerals and Earth's, Ground, or Otherwise Treated.
Sector F. Primary Metals		
1*	3312–3317	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
2*	3321–3325	Iron and Steel Foundries.
3	3331–3339	Primary Smelting and Refining of Nonferrous Metals.
4	3341	Secondary Smelting and Refining of Nonferrous Metals.
5*	3351–3357	Rolling, Drawing, and Extruding of Nonferrous Metals.
6*	3363–3369	Nonferrous Foundries (Castings).
7	3398, 3399	Miscellaneous Primary Metal Products.
Sector G. Metal Mining (Ore Mining and Dressing)		
1	1011	Iron Ores.
2*	1021	Copper Ores.
3	1031	Lead and Zinc Ores.
4	1041, 1044	Gold and Silver Ores.
5	1061	Ferroalloy Ores, Except Vanadium.
6	1081	Metal Mining Services.
7	1094, 1099	Miscellaneous Metal Ores.
Sector H. Coal Mines and Coal Mining-Related Facilities		
NA*	1221–1241	Coal Mines and Coal Mining-Related Facilities.
Sector I. Oil and Gas Extraction		
1*	1311	Crude Petroleum and Natural Gas.
2	1321	Natural Gas Liquids.
3*	1381–1389	Oil and Gas Field Services.
4	2911	Petroleum refining

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE PROPOSED MSGP—Continued

Subsector	SIC code	Activity represented
Sector J. Mineral Mining and Dressing		
1*	1411	Dimension Stone.
	1422–1429	Crushed and Broken Stone, Including Rip Rap.
	1481	Nonmetallic Minerals, Except Fuels.
2*	1442, 1446	Sand and Gravel.
3	1455, 1459	Clay, Ceramic, and Refractory Materials.
4	1474–1479	Chemical and Fertilizer Mineral Mining.
	1499	Miscellaneous Nonmetallic Minerals, Except Fuels.
Sector K. Hazardous Waste Treatment Storage or Disposal Facilities		
NA*	HZ	Hazardous Waste Treatment, Storage or Disposal.
Sector L. Landfills and Land Application Sites		
NA*	LF	Landfills, Land Application Sites and Open Dumps.
Sector M. Automobile Salvage Yards		
NA*	5015	Automobile Salvage Yards.
Sector N. Scrap Recycling Facilities		
NA*	5093	Scrap Recycling Facilities.
Sector O. Steam Electric Generating Facilities		
NA*	SE	Steam Electric Generating Facilities.
Sector P. Land Transportation		
1	4011, 4013	Railroad Transportation.
2	4111–4173	Local and Highway Passenger Transportation.
3	4212–4231	Motor Freight Transportation and Warehousing.
4	4311	United States Postal Service.
5	5171	Petroleum Bulk Stations and Terminals.
Sector Q. Water Transportation		
NA*	4412–4499	Water Transportation.
Sector R. Ship and Boat Building or Repairing Yards		
NA	3731, 3732	Ship and Boat Building or Repairing Yards.
Sector S. Air Transportation Facilities		
NA*	4512–4581	Air Transportation Facilities.
Sector T. Treatment Works		
NA*	TW	Treatment Works.
Sector U. Food and Kindred Products		
1	2011–2015	Meat Products.
2	2021–2026	Dairy Products.
3	2032	Canned, Frozen and Preserved Fruits, Vegetables and Food Specialties.
4*	2041–2048	Grain Mill Products.
5	2051–2053	Bakery Products.
6	2061–2068	Sugar and Confectionery Products.
7*	2074–2079	Fats and Oils.
8	2082–2087	Beverages.
9	2091–2099	Miscellaneous Food Preparations and Kindred Products.
	2111–2141	Tobacco Products.
Sector V. Textile Mills, Apparel, and Other Fabric Product Manufacturing		
1	2211–2299	Textile Mill Products.
2	2311–2399	Apparel and Other Finished Products Made From Fabrics and Similar Materials.
	3131–3199 (except 3111)	Leather Products.

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE PROPOSED MSGP—Continued

Subsector	SIC code	Activity represented
	Sector W. Furniture and Fixtures	
NA	2511–2599	Furniture and Fixtures.
	2434	Wood Kitchen Cabinets.
	Sector X. Printing and Publishing	
NA	2711–2796	Printing, Publishing and Allied Industries.
	Sector Y. Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries	
1*	3011	Tires and Inner Tubes.
	3021	Rubber and Plastics Footwear.
	3052, 3053	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
	3061, 3069	Fabricated Rubber Products, Not Elsewhere Classified.
2	3081–3089	Miscellaneous Plastics Products.
	3931	Musical Instruments.
	3942–3949	Dolls, Toys, Games and Sporting and Athletic Goods.
	3951–3955 (except 3952 as specified in Sector C).	Pens, Pencils, and Other Artists' Materials.
	3961, 3965	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal.
	3991–3999	Miscellaneous Manufacturing Industries.
	Sector Z. Leather Tanning and Finishing	
NA	3111	Leather Tanning and Finishing.
	Sector AA. Fabricated Metal Products	
1*	3411–3499	Fabricated Metal Products, Except Machinery and Transportation Equipment and Cutting, Engraving and Allied Services.
	3911–3915	Jewelry, Silverware, and Plated Ware.
2*	3479	Coating, Engraving, and Allied Services.
	Sector AB. Transportation Equipment, Industrial or Commercial Machinery	
NA	3511–3599 (except 3571–3579)	Industrial and Commercial Machinery (except Computer and Office Equipment—see Sector AC).
NA	3711–3799 (except 3731, 3732)	Transportation Equipment (except Ship and Boat Building and Repairing—see Sector R).
	Sector AC. Electronic, Electrical, Photographic and Optical Goods	
NA	3612–3699	Electronic, Electrical Equipment and Components, Except Computer Equipment.
	3812–3873	Measuring, Analyzing and Controlling Instrument; Photographic and Optical Goods, Watches and Clocks.
	3571–3579	Computer and Office Equipment.
	Sector AD. Reserved for Facilities Not Covered Under Other Sectors and Designated by the Director	

* Denotes subsector with analytical (chemical) monitoring requirements.
NA indicates those industry sectors in which subdivision into subsectors was determined to be not applicable.

The final MSGP modification of September 30, 1998 (63 FR 52430) expanded the coverage of the 1995 MSGP to include a small number of categories of facilities which had been covered by the 1992 baseline industrial general permit but excluded from the MSGP. In Table 1 above, these categories have been included in the appropriate sectors/subsectors of the MSGP as determined by the September 30, 1998 modification.

With the September 30, 1998 modification, EPA believes that the MSGP now covers all of the categories of industrial facilities which may discharge storm water associated with industrial activity as defined at 40 CFR 122.26(b)(14) (except construction activities disturbing five or more acres which are permitted separately). However, the September 30, 1998 modification also added another sector to the MSGP (Sector AD) to cover any inadvertent omissions. EPA is proposing to retain Sector AD in the reissued MSGP.

Sector AD is further intended to provide a readily available means for covering many of the storm water facilities which are designated for permitting in accordance with NPDES regulations at 40 CFR 122.26(g)(1)(i). These regulations provide that permit applications may be required within 180 days of notice for any discharges which contribute to a violation of a water

quality standard, or are determined to be significant sources of pollutants.

EPA also recognizes that a new North American Industry Classification System (NAICS) was recently adopted by the Office of Management and Budget (62 FR 17288, April 9, 1997). NAICS replaces the 1987 standard industrial classification (SIC) code system for the collection of statistical economic data. However, the use of the new system for nonstatistical purposes is optional. EPA considered the use of NAICS for the today's proposal, but elected to retain the 1987 SIC code system since the storm water regulations (40 CFR 122.26(b)(14)) reference the previous system and this system has generally proven to be adequate for identifying the facilities covered by storm water regulations. EPA will consider transitioning to the new NAICS system in future rule making.

V. Limitations on Coverage

A. Storm Water Discharges Subject to Effluent Guideline Limitations, Including New Source Performance Standards

The general prohibition on coverage of storm water subject to an effluent guideline limitation in the 1995 MSGP has been retained. Only those storm water discharges subject to the following effluent guidelines are eligible for coverage (provided they meet all other eligibility requirements):

TABLE 2.—EFFLUENT GUIDELINES APPLICABLE TO DISCHARGES THAT MAY BE ELIGIBLE FOR PERMIT COVERAGE

Effluent guideline	New source [1]	Sectors [2]
Runoff from material storage piles at cement manufacturing facilities [40 CFR Part 411 Subpart C (established February 23, 1977)].	Yes	E
Contaminated runoff from phosphate fertilizer manufacturing facilities [40 CFR Part 418 Subpart A (established April 8, 1974)].	Yes	C
Coal pile runoff at steam electric generating facilities [40 CFR Part 423 (established November 19, 1982)]	Yes	O
Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas [40 CFR Part 429, Subpart I (established January 26, 1981)].	Yes	A
Mine dewatering discharges at crushed stone mines [40 CFR part 436, Subpart B]	No	J
Mine dewatering discharges at construction sand and gravel mines [40 CFR part 436, Subpart C]	No	J
Mine dewatering discharges at industrial sand mines [40 CFR part 436, Subpart D]	No	J
Runoff from asphalt emulsion facilities [40 CFR Part 443 Subpart A (established July 24, 1975)].	Yes	D
Runoff from landfills, [40 CFR Part 445, Subpart A and B (established February 2, 2000.]	Yes	K & L

[1] New Source Performance Standards Included in Effluent Guidelines?
[2] Sectors with Affected Facilitates.

Section 306 of the Clean Water Act (CWA) requires EPA to develop performance standards for all new sources described in that section. These standards apply to all facilities which go into operation after the date the standards are promulgated. Section 511(c) of the CWA Act requires the Agency to comply with the National Environmental Policy Act (NEPA) prior to issuance of a permit under the authority of section 402 of the CWA to facilities defined as a new source under Section 306.

The fact sheet for the existing MSGP described a process for ensuring compliance with NEPA for the MSGP (60 FR 50809). This process, which is repeated below, is proposed to be retained for the reissued MSGP. Additional guidance is found in a new Addendum C to the proposed MSGP.

Facilities which are subject to the performance standards for new sources as described in this section of the fact sheet must provide EPA with an Environmental Information Document pursuant to 40 CFR 6.101 prior to seeking coverage under this permit. This information shall be used by the Agency to evaluate the facility under the requirements of NEPA in an Environmental Review. The Agency will make a final decision regarding the direct or indirect impact of the discharge. The Agency will follow all administrative procedures required in this process. The permittee must obtain a copy of the Agency's final finding prior to the submission of a Notice of Intent to be covered by this general permit. In order to maintain eligibility, the permittee must implement any mitigation required of the facility as a result of the NEPA review process. Failure to implement mitigation measures upon which the Agency's NEPA finding is based is grounds for termination of permit coverage. In this way, EPA has established a procedure which allows for the appropriate review procedures to be completed by this Agency prior to the issuance of a permit under section 402 of the CWA to an operator of a facility subject to the new source performance standards of section 306 of the CWA. EPA believes that it has fulfilled its requirements under NEPA for this Federal action under section 402 of the CWA.

B. Historic Preservation

The National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal undertakings, including undertakings on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. The term ''Federal undertaking'' is defined in the existing NHPA regulations to include any project, activity, or program under the direct or indirect jurisdiction of a Federal agency that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects for that project, activity, or program. See 36 CFR 800.2(a). Historic properties are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. See 36 CFR 800.2(e).

Federal undertakings include the EPA's issuance of general NPDES permits. In light of NHPA requirements, EPA included a provision in the eligibility requirements of the 1995 MSGP for the consideration of the effects to historic properties. That provision provides that an applicant is eligible for permit coverage only if: (1) The applicant's storm water discharges and BMPs to control storm water runoff do not affect a historic property, or (2) the applicant has obtained, and is in compliance with, a written agreement between the applicant and the State Historic Preservation Officer (SHPO) that outlines all measures to be taken by the applicant to mitigate or prevent adverse effects to the historic property.

See Part I.B.6, 60 FR 51112 (September 29, 1995). When applying for permit coverage, applicants are required to certify in the NOI that they are in compliance with the Part I.B.6 eligibility requirements. Provided there are no other factors limiting permit eligibility, MSGP coverage is then granted 48 hours after the postmark on the envelope used to the mail the NOI.

The September 30, 1998 modification included two revisions of the original MSGP with respect to historic properties. First, EPA amended the original Part I.B.6.(ii) to include a reference to Tribal Historic Preservation Officers (THPOs) because MSGP coverage extends to Tribal lands and in recognition of the central role Tribal governments play in the protection of historic resources. Second, EPA included NHPA guidance and a list of SHPO and THPO addresses in a new Addendum I to the MSGP to assist applicants with the certification process for permit eligibility under this condition.

For the MSGP–2000, EPA is proposing to modify slightly the requirements of the first option for obtaining permit coverage to enhance the protection of historic properties. Permit coverage would only be available if storm water and allowable non-storm water discharges and ''discharge-related activities'' do not affect historic properties. ''Discharge-related activities'' are defined to include activities which cause, contribute to, or result in storm water and allowable non-storm water point source discharges, and measures such as the siting, construction and obtained, and is in compliance with, a written agreement between the applicant and the State Historic Preservation Officer (SHPO) that outlines all measures to be taken by the applicant to mitigate or prevent adverse effects to the historic property. See Part I.B.6, 60 FR 51112 (September 29, 1995). When applying for permit coverage, applicants are required to certify in the NOI that they are in compliance with the Part I.B.6 eligibility requirements. Provided there are no other factors limiting permit eligibility, MSGP coverage is then granted 48 hours after the postmark on the envelope used to the mail the NOI.

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For the MSGP–2000, EPA is proposing to modify slightly the requirements of the first option for obtaining permit coverage to enhance the protection of historic properties. Permit coverage would only available if storm water and allowable non-storm water discharges and ''discharge-related activities'' do not affect historic properties. ''Discharge-related activities'' are defined to include activities which cause, contribute to, or result in storm water and allowable non-storm water point source discharges, and measures such as the siting, construction and operation of BMPs to control, reduce of prevent pollution in the discharges. Discharge-related activity is included to ensure compliance with NHPA requirements to consider the effects of activities which are related to the activity which is permitted, *i.e.,* the storm water and non-storm water discharges.

Also, as discussed in Section VI.A.1 below, EPA is proposing to modify the Notice of Intent form to require that operators identify which of the above two options they are using to ensure eligibility for permit coverage under the MSGP. The NHPA guidance has also been modified to reflect the above changes, and appears in Addendum B in today's notice rather than Addendum I.

Facilities seeking coverage under the MSGP which cannot certify compliance with the NHPA requirements must submit individual permit applications to the permitting authority. For facilities already covered by the existing MSGP, the deadline for the individual applications is the same as that for NOIs requesting coverage under the reissued MSGP (December 29, 2000).

C. Endangered Species

The Endangered Species Act (ESA) of 1973 requires Federal Agencies such as EPA to ensure, in consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (also known collectively as the ''Services''), that any actions authorized, funded, or carried out by the Agency (*e.g.,* EPA issued NPDES permits authorizing discharges to waters of the United States) are not likely to jeopardize the continued existence of any Federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species (see 16 U.S.C. 1536(a)(2), 50 CFR part 402 and 40 CFR 122.49(c)).

For the 1995 MSGP, EPA conducted formal consultation with the Services which resulted in a joint Service biological opinion issued by the FWS on March 31, 1995, and by the NMFS on April 5, 1995, which concluded that the issuance and operation of the MSGP was not likely to jeopardize the existence of any listed endangered or threatened species, or result in the adverse modification or destruction of any critical habitat.

The existing MSGP contains a number of conditions to protect listed species and critical habitat. Permit coverage is only provided where:

- The storm water discharge(s), and the construction of BMPs to control storm water runoff, are not likely to adversely affect species identified in Addendum H of the permit; or
- The applicant's activity has received previous authorization under the Endangered Species Act and established an environmental baseline that is unchanged; or,
- The applicant is implementing appropriate measures as required by the Director to address adverse effects.

For the MSGP–2000, EPA is proposing to modify the ESA-related requirements for obtaining permit coverage to enhance the protection of listed species. First, permit coverage is only available if storm water and allowable non-storm water discharges and ''discharge-related activities'' avoid unacceptable effects to listed species. ''Discharge-related activities'' are defined to include activities which cause, contribute to or result in storm water and allowable non-storm water point source discharges, and measures such as the siting, construction and operation of BMPs to control, reduce or prevent pollution in the discharges. Inclusion of discharge-related activity is for compliance with ESA requirements to consider the effects of activities which are related to the activity which is permitted, *i.e.,* the storm water and non-storm water discharges. NOTE: The permit conditions, NOI requirements and/or related guidance for the final permit are subject to revision based on results of required ESA § 7 consultations with the Services over issuance of the permit.

In addition, operators seeking coverage under the proposed MSGP must certify that they are eligible for coverage under one of the following five options which are provided in Parts 1.2.3.6.3.1 through 5 of the permit:

1. No endangered or threatened species or critical habitat are in proximity to the facility or the point

where authorized discharges reach the receiving water; or

2. In the course of a separate federal action involving the facility (*e.g.,* EPA processing request for an individual NPDES permit, issuance of a CWA Section 404 wetlands dredge and fill permit, etc.), formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the ESA has been concluded and that consultation:

(a) Addressed the effects of the storm water and allowable non-storm water discharges and discharge-related activities on listed species and critical habitat and

(b) The consultation resulted in either a no jeopardy opinion or a written concurrence by the Service(s) on a finding that the storm water and allowable non-storm water discharges and discharge-related activities are not likely to adversely affect listed species or critical habitat; or

3. The activities are authorized under section 10 of the ESA and that authorization addresses the effects of the storm water and allowable non-storm water discharges and discharge-related activities on listed species and critical habitat; or

4. Using due diligence, the operator has evaluated the effects of the storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed endangered or threatened species and critical habitat and does not have reason to believe listed species or critical habitat would be adversely affected; or

5. The storm water and allowable non-storm water discharges and discharge-related activities were already addressed in another operator's certification of eligibility under Part 1.2.3.6.3.1 through 1.2.3.6.3.4 which included the facility's activities. By certifying eligibility under this Part, a permittee agrees to comply with any measures or controls upon which the other operator's certification was based.

The first four options listed above are similar to the eligibility provisions of the existing MSGP. Option 5 was added to account for situations such as an airport facility where one operator (*e.g.,* the airport authority) may have covered the entire airport through its certification. Option 5 would allow other operators to take advantage of such a certification without repeating the reviews conducted by the first operator. Options 1 and 4 are essentially the two halves of the 1995 MSGP's ''unlikely to adversely effect'' option. Option 1 would apply to operators who are not adversely affecting endangered species because listed species simply are not in proximity to their facility. Option 4 would apply to operators who have endangered species nearby and must look more closely at potential adverse effects and may need to adopt measures to reduce the risk of adverse effects on listed species or critical habitat. The separation of the two routes to determine that a facility is unlikely to adversely affect listed species, coupled with the new NOI requirement to indicate whether or not the Service was contacted in making the determination will also allow for better oversight of the permit. Under the 1995 permit, there was no way to tell from the NOI information whether the decision on eligibility was due to no species in the county, a discussion with the Service, or a simple unilateral decision by the operator.

Addendum H of the 1995 MSGP provided instructions to assist permittees in determining whether they meet the permit's ESA-related eligibility requirements. For today's proposed MSGP–2000, this guidance has been updated to reflect above requirements and appears as Addendum A. As noted in Section VI.A.1 below, EPA is also proposing to modify the Notice of Intent form to conform with new ESA requirements discussed above.

Addendum H of the 1995 MSGP contained a list of proposed and listed endangered and threatened species that could be affected by the discharges and measures to control pollutants in the discharges. EPA reinitiated and completed formal consultation with the Services for the September 30, 1998 modification of the MSGP. As a result of this consultation and in response to public comments on the modification, EPA updated the species list in Addendum H to include species that were listed or proposed for listing since the Addendum H list was originally compiled on March 31, 1995. EPA also decided to expand the list to include all of the terrestrial (*i.e.,* non-aquatic) listed and proposed species in recognition that those species may be impacted by permitted activities such as the construction and operation of the BMPs. The September 30, 1998 MSGP modification included the species list updated as of July 8, 1998 (63 FR 52494). The species list is also being updated on a regular basis and an electronic copy of the list is available at the Office of Wastewater Management website at ''http://www.epa.gov/owm/esalst2.htm''.

To be eligible for coverage under the reissued MSGP, facilities must review the updated list of species and their locations in conjunction with the Addendum A instructions for completing the application requirements under this permit. If an applicant determines that none of the species identified in the updated species list are found in the county in which the facility is located, then there is no likelihood of an adverse effect and they are eligible for permit coverage. Applicants must then certify that their storm water and allowable non-storm water discharges, and their discharge-related activities, are not likely to adversely affect species and will be granted MSGP permit coverage 48 hours after the date of the postmark on the envelope used to mail the NOI form, provided there are no other factors limiting permit eligibility.

If listed species are located in the same county as the facility seeking MSGP coverage, then the applicant must determine whether the species are in proximity to the storm water or allowable non-storm water discharges or discharge-related activities at the facility. A species is in proximity to a storm water or allowable non-storm water discharge when the species is located in the path or down gradient area through which or over which point source discharge flows from industrial activities to the point of discharge into the receiving water, and once discharged into the receiving water, in the immediate vicinity of, or nearby, the discharge point. A species is also in proximity if a species is located in the area of a site where discharge-related activities occur. If an applicant determines there are no species in proximity to the storm water or allowable non-storm water discharges, or discharge-related activities, then there is no likelihood of adversely affecting the species and the applicant is eligible for permit coverage.

If species are in proximity to the storm water or allowable non-storm water discharges or discharge-related activities, as long as they have been considered as part of a previous ESA authorization of the applicant's activity, and the environmental baseline established in that authorization is unchanged, the applicant may be covered under the permit. The environmental baseline generally includes the past and present impacts of all Federal, state and private actions that were occurring at the time the initial NPDES authorization and current ESA section 7 action by EPA or any other federal agency was taken. Therefore, if a permit applicant has received previous authorization and nothing has changed or been added to the environmental baseline established in the previous authorization, then

coverage under this permit will be provided.

In the absence of such previous authorization, if species identified in the updated species list are in proximity to the discharges or discharge-related activities, then the applicant must determine whether there is any likely adverse effect upon the species. This is done by the applicant conducting a further examination or investigation, or an alternative procedure, as described in the instructions in Addendum A of the permit. If the applicant determines that there is no likely adverse effect upon the species, then the applicant is eligible for permit coverage. If the applicant determines that there likely is, or will likely be an adverse effect, then the applicant is not eligible for MSGP coverage unless or until they can meet one of the other eligibility conditions.

All dischargers applying for coverage under the MSGP must provide in the application information on the Notice of Intent form: (1) A determination as to whether there are any listed species in proximity to the storm water or allowable non-storm water discharges or discharge related activity, and (2) An indication of which option under Part 1.2.3.6.3 of the MSGP they claim eligibility for permit coverage, and (3) a certification that their storm water and allowable non-storm water discharges and discharge-related activities are not likely to adversely affect listed species, or are otherwise eligible for coverage due to a previous authorization under the ESA. Coverage is contingent upon the applicant's providing truthful information concerning certification and abiding by any conditions imposed by the permit.

Dischargers who cannot determine if they meet one of the endangered species eligibility criteria cannot sign the certification to gain coverage under the MSGP and must apply to EPA for an individual NPDES storm water permit. For facilities already covered by the existing MSGP, the deadline for the individual applications is the same as that for NOIs requesting coverage under the reissued MSGP (December 29, 2000). As appropriate, EPA will conduct ESA section 7 consultation when issuing such individual permits.

Regardless of the above conditions, EPA may require that a permittee apply for an individual NPDES permit on the basis of possible adverse effects on species or critical habitats. Where there are concerns that coverage for a particular discharger is not sufficiently protective of listed species, the Services (as well as any other interested parties) may petition EPA to require that the discharger obtain an individual NPDES permit and conduct an individual section 7 consultation as appropriate.

In addition, the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration, or his/her authorized representative, or the U.S. Fish and Wildlife Service (as well as any other interested parties) may petition EPA to require that a permittee obtain an individual NPDES permit. The permittee is also required to make the SWPPP, annual site compliance inspection report, or other information available upon request to the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration, or his/her authorized representative, or the U.S. Fish and Wildlife Service Regional Director, or his/her authorized representative.

These mechanisms allow for the broadest and most efficient coverage for the permittee while still providing for the most efficient protection of endangered species. They significantly reduce the number of dischargers that must be considered individually and therefore allow the Agency and the Services to focus their resources on those discharges that are indeed likely to adversely affect listed species. Straightforward mechanisms such as these allow applicants more immediate access to permit coverage, and eliminates ''permit limbo'' for the greatest number of permitted discharges. At the same time it is more protective of endangered species because it allows both agencies to focus on the real problems, and thus, provide endangered species protection in a more expeditious manner.

D. New Storm Water Discharges to Water Quality-Impaired or Water Quality-Limited Receiving Waters

Today's proposal includes a new provision (Part 1.2.3.8) which establishes eligibility conditions with regard to discharges to water quality-limited or water quality-impaired waters. For the purposes of this permit, ''water quality-impaired'' refers to a stream, lake, estuary, etc. that is not currently meeting its assigned water quality standards. These waters are also referred to as ''303(d) waters'' due to the requirement under that section of the CWA for States to periodically list all state waters that are not meeting their water quality standards. ''Water quality-limited waters'' refers to waterbodies for which a State had to develop individual Total Maximum Daily Loads (TMDLs), a tool which helps waterbodies meet their water quality standards. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. Water quality standards are set by States, Territories, and Tribes. They identify the uses for each waterbody, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use. The Clean Water Act, section 303, establishes the water quality standards and TMDL programs.

Prior to submitting a Notice of Intent, any new discharger (see 40 CFR 122.2) to a 303(d) waterbody must be able to demonstrate compliance with 40 CFR 122.4(i). In essence, you are a new discharger if your facility started discharging after August 13, 1979 and your storm water was not previously permitted. Any discharger to a waterbody for which there is an approved TMDL must confirm that the TMDL allocated a portion of the load for storm water point source discharges. These provisions apply only to discharges containing the pollutant(s) for which the waterbody is impaired or the TMDL developed.

Part 1.2.3.8.1 (which applies to new storm water discharges and not to existing discharges) is designed to better ensure compliance with NPDES regulations at 40 CFR 122.4(i), which include certain special requirements for new discharges into impaired waterbodies. Lists of impaired waterbodies (sometimes referred to as 303(d) waterbodies) may be obtained from appropriate State environmental offices or their internet sites. NPDES regulations at 40 CFR 122.4(i) prohibit new discharges unless it can be shown that:

1. There are sufficient remaining pollutant load allocations to allow for the discharge; and

2. The existing dischargers into that segment are subject to compliance schedules designed to bring the segments into compliance with applicable water quality standards.

Part 1.2.3.8.2 (which applies to both new and existing storm water discharges) is designed to better ensure compliance with NPDES regulations at 40 CFR 122.4(d), which requires compliance with State water quality standards. The eligibility condition prohibits coverage of new or existing discharges of a particular pollutant where there is a TMDL, unless the discharge is consistent with the TMDL. Lists of waterbodies with TMDLs may be obtained from appropriate State environmental offices or their internet sites and from EPA's TMDL internet site at *http://www.epa.gov/owow/tmdl/index.html.* It should also be noted that

EPA has recently proposed revisions to NPDES regulations pertaining to discharges to impaired receiving waters (64 FR 46058, August 23, 1999). How these revisions will ultimately apply to general permits is unclear at this time. However, the final MSGP may include additional requirements to ensure consistency with the final revisions.

E. Storm Water Discharges Subject to Anti-Degradation Provisions of Water Quality Standards

Part 1.2.3.9 of today's proposed MSGP includes a new provision which clarifies that discharges which do not comply with applicable anti-degradation provisions of State water quality standards are not eligible for coverage under the MSGP. This eligibility condition is designed to better ensure compliance with NPDES regulations at 40 CFR 122.4(d), which requires compliance with State water quality standards. Anti-degradation provisions may be obtained from the appropriate State environmental office or their internet sites.

F. Storm Water Discharges Previously Covered by an Individual Permit

The 1995 MSGP contained general prohibitions on coverage where a discharge was covered by another NPDES permit (Part I.B.3.d) and where a permit had been terminated other than at the request of the permittee (Part I.B.3.e.). It was therefore possible to obtain coverage by requesting termination of an individual permit and then submitting an NOI for coverage under the MSGP. This could be desirable from both the discharger's and EPA's perspective for a variety of reasons, for example, where a wastewater permit included storm water outfalls, but the wastewater outfalls had been eliminated. Being able to use the general permit would reduce the application cost to the permittee and the administrative burden of permit issuance to the Agency. Today's permit clarifies the conditions under which transfer from an individual permit to this general permit would be acceptable (Part 1.2.3.3.2).

In order to avoid conflict with the anti-backsliding provisions of the CWA, transfer from an individual permit to the MSGP will only be allowed where all of the following conditions are met:

- All wastewater discharges in the individual permit have been eliminated and only storm water discharges and eligible non-storm water discharges remain (*e.g.,* wastewater is now discharged to a municipal sanitary sewer); and
- The individual permit did not contain numeric water quality-based effluent limitations developed for the storm water component of the discharge; and
- The permittee includes any specific BMPs for storm water required under the individual permit in their storm water pollution prevention plan.
- Implementation of a comprehensive pollution prevention plan for the entire facility (as opposed to selected outfalls in an individual permit) and compliance will all other conditions of the MSGP is deemed to be at least as stringent a technology-based permit limit as the conditions of the individual permit. This assumption is only made where the previous permit did not contain any specific water quality-based effluent limitations on storm water discharges (*e.g.,* storm water contained high levels of zinc and the individual permit contained a zinc limit developed to assure compliance with the State water quality criteria).

VI. Summary of Common Permit Requirements

The following section describes the permit conditions common to discharges from all the industrial activities covered by today's proposal. These conditions are largely the same as the conditions of the existing MSGP.

A. Notification Requirements

General permits for storm water discharges associated with industrial activity must require the submission of a Notice of Intent (NOI) prior to the authorization of such discharges (see 40 CFR 122.28(b)(2)(i), April 2, 1992 (57 FR 11394)). Consistent with these regulatory requirements, today's proposed MSGP establishes NOI requirements. These requirements apply to facilities currently covered by the existing MSGP, as well as new facilities seeking coverage. However, as noted earlier, EPA is proposing to modify the NOI form to allow the discharger, the Agency and the public to more easily determine permit eligibility and the sector-specific conditions that will apply to the facility. The proposed revised NOI form is found in Addendum D of today's proposed MSGP, and is also currently being reviewed by the Office of Management and Budget under the Paperwork Reduction Act. The information requirements of the revised NOI form are described below:

1. Contents of NOIs

a. An indication of which permit the operator is filing the NOI for (*e.g.,* a facility in New Hampshire would be filing for coverage under permit NHR05*###, a facility located on Navajo Reservation lands in New Mexico under the AZR05*##I permit, a private contractor operating a federal facility in Colorado that is not located on Indian Country lands under the COR05*##F permit, etc.);

b. The name, address, and telephone number of the operator filing the NOI for permit coverage;

c. An indication of whether the owner of the site is a Federal, State, Tribal, private, or other public entity;

d. The name (or other identifier), address, county, and latitude/longitude of the facility for which the NOI is submitted (latitude/longitude will be accepted in either degree-minute-second or decimal format);

e. An indication of whether the facility is located on Indian Country lands;

f. An indication of whether the facility is a federal facility operated by the federal government;

g. The name of the receiving water(s);

h. The name of the municipal operator if the discharge enters a municipal separate storm sewer system prior to discharge to a water of the U.S.;

i. Up to four 4-digit Standard Industrial Classification (SIC) codes that best represent the principal products produced or services rendered, including hazardous waste treatment, storage, or disposal activities, land disposal facilities that receive or have received any industrial waste, steam electric power generating facilities, or treatment works treating domestic sewage;

j. Identification of applicable sector(s) in this permit, as designated in Table 1, for facility discharges associated with industrial activity the operator wishes to have covered under this permit;

k. Certification that a storm water pollution prevention plan (SWPPP) meeting the requirements of Part 4 has been developed (with a copy of the permit language to the plan);

l. Based on the instructions in Addendum A, whether any listed or proposed threatened or endangered species, or designated critical habitat, are in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit;

m. Under which Part(s) of Part 1.2.3.6 (Endangered Species) the applicant is certifying eligibility and whether the FWS or NMFS was involved in making the determination of eligibility;

n. Whether any historic property listed or eligible for listing on the National Register of Historic Places is located on the facility or in proximity to the discharge;

o. Under which Part(s) of Part 1.2.3.7 (Historic Properties) the applicant is

certifying eligibility and whether the SHPO or THPO was involved in the determination of eligibility;

p. A signed and dated certification, signed by a authorized representative of the facility as detailed in Part 9.7 that certifies the following:

''I certify under penalty of law that I have read and understand the Part 1.2 eligibility requirements for coverage under the multi-sector storm water general permit including those requirements relating to the protection of endangered or threatened species or critical habitat. To the best of my knowledge, the storm water and allowable non-storm discharges authorized by this permit (and discharged related activities), are not likely and will not likely, adversely affect endangered or threatened species or critical habitat, or are otherwise eligible for coverage under Part 1.2.3.6 of the permit. To the best of my knowledge, I further certify that such discharges and discharge related activities do not have an effect on properties listed or eligible for listing on the National Register or Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage under Part 1.2.3.7 of the permit. I understand that continued coverage under the multi-sector storm water general permit is contingent upon maintaining eligibility as provided for in Part 1.2''

The NOI must be signed in accordance with the signatory requirements of 40 CFR 122.22. A complete description of these signatory requirements is provided in the instructions accompanying the NOI. Completed NOI forms must be submitted to the Storm Water Notice of Intent (4203), 401 M Street, SW., Washington, DC 20460.

Under the 1995 MSGP, continued coverage under the general permit (should it expire without a replacement permit being issued) was available provided the permittee applied for the replacement general permit according to the deadlines established in that permit. The new MSGP has clarified this process at Part 9.2.

In the future (but not at the present time), EPA may also allow alternate means of NOI submission (such as electronic submission). An alternate means of NOI submission may be used by operators provided EPA has informed the operator of the acceptability of the alternative.

2. Deadlines

For facilities currently covered by the existing MSGP, the deadline for submission of an NOI requesting coverage under the MSGP–2000 is December 29, 2000 (90 days after expiration of the existing MSGP). For these facilities, the requirements of the existing MSGP are incorporated into the MSGP–2000 and would continue to apply during the interim period subsequent to the expiration of the existing MSGP, but prior to submission of the NOI requesting coverage under the reissued MSGP.

Facilities currently covered by the existing MSGP who cannot immediately determine if they are eligible for coverage under the MSGP–2000 may nevertheless be covered for up to 270 days provided an application for an alternative permit is submitted within 90 days. This interim coverage allows permit coverage while the permittee assesses their eligibility for the MSGP–2000 and, if necessary, still meet the 180 day lead time required for applications for individual permits.

For facilities commencing operations after reissuance of the MSGP, the NOI must be submitted at least two days prior to the commencement of the new industrial activity. New operators of existing facilities must also submit the NOI at least two days prior to assuming operational control at existing facilities.

Dischargers who submit a complete NOI in accordance with the MSGP requirements are authorized to discharge storm water associated with industrial activity two days after the date the NOI is postmarked, unless otherwise notified by EPA. EPA may deny coverage under the MSGP and require submission of an individual NPDES permit application based on a review of the completeness and/or content of the NOI or other information (*e.g.,* Endangered Species Act compliance, National Historic Preservation Act Compliance, water quality information, compliance history, history of spills, etc.). Where EPA requires a discharger authorized under the MSGP to apply for an individual NPDES permit (or an alternative general permit), EPA will notify the discharger in writing that a permit application (or different NOI) is required by an established deadline. Coverage under the MSGP will automatically terminate if the discharger fails to submit the required permit application in a timely manner. Where the discharger does submit a requested permit application, coverage under the MSGP will automatically terminate on the effective date of the issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee.

A discharger is not precluded from submitting an NOI at a later date than described above. However, in such instances, EPA may bring appropriate enforcement actions.

3. Municipal Separate Storm Sewer System Operator Notification

Operators of storm water discharges associated with industrial activity that discharge through a large or medium municipal separate storm sewer system (MS4) or a municipal system designated by the Director,[1] must (upon request of the MS4 operator) submit a copy of the NOI to the municipal operator of the system receiving the discharge. This proposed requirement differs from the existing MSGP which requires that a copy of the NOI be sent to the MS4 operator. The MSGP is proposed to be modified in this regard to reduce paperwork requirements, and in consideration of the fact that most large and medium MS4 operators already have good information concerning the industrial facilities discharging into their MS4s.

EPA wishes to ensure a coordinated program between EPA and operators of MS4s for controlling pollutants in storm water discharges associated with industrial activity which enter an MS4. Such a coordinated program was intended by EPA's original storm water permit application regulations of November 16, 1990 (47 FR 47990). Additional discussion of this matter can be found in the original proposed MSGP (58 FR 61146).

4. Notice of Termination

Where a discharger is able to eliminate the storm water discharges associated with industrial activity from a facility, the discharger may submit a Notice of Termination (NOT) form (or photocopy thereof) provided by the Director. Today's proposed MSGP also differs from the existing MSGP by requiring that an NOT be submitted within 30 days after one or both of the following two conditions having been met:

a. A new owner/operator has assumed responsibility for the facility; or

b. The permittee has ceased operations at the facility and there no longer are discharges of storm water associated with industrial activity from the facility;

A copy of the NOT and instructions for completing the NOT are included in

[1] The terms large and medium municipal separate storm sewer systems (systems serving a population of 100,000 or more) are defined at 40 CFR 122.26(b)(4) and (7). Some of the cities and counties in which these systems are found are listed in Appendices F, G, H, and I to 40 CFR Part 122. Other municipal systems have been designated by EPA on a case-by-case basis or have brought into the program based upon the 1990 Census.

Addendum E. The NOT form requires the following information:

a. Name, mailing address, and location of the facility for which the notification is submitted. Where a street address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter;

b. The name, address and telephone number of the operator addressed by the Notice of Termination;

c. The NPDES permit number for the storm water discharge associated with industrial activity identified by the NOT;

d. An indication of whether the storm water discharges associated with industrial activity have been eliminated or the operator of the discharges has changed; and

e. The following certification:

I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by an NPDES general permit have been eliminated or that I am no longer the operator of the industrial activity. I understand that by submitting this Notice of Termination I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I also understand that the submission of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

NOTs are to be sent to the Storm Water Notice of Termination (4203), 401 M Street SW, Washington, DC 20460.

The NOT must be signed in accordance with the signatory requirements of 40 CFR 122.22. A complete description of these signatory requirements is provided in the instructions accompanying the NOT.

5. Conditional Exclusion for No Exposure

The proposed MSGP includes a special provision (Part 1.5 of the permit) which provides that a facility may discontinue permit coverage if the facility determines that it is eligible for the ''no exposure'' permit exemption which was created by EPA as part of the promulgation of the Phase II storm water regulations (64 FR 68722). A notice of termination is not required to discontinue permit coverage under these circumstances. However, in accordance with the Phase II regulations, a no exposure certification must be filed with the permitting authority.

It should also be noted that facilities operating under the existing MSGP are eligible, as of the effective date of the Phase II regulations, to submit no exposure certifications immediately if they meet the criteria for no exposure. No exposure certification renewals must be submitted five years from the time they are first submitted (assuming the facility still qualifies for the exemption). If conditions change at a facility such that renewed MSGP coverage is needed, the facility may submit an NOI requesting renewed coverage.

EPA is also requesting comment on whether including a copy of the ''No Exposure'' form and instructions as an addendum to the permit would be useful enough to outweigh the increase in length of the permit and cost of publication.

B. Special Conditions

The conditions of today's proposed MSGP have been designed to comply with the technology-based standards of the CWA (BAT/BCT). Based on a consideration of the appropriate factors for BAT and BCT requirements, and a consideration of the factors and options for controlling pollutants in storm water discharges associated with industrial activity, the proposed MSGP lists a set of tailored requirements for developing and implementing storm water pollution prevention plans (SWPPPs), and for selected discharges, numeric effluent limitations.[2] This is same approach as in the existing MSGP.

Section VIII of the fact sheet for the 1995 MSGP summarized the industry-specific BMP options for controlling pollutants in storm water discharges associated with industrial activity for the various industrial sectors covered by the MSGP. Section VIII of today's fact sheet does not repeat the information from the 1995 fact sheet; however, updates are provided as appropriate.

Section VI.B.4 of today's fact sheet discusses the storm water discharges which are subject to numeric effluent limitations. For other discharges covered by the proposed MSGP, the permit conditions reflect EPA's proposed decision to identify a number of BMP and traditional storm water management practices which prevent pollution in storm water discharges as the BAT/BCT level of control for the majority of storm water discharges covered by this permit. The permit conditions applicable to these discharges are not numeric effluent limitations, but rather are flexible requirements for developing and implementing site specific plans to minimize and control pollutants in storm water discharges associated with industrial activity.

EPA is authorized under 40 CFR 122.44(k)(2) to impose BMPs in lieu of numeric effluent limitations in NPDES permits when the Agency finds numeric effluent limitations to be infeasible. EPA may also impose BMPs which are ''reasonably necessary * * * to carry out the purposes of the Act'' under 40 CFR 122.44(k)(3). Both of these standards for imposing BMPs were recognized in *NRDC* v. *Costle,* 568 F.2d 1369, 1380 (D.C. Cir. 1977). The conditions in the proposed MSGP are issued under the authority of both of these regulatory provisions. The pollution prevention or BMP requirements in today's proposed permit operate as limitations on effluent discharges that reflect the application of BAT/BCT. This is because the BMPs identified require the use of source control technologies which, in the context of the MSGP, are the best available of the technologies economically achievable (or the equivalent BCT finding). See *NRDC* v. *EPA,* 822 F.2d 104, 122–23 (D.C. Cir. 1987) (EPA has substantial discretion to impose nonquantitative permit requirements pursuant to Section 402(a)(1)).

1. Prohibition of Non-Storm Water Discharges

Today's proposal includes basically the same provisions pertaining to non-storm water discharges as the current MSGP. Like the existing MSGP, the proposed MSGP does not authorize non-storm water discharges that are mixed with storm water except as provided below.

The proposed MSGP would authorize one additional non-storm water discharge: mist discharges which originate from cooling towers and which are deposited at an industrial facility and may be discharged. During the term of the existing MSGP, these discharges were brought to the attention of EPA with a request that the discharges be authorized under the reissued MSGP.

[2] Section 9.12.2 of the proposed MSGP provides that facilities with storm water discharges associated with industrial activity which, based on an evaluation of site specific conditions, believe that the appropriate conditions of this permit do not adequately represent BAT and BCT requirements for the facility may submit to the Director an individual application (Form 1 and Form 2F). A detailed explanation of the reasons why the conditions of the available general permits do not adequately represent BAT and BCT requirements for the facility as well as any supporting documentation must be included.

The mist discharges would be authorized under the proposed MSGP provided:

a. The permittee has evaluated the potential for the discharges to be contaminated by chemicals used in the cooling tower and determined that the levels of such chemicals in the discharges would not cause or contribute to a violation of an applicable water quality standard; and

b. The permittee has addressed this source of pollutants with appropriate BMPs in the SWPPP.

The other non-storm water discharges that would be authorized under today's proposed MSGP are the same as those in the existing MSGP and include discharges from fire fighting activities; fire hydrant flushings; potable water sources, including waterline flushings; irrigation drainage; lawn watering; routine external building washdown without detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; compressor condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents that are combined with storm water discharges associated with industrial activity.

To be authorized under the proposed MSGP, these other sources of non-storm water (except flows from fire fighting activities) must be identified in the SWPPP prepared for the facility. (SWPPP requirements are discussed in more detail below). Where such discharges occur, the SWPPP must also identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

Today's proposal does not require pollution prevention measures to be identified and implemented for non-storm water flows from fire-fighting activities because these flows will generally be unplanned emergency situations where it is necessary to take immediate action to protect the public.

The prohibition of unpermitted non-storm water discharges in this proposed MSGP ensures that non-storm water discharges (except for those classes of non-storm water discharges that are conditionally authorized in Part 1.2.2.2 of the proposed MSGP) are not inadvertently authorized by the permit. Where a storm water discharge is mixed with non-storm water that is not authorized by today's proposed MSGP or another NPDES permit, the discharger should submit the appropriate application forms (Forms 1, 2C, and/or 2E) to gain permit coverage of the non-storm water portion of the discharge.

2. Releases of Reportable Quantities of Hazardous Substances and Oil

As discussed below, today's proposed MSGP includes the same provisions pertaining to releases of reportable quantities of hazardous substances and oil as the existing MSGP.

a. The proposed MSGP provides that the discharge of hazardous substances or oil from a facility must be eliminated or minimized in accordance with the SWPPP developed for the facility. Where a permitted storm water discharge contains a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under 40 CFR part 117, or 40 CFR part 302 during a 24-hour period, the following actions must be taken:

(1) Any person in charge of the facility that discharges hazardous substances or oil is required to notify the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area, 202–426–2675) in accordance with the requirements of 40 CFR part 117, and 40 CFR part 302 as soon as they have knowledge of the discharge.

(2) The SWPPP for the facility must be modified within 14 calendar days of knowledge of the release to provide a description of the release, an account of the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and it must be modified where appropriate.

(3) The permittee must also submit to EPA within 14 calendar days of knowledge of the release a written description of the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken to modify the SWPPP for the facility.

b. Anticipated discharges containing a hazardous substance in an amount equal to or in excess of reporting quantities are those caused by events occurring within the scope of the relevant operating system. Facilities that have more than 1 anticipated discharge per year containing a hazardous substance in an amount equal to or in excess of a reportable quantity are required to:

(1) Submit notifications of the first release that occurs during a calendar year (or for the first year of this permit, after submission of an NOI); and

(2) Provide a written description in the SWPPP of the dates on which such releases occurred, the type and estimate of the amount of material released, and the circumstances leading to the releases. In addition, the SWPPP must address measures to minimize such releases.

c. Where a discharge of a hazardous substance or oil in excess of reporting quantities is caused by a non-storm water discharge (*e.g.,* a spill of oil into a separate storm sewer), that discharge is not authorized by the MSGP and the discharger must report the discharge as required under 40 CFR part 110, 40 CFR part 117, or 40 CFR part 302. In the event of a spill, the requirements of section 311 of the CWA and other applicable provisions of sections 301 and 402 of the CWA continue to apply. This approach is consistent with the requirements for reporting releases of hazardous substances and oil that make a clear distinction between hazardous substances typically found in storm water discharges and those associated with spills that are not considered part of a normal storm water discharge (see 40 CFR 117.12(d)(2)(i)).

3. Co-Located Industrial Facilities

Like the existing MSGP, today's proposal includes requirements pertaining to co-located industrial facilities. However, these requirements have been modified from the requirements of the existing MSGP to clarify their applicability. Co-located industrial activities occur when activities being conducted onsite fall into more than one of the categories of the industrial facilities listed in Part 1.2.1 of the proposed MSGP–2000 (*e.g.,* a landfill at a wood treatment facility). Facilities operating under the existing MSGP have sometimes been unclear whether certain limited activities (*e.g.,* minor vehicle maintenance activities at an industrial plant) would trigger the MSGP's requirements regarding co-located activities.

If you have co-located industrial activities on-site that are described in a sector(s) other than your primary sector, you must comply with all other applicable sector-specific conditions found in Part 6 for the co-located industrial activities. The extra sector-specific requirements are applied only to those areas of your facility where the extra-sector activities occur. An activity at a facility is not considered co-located if the activity, when considered separately, does not meet the description of a category of industrial activity covered by the storm water

regulations, and identified by the MSGP–2000 SIC code list. For example, unless you are actually hauling substantial amounts of freight or materials with your own truck fleet or are providing a trucking service to outsiders, simple maintenance of vehicles used at your facility is unlikely to meet the SIC code group 42 description of a motor freight transportation facility. Even though Sector P may not apply, the runoff from your vehicle maintenance facility would likely still be considered storm water associated with industrial activity. As such, your SWPPP must still address the runoff from the vehicle maintenance facility—although not necessarily with the same degree of detail as required by Sector P—but you would not be required to monitor as per Sector P.

In the event there truly are co-located activities at your facility, the proposed MSGP–2000 authorizes, as does the existing MSGP, all storm water discharges provided that your facility complies with all SWPPP and monitoring requirements for each co-located activity. By monitoring the discharges from the different industrial activities, you can better determine the effectiveness of your SWPPP for controlling all major pollutants of concern in your storm water discharges. However, if monitoring for the same parameter is required for more than one sector (and the different industrial activities drain to the same outfall), then only one sample analysis is required for that parameter.

4. Numeric Effluent Limitations

Today's proposal retains the numeric effluent limitations which are included in the existing MSGP, and also includes the effluent limitations guidelines which EPA recently finalized for certain storm water discharges from new and existing hazardous and non-hazardous landfills (65 FR 3007, January 19, 2000). The new effluent limitations guidelines for these landfills are discussed in more detail in the Sections VIII.K and L of this fact sheet (Special Requirements for Discharges Associated with Industry Activities).

The proposed MSGP–2000 retains the numeric effluent limitations from the existing MSGP for the following discharges: Coal pile runoff (including runoff from steam electric power plants subject to 40 CFR part 423 requirements), discharges from phosphate fertilizer manufacturing (40 CFR part 418), asphalt paving and roofing emulsions (40 CFR part 443), cement manufacturing materials storage pile runoff (40 CFR part 411), and discharges resulting from the spray down of lumber and wood products storage yards (wet decking) (40 CFR part 429). In addition, the proposed MSGP authorizes mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone facilities (40 CFR part 436) in EPA Regions 1, 2, 6, 10 and Arizona. The actual numeric effluent limitations can be found in Part 6 of the proposed MSGP.

5. Compliance With Water Quality Standards

The existing MSGP does not specifically address compliance with water quality standards (WQS), other than to exclude from coverage discharges which may contribute to an exceedance of WQS. Today's proposed MSGP includes the same restriction on eligibility, and in Part 3.3 also includes certain requirements if exceedances occur for discharges covered by the MSGP. If a discharge authorized under the proposed MSGP is later discovered to cause, or have the reasonable potential to cause or contribute to a violation of a WQS, the permitting authority will inform the permittee of the violation. The permittee must then take all necessary actions to ensure future discharges do not cause or contribute to the violation of WQS, and document these actions in the SWPPP. If violations remain or reoccur, coverage under the MSGP may be terminated by the permitting authority and an alternate permit issued. The proposed MSGP also clarifies that compliance with this requirement does not preclude enforcement actions as provided by the Clean Water Act for the underlying violation.

C. Common Pollution Prevention Plan Requirements

Like the existing MSGP, today's proposal requires that all facilities which intend to be covered by the MSGP for storm water discharges associated with industrial activity prepare and implement a SWPPP. The MSGP addresses pollution prevention plan requirements for a number of categories of industries. Following below is a discussion of the common permit requirements for all industries; special requirements for storm water discharges associated with industrial activity through large and medium MS4s; special requirements for facilities subject to EPCRA section 313 reporting requirements; and special requirements for facilities with outdoor salt storage piles. These are the permit requirements which apply to discharges associated with any of the industrial activities covered by today's proposed permit. These common requirements may be amended or further clarified in the industry-specific SWPPP requirements which are found in Part 6 of the proposed MSGP. These industry-specific requirements are additive for facilities where co-located industrial activities occur.

The pollution prevention approach in today's proposed MSGP focuses on two major objectives: (1) To identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from the facility; and (2) Ensure implementation of measures to minimize and control pollutants in storm water discharges associated with industrial activity from the facility.

The SWPPP requirements in today's proposed MSGP are intended to facilitate a process whereby the operator of the industrial facility thoroughly evaluates potential pollution sources at the site and selects and implements appropriate measures designed to prevent or control the discharge of pollutants in storm water runoff. The process involves the following four steps: (1) Formation of a team of qualified plant personnel who will be responsible for preparing the plan and assisting the plant manager in its implementation; (2) assessment of potential storm water pollution sources; (3) selection and implementation of appropriate management practices and controls; and (4) periodic evaluation of the effectiveness of the plan to prevent storm water contamination.

EPA believes the pollution prevention approach is the most environmentally sound and cost-effective way to control the discharge of pollutants in storm water runoff from industrial facilities. This position is supported by the results of a comprehensive technical survey EPA completed in 1979.[3] The survey found that two classes of management practices are generally employed at industries to control the nonroutine discharge of pollutants from sources such as storm water runoff, drainage from raw material storage and waste disposal areas, and discharges from places where spills or leaks have occurred. The first class of management practices includes those that are low in cost, applicable to a broad class of industries and substances, and widely considered essential to a good pollution control program. Some examples of practices in this class are good housekeeping, employee training, and spill response and prevention

[3] See ''Storm Water Management for Industrial Activities,'' EPA, September 1992, EPA–832–R–92–006.

procedures. The second class includes management practices that provide a second line of defense against the release of pollutants. This class addresses containment, mitigation, and cleanup. Since publication of the 1979 survey, EPA has imposed management practices and controls in NPDES permits on a case-by-case basis. The Agency also has continued to review the appropriateness and effectiveness of such practices,[4] as well as the techniques used to prevent and contain oil spills.[5] Experience with these practices and controls has shown that they can be used in permits to reduce pollutants in storm water discharges in a cost-effective manner. In keeping with both the present and previous administration's objective to attain environmental goals through pollution prevention, pollution prevention has been and continues to be the cornerstone of the NPDES permitting program for storm water. EPA has developed guidance entitled ''Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices,'' September 1992, to assist permittees in developing and implementing pollution prevention measures.

Note: The discussions of the SWPPP requirements are grouped in subject areas and do not follow the exact order of the permit conditions.

1. Pollution Prevention Team (Part 4.2.1)

As a first step in the process of developing and implementing a SWPPP, permittees are required to identify a qualified individual or team of individuals to be responsible for developing the plan and assisting the facility or plant manager in its implementation. When selecting members of the team, the plant manager should draw on the expertise of all relevant departments within the plant to ensure that all aspects of plant operations are considered when the plan is developed. The plan must clearly describe the responsibilities of each team member as they relate to specific components of the plan. In addition to enhancing the quality of communication between team members and other personnel, clear delineation of responsibilities will ensure that every aspect of the plan is addressed by a specified individual or group of individuals. Pollution Prevention Teams may consist of one individual where appropriate (*e.g.,* in certain small businesses with limited storm water pollution potential).

2. Description of the Facility and Potential Pollution Sources (Part 4.2.2)

Each SWPPP must describe activities, materials, and physical features of the facility that may contribute significant amounts of pollutants to storm water runoff or, during periods of dry weather, result in pollutant discharges through the separate storm sewers or storm water drainage systems that drain the facility. This assessment of storm water pollution risk will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Some operators may find that significant amounts of pollutants are running onto the facility property. Such operators should identify and address the contaminated runon in the SWPPP. If the runon cannot be addressed or diverted by the permittee, the permitting authority should be notified. If necessary, the permitting authority may require the operator of the adjacent facility to obtain a permit.

Part 6 of the proposed MSGP includes industry-specific requirements for the various industry sectors covered by today's proposed permit. All SWPPPs generally must describe the following elements:

a. Description of the Facility Site and Receiving Waters/Wetlands (Parts 4.2.2 & 4.2.3): The plan must contain a map of the site that shows the location of outfalls covered by the permit (or by other NPDES permits), the pattern of storm water drainage, an indication of the types of discharges contained in the drainage areas of the outfalls, structural features that control pollutants in runoff,[6] surface water bodies (including wetlands), places where significant materials[7] are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of an NOI to be covered under this permit. The map also must show areas where the following activities take place: Fueling, vehicle and equipment maintenance and/or cleaning, loading and unloading, material storage (including tanks or other vessels used for liquid or waste storage), material processing, and waste disposal. For areas of the facility that generate storm water discharges with a reasonable potential to contain significant amounts of pollutants, the map must indicate the probable direction of storm water flow and the pollutants likely to be in the discharge. Flows with a significant potential to cause soil erosion also must be identified. In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

b. Summary of Potential Pollutant Sources (Part 4.2.4): The description of potential pollution sources culminates in a narrative assessment of the risk potential that sources of pollution pose to storm water quality. This assessment should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: Loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (*i.e.,* biochemical oxygen demand, suspended solids, etc.) associated with each source.

c. Significant Spills and Leaks (Part 4.2.5): The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in

[4] For example, see ''Best Management Practices: Useful Tools for Cleaning Up,'' Thron, H. Rogoshewski, P., 1982, Proceedings of the 1982 Hazardous Material Spills Conference; ''The Chemical Industries' Approach to Spill Prevention,'' Thompson, C., Goodier, J. 1980, Proceedings of the 1980 National Conference of Control of Hazardous Materials Spills; a series of EPA memorandum entitled ''Best Management Practices in NPDES Permits—Information Memorandum,'' 1983, 1985, 1986, 1987, 1988; Review of Emergency Systems: Report to Congress,'' EPA, 1988; and ''Analysis of Implementing Permitting Activities for Storm Water Discharges Associated with Industrial Activity,'' EPA, 1991.

[5] See for example, ''The Oil Spill Prevention, Control and Countermeasures Program Task Force Report,'' EPA, 1988; and ''Guidance Manual for the Development of an Accidental Spill Prevention Program,'' prepared by SAIC for EPA, 1986.

[6] Nonstructural features such as grass swales and vegetative buffer strips also should be shown.

[7] Significant materials include, but are not limited to the following: Raw materials; fuels; solvents, detergents, and plastic pellets; finished materials, such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); any chemical the facility is required to report pursuant to EPCRA section 313; fertilizers; pesticides; and waste products, such as ashes, slag, and sludge that have the potential to be released with storm water discharges. (See 40 CFR 122.26(b)(8)).

the 3 years prior to the date of the submission of an NOI to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under section 311 of CWA (see 40 CFR 110.10 and 40 CFR 117.21) or section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance.

The listing should include a description of the causes of each spill or leak, the actions taken to respond to each release, and the actions taken to prevent similar such spills or leaks in the future. This effort will aid the facility operator as she or he examines existing spill prevention and response procedures and develops any additional procedures necessary to fulfill the requirements set forth in Parts 4 and 6 of the proposed permit.

d. Allowable and Prohibited Non-storm Water Discharges (Part 4.4): Each SWPPP must include a certification, signed by an authorized individual, that discharges from the site have been tested or evaluated for the presence of non-storm water discharges. The certification must describe possible significant sources of non-storm water, the results of any test and/or evaluation conducted to detect such discharges, the test method or evaluation criteria used, the dates on which tests or evaluations were performed, and the onsite drainage points directly observed during the test or evaluation. Acceptable test or evaluation techniques include dye tests, television surveillance, observation of outfalls or other appropriate locations during dry weather, water balance calculations, and analysis of piping and drainage schematics.[8]

Except for flows that originate from fire fighting activities, sources of non-storm water that are specifically identified in the permit as being eligible for authorization under the general permit must be identified in the plan. SWPPPs must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water discharge.

EPA recognizes that certification may not be feasible where facility personnel do not have access to an outfall, manhole, or other point of access to the conduit that ultimately receives the discharge. In such cases, the plan must describe why certification was not feasible. Permittees who are not able to certify that discharges have been tested or evaluated must notify the Director in accordance with Part 4.4 of the proposed MSGP.

e. Sampling Data (Part 4.2.6): Any existing data on the quality or quantity of storm water discharges from the facility must be described in the plan, including data collected for Part 2 of the group application process. These data may be useful for locating areas that have contributed pollutants to storm water. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

3. Selection and Implementation of Storm Water Controls (Part 4.2.7, *et al.*)

Following completion of the source identification and assessment phase, the permit requires the permittee to evaluate, select, and describe the pollution prevention measures, BMPs, and other controls that will be implemented at the facility. BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

EPA emphasizes the implementation of pollution prevention measures and BMPs that reduce possible pollutant discharges at the source. Source reduction measures include, among others, preventive maintenance, chemical substitution, spill prevention, good housekeeping, training, and proper materials management. Where such practices are not appropriate to a particular source or do not effectively reduce pollutant discharges, EPA supports the use of source control measures and BMPs such as material segregation or covering, water diversion, and dust control. Like source reduction measures, source control measures and BMPs are intended to keep pollutants out of storm water. The remaining classes of BMPs, which involve recycling or treatment of storm water, allow the reuse of storm water or attempt to lower pollutant concentrations prior to discharge.

The SWPPP must discuss the reasons each selected control or practice is appropriate for the facility and how each will address one or more of the potential pollution sources identified in the plan. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems. The permit requirements included for the various industry sectors in Part 6 of today's proposed MSGP generally require that the portion of the plan that describes the measures and controls address the following minimum components.

When ''minimize/reduce'' is used relative to SWPPP measures, EPA means to consider and implement BMPs that will result in an improvement over the baseline conditions as it relates to the levels of pollutants identified in storm water discharges with due consideration to economic feasibility and effectiveness.

a. Nonstructural Controls

- Good Housekeeping. Good housekeeping involves using practical, cost-effective methods to identify ways to maintain a clean and orderly facility and keep contaminants out of separate storm sewers. It includes establishing protocols to reduce the possibility of mishandling chemicals or equipment and training employees in good housekeeping techniques. These protocols must be described in the plan and communicated to appropriate plant personnel.
- Minimizing Exposure. Where practicable, protecting potential pollutant sources from exposure to storm water is an important control option. Pollutants that are never allowed to contaminate storm water do not require development of ''treatment'' type BMPs. Elimination of all exposure to storm water may also make the facility for the ''No Exposure Certification'' exclusion from permitting at 40 CFR 122.26(g)
- Preventive Maintenance. Permittees must develop a preventive maintenance program that involves regular inspection and maintenance of storm water management devices and other equipment and systems. The program description should identify the devices, equipment, and systems that will be inspected; provide a schedule for inspections and tests; and address appropriate adjustment, cleaning, repair, or replacement of devices, equipment, and systems. For storm water management devices such as catch basins and oil/water separators, the preventive maintenance program should provide for periodic removal of debris to ensure that the devices are

[8] In general, smoke tests should not be used for evaluating the discharge of non-storm water to a separate storm sewer as many sources of non-storm water typically pass through a trap that would limit the effectiveness of the smoke test.

operating efficiently. For other equipment and systems, the program should reveal and enable the correction of conditions that could cause breakdowns or failures that may result in the release of pollutants.

• Spill Prevention and Response Procedures. Based on an assessment of possible spill scenarios, permittees must specify appropriate material handling procedures, storage requirements, containment or diversion equipment, and spill cleanup procedures that will minimize the potential for spills and in the event of a spill enable proper and timely response. Areas and activities that typically pose a high risk for spills include loading and unloading areas, storage areas, process activities, and waste disposal activities. These activities and areas, and their accompanying drainage points, must be described in the plan. For a spill prevention and response program to be effective, employees should clearly understand the proper procedures and requirements and have the equipment necessary to respond to spills.

• Routine Inspections. In addition to the comprehensive site evaluation, facilities are required to conduct periodic inspections of designated equipment and areas of the facility. Industry-specific requirements for such inspections, if any, are set forth in Part 6 of the proposed MSGP. When required, qualified personnel must be identified to conduct inspections at appropriate intervals specified in the plan. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections must be maintained. These periodic inspections are different from the comprehensive site evaluation, even though the former may be incorporated into the latter. Equipment, area, or other inspections are typically visual and are normally conducted on a regular basis, *e.g.,* daily inspections of loading areas. Requirements for such periodic inspections are specific to each industrial sector in today's permit, whereas the comprehensive site compliance evaluation is required of all industrial sectors. Area inspections help ensure that storm water pollution prevention measures (*e.g.,* BMPs) are operating and properly maintained on a regular basis. The comprehensive site evaluation is intended to provide an overview of the entire facility's pollution prevention activities. Refer to Part VI.C.3.h. below for more information on the comprehensive site evaluation.

• Employee Training. The SWPPP must describe a program for informing personnel at all levels of responsibility of the components and goals of the SWPPP. The training program should address topics such as good housekeeping, materials management, and spill response procedures. Where appropriate, contractor personnel also must be trained in relevant aspects of storm water pollution prevention. A schedule for conducting training must be provided in the plan. Several sections in Part 6 of today's proposed MSGP specify a minimum frequency for training of once per year. Others indicate that training is to be conducted at an appropriate interval. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

b. Structural Controls

• Sediment and Erosion Control. The SWPPP must identify areas that, due to topography, activities, soils, cover materials, or other factors have a high potential for significant soil erosion. The plan must identify measures that will be implemented to limit erosion in these areas.

• Management of Runoff. The plan must contain a narrative evaluation of the appropriateness of traditional storm water management practices (i.e., practices other than those that control pollutant sources) that divert, infiltrate, reuse, or otherwise manage storm water runoff so as to reduce the discharge of pollutants. Appropriate measures may include, among others, vegetative swales, collection and reuse of storm water, inlet controls, snow management, infiltration devices, and wet detention/retention basins.

c. Example BMPs: Part 4.2.7.2.2 includes a list of example BMPs that could be considered for use in a SWPPP, for example: Detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). These examples are not intended to limit the creativity of facility operators in developing alternative BMPs or applications for BMPs that increase cost effectiveness.

d. Selection of Controls: Based on the results of the evaluation, the plan must identify practices that the permittee determines are reasonable and appropriate for the facility. The plan also should describe the particular pollutant source area or activity to be controlled by each storm water management practice. Reasonable and appropriate practices must be implemented and maintained according to the provisions prescribed in the plan.

In selecting storm water management measures, it is important to consider the potential effects of each method on other water resources, such as ground water. Although storm water pollution prevention plans primarily focus on storm water management, facilities must also consider potential ground water pollution problems and take appropriate steps to avoid adversely impacting ground water quality. For example, if the water table is unusually high in an area, an infiltration pond may contaminate a ground water source unless special preventive measures are taken. Under EPA's July 1991 Ground Water Protection Strategy, States are encouraged to develop Comprehensive State Ground Water Protection Programs (CSGWPP). Efforts to control storm water should be compatible with State ground water objectives as reflected in CSGWPPs.

e. Other Controls: Today's proposed MSGP includes a new requirement that no solid materials, including floating debris may be discharged to waters of the United States, except as authorized by a permit under Section 404 of the Clean Water Act. In addition, off-site tracking of raw, final, or waste materials or sediment, and the generation of dust must be minimized. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas must be minimized. These requirements are similar to requirements included in EPA's construction general storm water permit (63 FR 7858, February 17, 1998) which EPA believes would be appropriate for industrial facilities as well.

f. Maintenance (Part 4.3): All BMPs identified in the SWPPP must be maintained in effective operating condition.

g. Controls for Allowable Non-Storm Water (Part 4.4.2): Where an allowable non-storm water has been identified, appropriate controls for that discharge must be included in the permit. In many cases, the same types of controls for contaminated storm water would suffice, but the nature and volume of potential pollutants in the non-storm water discharges must be taken into consideration in selection of controls.

h. Comprehensive Site Compliance Evaluation (Part 4.9): Today's proposed MSGP requires that the SWPPP describe the scope and content of the comprehensive site evaluations that qualified personnel will conduct to (1)

confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of the permit. Note that the comprehensive site evaluations are not the same as periodic or other inspections described for certain industries in Section VI.C.3.d of this fact sheet. However, in the instances when frequencies of inspections and the comprehensive site compliance evaluation overlap they may be combined allowing for efficiency, as long as the requirements for both types of inspections are met. The plan must indicate the frequency of comprehensive evaluations which must be at least once a year, except where comprehensive site evaluations are shown in the plan to be impractical for inactive mining sites, due to remote location and inaccessibility [9]. The individual or individuals who will conduct the comprehensive site evaluation must be identified in the plan and should be members of the pollution prevention team. Material handling and storage areas and other potential sources of pollution must be visually inspected for evidence of actual or potential pollutant discharges to the drainage system. Inspectors also must observe erosion controls and structural storm water management devices to ensure that each is operating correctly. Equipment needed to implement the SWPPP, such as that used during spill response activities, must be inspected to confirm that it is in proper working order.

The results of each comprehensive site evaluation must be documented in a report signed by an authorized company official. The report must describe the scope of the comprehensive site evaluation, the personnel making the comprehensive site evaluation, the date(s) of the comprehensive site evaluation, and any major observations relating to implementation of the SWPPP. Comprehensive site evaluation reports must be retained for at least 3 years after the date of the evaluation. Based on the results of each comprehensive site evaluation, the description in the plan of potential pollution sources and measures and controls must be revised as appropriate within 2 weeks after each comprehensive site evaluation, unless indicated otherwise in Part 6 of the permit. Changes in procedural operations must be implemented on the site in a timely manner for non-structural measures and controls not more than 12 weeks after completion of the comprehensive site evaluation. Procedural changes that require construction of structural measures and controls are allowed up to 3 years for implementation. In both instances, an extension may be requested from the Director.

i. Applicable State, Tribal, or Local Plans (Part 4.8): The SWPPP must be consistent with any applicable requirements of State, Tribal, or Local storm water, waste disposal, sanitary sewer or septic system regulations to the extent these apply to a facility and are more stringent than the requirements of this permit.

j. Documentation of Permit Eligibility with Regards to ESA and NHPA Requirements (Parts 4.5 & 4.6): To better ensure compliance with the requirements of the ESA and NHPA, Parts 4.5 and 4.6 of today's proposed MSGP require that documentation be included with the SWPPP demonstrating permit eligibility with regards to the requirements of the ESA and NHPA. The following information would be required for the ESA:

- Information on whether listed endangered or threatened species, or critical habitat, are found in proximity to the facility;
- Whether such species may be affected by the storm water discharges or storm water discharge-related activities;
- Results of the Addendum A endangered species screening determinations; and
- A description of measures necessary to protect listed endangered or threatened species, or critical habitat, including any terms or conditions that are imposed under the eligibility requirements of Part 1.2.3.6. The proposed MSGP notes that discharges from facilities which fail to describe and implement such measures are ineligible for coverage under the permit.

The following information would be required for the NHPA determination:

- Information on whether the storm water discharges or storm water discharge-related activities would have an affect on a property that is listed or eligible for listing on the National Register of Historic Places;
- Where effects may occur, any written agreements which have been made with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other Tribal leader to mitigate those effects;
- Results of the Addendum B historic places screening determinations; and
- A description of measures necessary to avoid or minimize adverse impacts on places listed, or eligible for listing, on the National Register of Historic Places, including any terms or conditions that are imposed under the eligibility requirements of Part 1.2.3.7 of this permit. The proposed MSGP notes that discharges from facilities which fail to describe and implement such measures are ineligible for coverage under the permit.

k. Keeping a Copy of the Permit with the SWPPP (Part 4.7): A new requirement to have a copy of the permit language in the SWPPP has been added to today's permit. The ''confirmation'' letter received from the NOI Processing Center is not the permit; it is essentially only the equivalent of a ''receipt'' for a facility's ''registration'' (NOI) to use the general permit. Since determining permit eligibility and preparing a SWPPP is required prior to obtaining permit coverage, a copy of the permit would be needed anyway. Requiring a copy of the permit in the SWPPP ensures that facility operators, and not just whoever prepared the SWPPP, will have ready access to all permit requirements.

l. Recordkeeping and Keeping the SWPPP Current (Parts 4.9.4, 4.10, et al.): Records must be kept with the SWPPP documenting the status and effectiveness of plan implementation. At a minimum, records must address results of the annual Comprehensive Site Compliance Evaluations, routine facility inspections, spills, monitoring, and maintenance activities. The plan also must describe a system that enables timely reporting of storm water management-related information to appropriate plant personnel. Inspectors or other enforcement officers will ask for records documenting permit compliance during inspections or facility compliance reviews.

The SWPPP must be updated whenever there is a change at the facility that would significantly affect the discharges authorized under the MSGP. The SWPPP must also be updated whenever an inspection by the permittee or by local, state, tribal, or federal officials indicates a portion of the SWPPP is proving to be ineffective in controlling storm water discharge quality.

m. Signature, Plan Review, and Access to the SWPPP (Part 4.11): The SWPPP must be signed and certified in accordance with Part 7 of the permit. A copy of the SWPPP must be kept on site at the facility or locally available for the use of the Director, a State, Tribe, or

[9] Where annual site inspections are shown in the plan to be impractical for inactive mining sites, due to remote location and inaccessibility, site inspections must be conducted at least once every 3 years.

local agency (*e.g.,* MS4 operator) at the time of an onsite inspection. The SWPPP must also be made available to the U.S. Fish and Wildlife Service or National Marine Fisheries Service upon request. Facilities are encouraged, but not required, to make the SWPPP directly available to the public for viewing during normal business hours. Since SWPPPs are living documents that change over time, access to the current version of the SWPPP is critical in assessing permit compliance.

The Director may notify you at any time that your SWPPP does not meet one or more of the minimum requirements of this permit. The notification will identify provisions of the permit which are not being met, as well as the required modifications. Required changes must be made within thirty (30) calendar days and a written certification submitted to the Director confirming that the changes were made.

D. Special Requirements

1. Special Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Requirements (Part 4.12)

Today's proposal replaces the special requirements of the existing MSGP for certain permittees subject to reporting requirements under section 313 of the EPCRA (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA)) with a requirement to identify areas with these pollutants. EPCRA section 313 requires operators of certain facilities that manufacture (including import), process, or otherwise use listed toxic chemicals to report annually their releases of those chemicals to any environmental media. Listed toxic chemicals include more than 500 chemicals and chemical classes listed at 40 CFR part 372 (including the recently added chemicals published November 30, 1994).

By requiring identification of EPCRA 313 chemicals in the summary of potential pollutant sources under the Pollution Prevention Plan (Part 4.2.4), the facility operator is then required to develop appropriate storm water controls for such areas (Part 4.2.7). EPA expects that many controls for EPCRA chemicals will continue to be driven by other state and federal environmental regulations such as Spill Prevention Control and Countermeasure (SPCC) plans required under section 311 of the CWA, *etc.* as long as such a requirement is incorporated into the SWPPP.

This reduction in permit complexity by eliminating redundant requirements was requested by members of the regulated community. The public is specifically requested to comment on this new approach to dealing with EPCRA chemicals exposed to storm water.

2. Special Requirements for Storm Water Discharges Associated With Industrial Activity From Salt Storage Facilities

Today's proposal retains the same special requirements as the existing MSGP for storm water discharges associated with industrial activity from salt storage facilities. Storage piles of salt used for deicing or other commercial or industrial purposes must be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile. This requirement only applies to runoff from storage piles discharged to waters of the United States. Facilities that collect all of the runoff from their salt piles and reuse it in their processes or discharge it subject to a separate NPDES permit do not need to enclose or cover their piles. Permittees must comply with this requirement as expeditiously as practicable, but in no event later than 3 years from the date of permit issuance.

These special requirements have been included in today's permit based on human health and aquatic effects resulting from storm water runoff from salt storage piles compounded with the prevalence of salt storage piles across the United States.

3. Consistency With Other Plans

SWPPPs may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under section 311 of the CWA or BMP programs otherwise required by an NPDES permit for the facility as long as such requirement is incorporated into the SWPPP.

E. Monitoring and Reporting Requirements

The proposed MSGP–2000 retains basically the same monitoring requirements as the existing MSGP. However, EPA also recognizes the concerns that have been raised in determining the effectiveness of a facility's SWPPP regarding the usefulness of these monitoring requirements (particularly analytical monitoring) and whether facility resources are being diverted away from other activities, such as more effective implementation of the SWPPPs, which might provide greater environmental benefits. In view of such concerns, EPA is specifically requesting comments on these monitoring requirements and whether better alternatives are available for evaluating the overall effectiveness of the industrial storm water pollution control program.

One alternative which has been suggested is the submission of an annual report to EPA describing a permittee's storm water pollution control activities during the previous year. The existing MSGP already requires that permittees conduct periodic facility inspections and prepare inspection reports which are retained as part of the SWPPPs. The MSGP also sets forth certain basic and industry-specific requirements for the inspections and establishes the minimum inspection frequencies. The preparation of an annual report could conceivably enhance the pollution control program at an industrial facility by requiring a more formal review of the program than required by the existing MSGP. Inspection frequencies might also be increased as compared to the requirements of the existing MSGP. The submission of an annual report would also provide EPA and interested members of the public with readily available information from which to evaluate the pollution control program of a given facility. EPA is requesting comments on the merits of submitting an annual report as an alternative to analytical monitoring, including the type of information to be submitted and level of detail to be required.

EPA is also interested in receiving comments on other alternatives to the monitoring requirements of the existing MSGP. One possibility would be group monitoring, in which a representative group of facilities within a sector would monitor (similar to the group permit applications for the original MSGP). Yet another possibility would be watershed monitoring, in which industrial facilities in a given area would cooperate among themselves, or with other dischargers, in a regional watershed monitoring program which would focus on receiving water impacts.

In addition, EPA is requesting comments on whether alternate test methods should be allowed (such as the field test methods which were allowed for Part 1 of the permit applications for municipal separate storm sewer systems) rather than test methods approved under 40 CFR part 136. A number of field test options exist including colorimetric test kits, titrimetric test kits and spectrophotometric field test instruments. Test accuracy, according to industry literature, typically ranges from 0.1 to 20%. Field test methods are

available for all the parameters in the existing MSGP except BOD5, Cd, Mg, Hg, Se and TSS. Of these parameters, however, only TSS is a commonly monitored parameter in the existing MSGP. For TSS, another monitoring option would be transparency tubes which are currently being used in some areas to assess turbidity and TSS. These tubes consist of long narrow plastic tubes in which a sample is placed. Like a Secchi disc, the tube measures turbidity by the length of the tube through which the bottom of the tube cannot be seen. These field test methods are typically cheaper and easier to use than methods approved under 40 CFR part 136, and EPA is requesting comments on whether such methods are appropriate for the industrial storm water program.

EPA is also interested in receiving comments on the role of alternate environmental indicators in the industrial storm water program such as those discussed in the publication entitled ''Environmental Indicators to Assess Stormwater Control Programs and Practices'' (Clayton, R. and W. Brown, 1996, Center for Watershed Protection, Silver Spring, MD).

Another alternative to the existing monitoring requirements which has been suggested is to limit the monitoring requirements to discharges to impaired waterbodies, such as those on the section 303(d) list, where additional pollution control efforts are most clearly needed. EPA also welcomes any other suggestions for alternatives to the monitoring requirements of the existing MSGP.

The MSGP (as proposed) includes three general types of monitoring: Analytical monitoring or chemical monitoring; compliance monitoring for effluent guidelines compliance, and visual examinations of storm water discharges. A general description of each of these types of monitoring which was provided with the original MSGP is repeated below.

Analytical monitoring requirements involve laboratory chemical analyses of samples collected by the permittee. The results of the analytical monitoring are quantitative concentration values for different pollutants, which can be easily compared to the results from other sampling events, other facilities, or to national benchmarks. Section VI.E.1 below describes the proposed analytical monitoring requirements and the process and criteria by which an industry sector or subsector was selected for analytical monitoring. Compliance monitoring requirements are imposed under today's proposed permit to ensure that discharges subject to numeric effluent limitations under the storm water effluent limitations guidelines are in compliance with those limitations. The compliance monitoring requirements are discussed in Section VI.E.2.

Visual examinations of storm water discharges are the least burdensome type of monitoring requirement under the proposed MSGP. Visual examinations are described in Section VI.E.8.

Actual monitoring requirements for a given facility under the permit vary depending upon the industrial activities that occur at a facility and the results of the industry-supplied discharge characterization data that was used to develop the original MSGP. Part 5 of the proposed MSGP sets forth the common monitoring requirements which apply to all sectors; the industrial-specific requirements are found in Part 6 of the proposed MSGP. These are minimum monitoring requirements and a permittee may choose to conduct additional sampling to acquire more data to improve the statistical validity of the results. Through increased analytical or visual monitoring the permittee may be able to better ascertain the effectiveness of their SWPPP.

1. Analytical Monitoring Requirements

The categories of facilities subject to analytical monitoring in the proposed MSGP are noted in Table 1 of this fact sheet. The MSGP requires analytical monitoring for the industry sectors or subsectors that demonstrated in the group application data a potential to discharge pollutants at concentrations of concern, or, in certain State-specific cases, to satisfy those States' requirements. The data submitted with the group permit applications were reviewed by EPA to determine the industry sectors and subsectors listed in Table 1 of this fact sheet that are to be subject to analytical monitoring requirements. First, EPA divided the Part 1 and Part 2 application data by the industry sectors listed in Table 1. Where a sector was found to contain a wide range of industrial activities or potential pollutant sources, it was further subdivided into the industry subsectors listed in Table 1. Next, EPA reviewed the information submitted in Part 1 of the group applications regarding the industrial activities, significant materials exposed to storm water, and the material management measures employed. This information helped identify potential pollutants that may be present in the storm water discharges. Then, EPA entered into a database, the sampling data submitted in Part 2 of the group applications. That data was arrayed according to industrial sector and subsector for the purposes of determining when analytical monitoring would be appropriate.

To conduct a comparison of the results of the statistical analyses to determine when analytical monitoring would be required, EPA established ''benchmark'' concentrations for the pollutant parameters on which monitoring results had been received. The ''benchmarks'' are the pollutant concentrations above which EPA determined represents a level of concern. The level of concern is a concentration at which a storm water discharge could potentially impair, or contribute to impairing water quality or affect human health from ingestion of water or fish. The benchmarks are also viewed by EPA as a level, that if below, a facility represents little potential for water quality concern. As such, the benchmarks also provide an appropriate level to determine whether a facility's storm water pollution prevention measures are successfully implemented. The benchmark concentrations are not effluent limitations and should not be interpreted or adopted as such. These values are merely levels which EPA has used to determine if a storm water discharge from any given facility merits further monitoring to insure that the facility has been successful in implementing a SWPPP. As such these levels represent a target concentration for a facility to achieve through implementation of pollution prevention measures at the facility. Table 3 lists the parameter benchmark values and the sources used for the benchmarks. Additional explanation information concerning the derivation of the benchmarks can be found in the fact sheet for the 1995 MSGP (60 FR 50825).

TABLE 3.—PARAMETER BENCHMARK VALUES

Parameter name	Benchmark level	Source
Biochemical Oxygen Demand (5)	30 mg/L	4
Chemical Oxygen Demand	120 mg/L	5

TABLE 3.—PARAMETER BENCHMARK VALUES—Continued

Parameter name	Benchmark level	Source
Total Suspended Solids	100 mg/L	7
Oil and Grease	15 mg/L	8
Nitrate + Nitrite Nitrogen	0.68 mg/L	7
Total Phosphorus	2.0 mg/L	6
pH	6.0–9.0 s.u.	4
Acrylonitrile (c)	7.55 mg/L	2
Aluminum, Total (pH 6.5–9)	0.75 mg/L	1
Ammonia	19 mg/L	1
Antimony, Total	0.636 mg/L	9
Arsenic, Total (c)	0.16854 mg/L	9
Benzene	0.01 mg/L	10
Beryllium, Total (c)	0.13 mg/L	2
Butylbenzyl Phthalate	3 mg/L	3
Cadmium, Total (H)	0.0159 mg/L	9
Chloride	860 mg/L	1
Copper, Total (H)	0.0636 mg/L	9
Dimethyl Phthalate	1.0 mg/L	11
Ethylbenzene	3.1 mg/L	3
Fluoranthene	0.042 mg/L	3
Fluoride	1.8 mg/L	6
Iron, Total	1.0 mg/L	12
Lead, Total (H)	0.0816 mg/L	1
Manganese	1.0 mg/L	13
Mercury, Total	0.0024 mg/L	1
Nickel, Total (H)	1.417 mg/L	1
PCB–1016 (c)	0.000127 mg/L	9
PCB–1221 (c)	0.10 mg/L	10
PCB–1232 (c)	0.000318 mg/L	9
PCB–1242 (c)	0.00020 mg/L	10
PCB–1248 (c)	0.002544 mg/L	9
PCB–1254 (c)	0.10 mg/L	10
PCB–1260 (c)	0.000477 mg/L	9
Phenols, Total	1.0 mg/L	11
Pyrene (PAH,c)	0.01 mg/L	10
Selenium, Total (*)	0.2385 mg/L	9
Silver, Total (H)	0.0318 mg/L	9
Toluene	10.0 mg/L	3
Trichloroethylene (c)	0.0027 mg/L	3
Zinc, Total (H)	0.117 mg/L	1

Sources:
1. ''EPA Recommended Ambient Water Quality Criteria.'' Acute Aquatic Life Freshwater
2. ''EPA Recommended Ambient Water Quality Criteria.'' LOEL Acute Freshwater
3. ''EPA Recommended Ambient Water Quality Criteria.'' Human Health Criteria for Consumption of Water and Organisms
4. Secondary Treatment Regulations (40 CFR 133)
5. Factor of 4 times BOD5 concentration—North Carolina benchmark
6. North Carolina storm water benchmark derived from NC Water Quality Standards
7. National Urban Runoff Program (NURP) median concentration
8. Median concentration of Storm Water Effluent Limitation Guideline (40 CFR Part 419)
9. Minimum Level (ML) based upon highest Method Detection Limit (MDL) times a factor of 3.18
10. Laboratory derived Minimum Level (ML)
11. Discharge limitations and compliance data
12. ''EPA Recommended Ambient Water Quality Criteria.'' Chronic Aquatic Life Freshwater
13. Colorado—Chronic Aquatic Life Freshwater—Water Quality Criteria

Notes:
(*) Limit established for oil and gas exploration and production facilities only.
(c) carcinogen
(H) hardness dependent
(PAH) Polynuclear Aromatic Hydrocarbon

Assumptions:
Receiving water temperature—20 C
Receiving water pH—7.8
Receiving water hardness CaCO3 100 mg/L
Receiving water salinity 20 g/kg
Acute to Chronic Ratio (ACR)—10

EPA prepared a statistical analysis of the sampling data for each pollutant parameter reported within each sector or subsector. (Only where EPA did not subdivide an industry sector into subsectors was an analysis of the entire sector's data performed.) The statistical analysis was performed assuming a delta log normal distribution of the sampling data within each sector/subsector. The analyses calculated median, mean, maximum, minimum, 95th, and 99th percentile concentrations for each parameter. The results of the analyses can be found in the appropriate section of Section VIII of the fact sheet accompanying the 1995 MSGP. From this analysis, EPA was able to identify

pollutants for further evaluation within each sector or subsector.

EPA next compared the median concentration of each pollutant for each sector or subsector to the benchmark concentrations listed in Table 3. EPA also compared the other statistical results to the benchmarks to better ascertain the magnitude and range of the discharge concentrations to help identify the pollutants of concern. EPA did not conduct this analysis if a sector had data for a pollutant from less than three individual facilities. Under these circumstances, the sector or subsector would not have this pollutant identified as a pollutant of concern. This was done to ensure that a reasonable number of facilities represented the industry sector or subsector as a whole and that the analysis did not rely on data from only one facility.

For each industry sector or subsector, parameters with a median concentration higher than the benchmark level were considered pollutants of concern for the industry and identified as potential pollutants for analytical monitoring under today's permit. EPA then analyzed the list of potential pollutants to be monitored against the lists of significant materials exposed and industrial activities which occur within each industry sector or subsector as described in the Part I application information. Where EPA could identify a source of a potential pollutant which is directly related to industrial activities of the industry sector or subsector, the permit identifies that parameter for analytical monitoring. If EPA could not identify a source of a potential pollutant which was associated with the sector/subsector's industrial activity, the permit does not require monitoring for the pollutant in that sector/subsector. Industries with no pollutants for which the median concentrations are higher than the benchmark levels are not required to perform analytical monitoring under this permit, with the exceptions explained below.

In addition to the sectors and subsectors identified for analytical monitoring using the methods described above, EPA determined, based upon a review of the degree of exposure, types of materials exposed, special studies and in some cases inadequate sampling data in the group applications, that the following industries also warrant analytical monitoring not withstanding the absence of data on the presence or absence of certain pollutants in the group applications: Sector K (hazardous waste treatment storage and disposal facilities), and Sector S (airports which use more than 100,000 gallons per year of glycol-based fluids or 100 tons of urea for deicing). The proposed MSGP–2000 would retain the monitoring requirements of the existing MSGP due to the high potential for contamination of storm water discharge, which EPA believes was not adequately characterized by group applicants in the information they provided in the group application process. It should also be noted that like the existing MSGP, exemptions for the proposed MSGP–2000 would be on a pollutant-by-pollutant and outfall-by-outfall basis.

EPA analyzed the monitoring data which have been submitted under the MSGP for year 2 (year 4 data are due in March, 2000) both on a sector-and pollutant-basis. For the pollutant-basis, the need for year 4 monitoring (determined by whether the monitoring benchmarks—see Section Table 4 below—were exceeded) was performed on both a facility-wide and outfall-specific basis (*i.e.,* many facilities submitted DMR data for more than one outfall). The facility-wide basis determined whether any of the year 2 average discharge concentrations for any of the outfalls at the given facility exceeded the benchmark value. The outfall-specific basis evaluated each outfall independently. The results of these two analyses are presented in Table 4.

TABLE 4.—1995 MGSP DMR DATA ABOVE BENCHMARK VALUES (POLLUTANT-BASIS)

Pollutant	Benchmark value	Facility-wide basis		Outfall-specific basis	
		Total number of facilities	Above benchmark	Total number of outfalls	Above benchmark
TSS	100 mg/L	111	59 (53.2%)	185	86 (46.5%)
COD	120 mg/L	30	15 (50.0%)	52	25 (48.1%)
Nitrate+Nitrite Nitrogen	0.68 mg/L	30	14 (46.7%)	52	31 (59.6%)
Aluminum	0.75 mg/L	51	38 (74.5%)	86	57 (66.3%)
Arsenic	0.16854 mg/L	1	0 (0%)	1	0 (0%)
Copper	0.0636 mg/L	8	1 (12.5%)	23	1 (4.3%)
Iron	1.0 mg/L	84	58 (69.0%)	148	95 (64.2%)
Lead	0.0816 mg/L	22	6 (27.3%)	33	6 (18.2%)
Zinc	0.117 mg/L	58	43 (74.1%)	127	94 (74.0%)

As seen in Table 4, approximately 50 percent of the facilities and outfalls exceeded benchmark values for non-metallic pollutants (*i.e.,* TSS, COD, and Nitrate + Nitrite Nitrogen) while exceedances of the benchmark values for the metals were, for the most part, slightly higher. EPA intends to evaluate year 4 data for facilities that were required to monitor both years to identify possible trends in pollutant concentrations.

For Table 5, EPA evaluated by sector the number of facilities that monitored during year 2 that would also be required to monitor in year 4. The initial analysis focused on the facility as a whole. Specifically, Table 5 identifies the number of facilities submitting DMRs during year 2 in the 13 sectors that had DMR data for any pollutants required to be analyzed for which benchmark values exist. The omission of sectors from this list may be for one or more reasons. For example, no Sector G facilities (Metal Mining) are included in the analysis since all the facilities reviewed by EPA were ''no discharge'' facilities and thus did not submit monitoring data. Another reason, such as for Sector B (Paper and Allied Products), is that EPA did not evaluate any DMRs from facilities within the sector that monitored for any pollutants with benchmark values.

TABLE 5.—1995 MGSP DMR DATA ABOVE BENCHMARK VALUES

[Sector-Basis]

Sector	Total number of facilities	At least one average above benchmark	Above benchmark (in percent)
A	36	19	52.8
C	10	8	80
D	8	5	62.5
E	7	5	71.4
F	8	8	100
H	6	6	100
J	10	7	70
L	20	19	95
M	22	18	81.8
O	6	1	16.7
S	1	1	100
Y	2	2	100
AA	25	25	100
Total	161	124	77.0

As seen from this analysis, 77 percent of the facilities surveyed would be required to monitor during year 4 for at least one pollutant at a minimum of one outfall. While EPA considers this to be a somewhat limited data set, the Agency does believe that the numbers indicate that a small percentage of facilities are being excluded from year 4 monitoring based on year 2 data.

EPA believes that the year 2 data, in combination with year 4 data, should provide a better understanding of the synergy between analytical monitoring and SWPPP effectiveness, although, more information regarding steps that facilities took in response to year 2 data above benchmark values will be needed to fully understand this relationship. As such, EPA is soliciting information on the activities undertaken by permittees in response to elevated levels of pollutants above benchmark values to compare with the year 2 and year 4 data to fully evaluate the effectiveness of analytical monitoring requirements in the MSGP. This type of information would also be useful in evaluating suggestions from the public in response to EPA's specific request for comments on possible alternatives or modifications to analytical monitoring (discussed earlier in Part VI.E).

The current MSGP requires that all facilities, save for Sector G, within an industry sector or subsector identified for analytical monitoring must, at a minimum, monitor their storm water discharges quarterly during the second year of permit coverage, unless the facility exercises the Alternative Certification described in Section VI.E.3 of this fact sheet. At the end of the second year of coverage under the current permit, a facility was required to calculate the average concentration for each parameter for which the facility is required to monitor. If the average concentration for a pollutant parameter was less than or equal to the benchmark value, then the permittee was not required to conduct analytical monitoring for that pollutant during the fourth year of the permit. If, however, the average concentration for a pollutant is greater than the benchmark value, then the permittee was required to conduct quarterly monitoring for that pollutant during the fourth year of permit coverage. Analytical monitoring was not required during the first, third, and fifth year of the permit. The exclusion from analytical monitoring in the fourth year of the permit was conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

For today's proposed MSGP, EPA is also proposing to require analytical monitoring in the second and fourth year of the permit. For purposes of this monitoring, year 2 runs from October 1, 2001 to September 30, 2002; year 4 runs from October 1, 2003 to September 30, 2004.

2. Compliance Monitoring

Today's proposal retains the same compliance monitoring requirements of the existing MSGP, and also includes compliance monitoring requirements for certain storm water discharges from new and existing hazardous and non-hazardous landfills. As noted earlier, EPA has recently finalized effluent limitations guidelines for these landfills (65 FR 3007, January 19, 2000) and the compliance monitoring would be required to ensure compliance with the guidelines. These discharges must generally be sampled annually (in some cases quarterly) and tested for the parameters which are limited by the permit. Discharges subject to compliance monitoring include (in addition to the landfills discharges): Coal pile runoff, contaminated runoff from phosphate fertilizer manufacturing facilities, runoff from asphalt paving and roofing emulsion production areas, material storage pile runoff from cement manufacturing facilities, and mine dewatering discharges from crushed stone, construction sand and gravel, and industrial sand mines located in EPA Regions 1, 2, 6, 10 and Arizona. All samples are to be grabs taken within the first 30 minutes of discharge where practicable, but in no case later than the first hour of discharge. Where practicable, the samples shall be taken from the discharges subject to the numeric effluent limitations prior to mixing with other discharges.

Monitoring for these discharges is required to determine compliance with numeric effluent limitations. It should also be noted that discharges covered under today's proposed MSGP which are subject to numeric effluent limitations are not eligible for the alternative certification described in Section VI.E.3 of this fact sheet.

Where a State or Tribe has imposed a numeric effluent limitation as a condition for certification under CWA section 401, a default minimum monitoring frequency of once per year has been proposed. This default monitoring frequency would only apply if a State failed to provided a monitoring frequency along with their conditional § 401 certification.

3. Alternate Certification

Today's proposed MSGP–2000 retains the provision in the existing MSGP for an alternative certification in lieu of analytical monitoring. The MSGP includes monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is included in the permit to ensure that monitoring requirements are only imposed on those facilities which do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if there are no sources of a pollutant exposed to storm water at the site then the potential for that pollutant to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the analytical monitoring requirements provided the discharger makes a certification for a given outfall, on a pollutant-by-pollutant basis, that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the SWPPP, and submitted to EPA in lieu of monitoring reports required under Part 7 of the permit. The permittee is required to complete any and all sampling until the exposure is eliminated. If the facility is reporting for

a partial year, the permittee must specify the date exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained. This certification is not to be confused with the low concentration sampling waiver. The test for the application of this certification is whether the pollutant is exposed, or can be expected to be present in the storm water discharge. If the facility does not and has not used a parameter, or if exposure is eliminated and no significant materials remain, then the facility can exercise this certification.

As noted above, the MSGP does not allow facilities with discharges subject to numeric effluent limitations guidelines to submit alternative certification in lieu of compliance monitoring requirements. The permit also does not allow air transportation facilities or hard rock mines subject to the analytical monitoring requirements in Part 6 of the proposed MSGP to exercise an alternative certification.

A facility is not precluded from exercising the alternative certification in lieu of analytical monitoring requirements in the second or fourth year of the reissued MSGP, even if that facility has failed to qualify for a low concentration waiver thus far. EPA encourages facilities to eliminate exposure of industrial activities and significant materials where practicable.

4. Reporting and Retention Requirements

Like the existing MSGP, today's proposed MSGP requires that permittees submit all analytical monitoring results obtained during the second and fourth year of permit coverage. As noted earlier, year 2 runs from October 1, 2001 to September 30, 2002; year 4 runs from October 1, 2003 to September 30, 2004. Monitoring results must be submitted by January 28, 2003 for year 2 monitoring and January 28, 2005 for year 4 monitoring.

For each outfall, one Discharge Monitoring Report (DMR) form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional DMR form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled. Permittees subject to compliance monitoring requirements are required to submit all compliance monitoring results annually by October 28 following each annual sampling period (which run from October 1 of each year to September 30 of the following year). Compliance monitoring results must be submitted on signed DMR forms. For each outfall, one DMR form must be submitted for each storm event sampled.

Permittees are not required to submit records of the visual examinations of storm water discharges unless specifically asked to do so by the Director. Records of the visual examinations must be maintained at the facility. Records of visual examination of storm water discharge need not be lengthy. Permittees may prepare typed or hand written reports using forms or tables which they may develop for their facility. The report need only document: the date and time of the examination; the name of the individual making the examination; and any observations of color, odor, clarity, floating solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution.

The address for submission of DMR forms for today's proposed MSGP is as follows: MSGP DMR (4203), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460.

Under the existing MSGP, DMRs had been sent to the EPA Regional Offices. However, to facilitate review of all DMRs from facilities operating under the MSGP, the proposed MSGP–2000 requires that they be sent to the one location specified above.

Today's proposal also retains the requirement in the existing MSGP that permittees submit signed copies of DMRs to the operator of a large or medium MS4 (those which serve a population of 100,000 or more), if there are discharges of storm water associated with industrial activity through the MS4.

The location for submission of all reports (other than DMRs) for today's proposal MSGP remains the EPA Regional Offices as found in Part 8.3 of the proposed permit. Consistent with Office of Management and Budget Circular A–105, facilities located on the following Federal Indian Reservations, which cross EPA Regional boundaries, should note that permitting authority for such lands is consolidated in one single EPA Region.

a. Duck Valley Reservations lands, located in Regions 9 and 10, are handled by Region IX.

b. Fort McDermitt Reservation lands, located in Regions 9 and 10, are handled by Region IX.

c. Goshute Reservation lands, located in Regions 8 and 9, are handled by Region IX.

d. Navajo Reservation lands, located in Regions 6, 8, and 9, are handled by Region 9.

e. Ute Mountain Reservation lands, located in Regions 6 and 8, are handled Region VIII.

Pursuant to the requirements of 40 CFR 122.41(j), today's proposal (like the existing MSGP) requires permittees to retain all records for a minimum of 3 years from the date of the sampling, examination, or other activity that generated the data.

5. Sample Type

Today's proposal retains the same requirements regarding the type of sampling as the existing MSGP. A general description is provided below. Certain industries have different requirements, however, permittees should check the industry-specific requirements in Part 6 of the proposed permit to confirm these requirements. Grab samples may be used for all monitoring unless otherwise stated. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval may be waived by the permittee where the preceding measurable storm event did not result in a measurable discharge from the facility. The 72-hour requirement may also be waived by the permittee where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample must be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger must submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. A minimum of one grab is required. Where the discharge to be sampled contains both storm water and non-storm water, the facility shall sample the storm water component of the discharge at a point upstream of the location where the non-storm water mixes with the storm water, if practicable.

6. Representative Discharge

The proposed MSGP–2000 retains the same provision as the existing MSGP regarding substantially identical outfalls

which allows a facility to reduce its overall monitoring burden. This representative discharge provision provides facilities with multiple storm water outfalls, a means for reducing the number of outfalls that must be sampled and analyzed. This may result in a substantial reduction of the resources required for a facility to comply with analytical monitoring requirements. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes in the SWPPP a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (*e.g.,* low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan. Facilities that select and sample a representative discharge are prohibited from changing the selected discharge in future monitoring periods unless the selected discharge ceases to be representative or is eliminated. Permittees do not need EPA approval to claim discharges are representative, provided they have documented their rationale within the SWPPP. However, the Director may determine the discharges are not representative and require sampling of all non-identical outfalls.

The representative discharge provision in the permit is available to almost all facilities subject to the analytical monitoring requirements (not including compliance monitoring for effluent guideline limit compliance purposes) and to facilities subject to visual examination requirements.

The representative discharge provisions described above are consistent with Section 5.2 of NPDES Storm Water Sampling Guidance Document (EPA 833–B–92–001, July 1992).

7. Sampling Waiver

Today's proposal retains the same provisions for sampling waivers (as discussed below) which are found in the existing MSGP:

a. Adverse Weather Conditions. The proposed MSGP–2000 allows for temporary waivers from sampling based on adverse climatic conditions. This temporary sampling waiver is only intended to apply to insurmountable weather conditions such as drought or dangerous conditions such as lightning, flash flooding, or hurricanes. These events tend to be isolated incidents and should not be used as an excuse for not conducting sampling under more favorable conditions associated with other storm events. The sampling waiver is not intended to apply to difficult logistical conditions, such as remote facilities with few employees or discharge locations which are difficult to access. When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next sampling period as well as a sample for the routine monitoring required in that period. Both samples should be analyzed separately and the results of that analysis submitted to EPA. Permittees are not required to obtain advance approval for sampling waivers.

b. Unstaffed and Inactive Sites—Chemical Sampling Waiver. Today's proposal allows for a waiver from sampling for facilities that are both inactive and unstaffed. This waiver is only intended to apply to these facilities where lack of personnel and locational impediments hinder the ability to conduct sampling (*i.e.,* the ability to meet the time and representative rainfall sampling specifications). This waiver is not intended to apply to remote facilities that are active and staffed, nor to facilities with just difficult logistical conditions. When a discharger is unable to collect samples as specified in this permit, the discharger shall certify to the Director in the DMR that the facility is unstaffed and inactive and the ability to conduct samples within the specifications is not possible. Permittees are not required to obtain advance approval for this waiver.

c. Unstaffed and Inactive Sites—Visual Monitoring Waiver. The proposed MSGP–2000 allows for a waiver from sampling for facilities that are both inactive and unstaffed. This waiver is only intended to apply to these facilities where lack of personnel and locational impediments hinder the ability to conduct visual examinations (*i.e.,* the ability to meet the time and representative rainfall sampling specifications). This monitoring waiver is not intended to apply to remote facilities that are active and staffed, nor to facilities with just difficult logistical conditions. When a discharger is unable to perform visual examinations as specified in this permit, the discharger shall maintain on site with the pollution prevention plan a certification stating that the facility is unstaffed and inactive and the ability to perform visual examinations within the specifications is not possible. Permittees are not required to obtain advance approval for visual examination waivers.

8. Quarterly Visual Examination of Storm Water Quality

Today's proposal retains the requirements of the existing MSGP for quarterly visual examinations of storm water discharges which EPA continues to believe provide a useful an inexpensive means for permittees to evaluate the effectiveness of their SWPPPs (with immediate feedback) and make any necessary modifications to address the results of the visual examinations. All sectors of today's proposed MSGP are required to conduct these examinations. In the existing MSGP all sectors except Sector S (which covers air transportation) are required to conduct the examinations.

Basically, the MSGP requires that grab samples of storm water discharges be taken and examined visually for the presence of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen or other obvious indicators of storm water pollution. The grab samples must be taken within the first 30 minutes after storm water discharges begin, or as soon as practicable, but not longer than 1 hour after discharges begin. The sampling must be conducted quarterly during the following time periods: January–March, April–June, July–September and October–December of each year. The reports summarizing these quarterly visual storm water examinations must be maintained on-site with the SWPPP.

The examination of the sample must be made in well lit areas. The visual examination is not required if there is insufficient rainfall or snow-melt to runoff or if hazardous conditions prevent sampling. Whenever practicable the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible in recording observations.

When conducting a storm water visual examination, the pollution prevention team, or team member, should attempt to relate the results of the examination to potential sources of storm water contamination on the site. For example, if the visual examination reveals an oil sheen, the facility

personnel (preferably members of the pollution prevention team) should conduct an inspection of the area of the site draining to the examined discharge to look for obvious sources of spilled oil, leaks, *etc.* If a source can be located, then this information allows the facility operator to immediately conduct a clean-up of the pollutant source, and/or to design a change to the SWPPP to eliminate or minimize the contaminant source from occurring in the future.

Other examples include: If the visual examination results in an observation of floating solids, the personnel should carefully examine the solids to see if they are raw materials, waste materials or other known products stored or used at the site. If an unusual color or odor is sensed, the personnel should attempt to compare the color or odor to the colors or odors of known chemicals and other materials used at the facility. If the examination reveals a large amount of settled solids, the personnel may check for unpaved, unstabilized areas or areas of erosion. If the examination results in a cloudy sample that is very slow to settle-out, the personnel should evaluate the site draining to the discharge point for fine particulate material, such as dust, ash, or other pulverized, ground, or powdered chemicals.

To be most effective, the personnel conducting the visual examination should be fully knowledgeable about the SWPPP, the sources of contaminants on the site, the industrial activities conducted exposed to storm water and the day to day operations that may cause unexpected pollutant releases.

If the visual examination results in a clean and clear sample of the storm water discharge, this may indicate that no pollutants are present. This would be a indication of a high quality result, however, the visual examination will not provide information about dissolved contamination. If the facility is in a sector or subsector required to conduct analytical (chemical) monitoring, the results of the chemical monitoring, if conducted on the same sample, would help to identify the presence of any dissolved pollutants and the ultimate effectiveness of the pollution prevention plan. If the facility is not required to conduct analytical monitoring, it may do so if it chooses to confirm the cleanliness of the sample.

While conducting the visual examinations, personnel should constantly be attempting to relate any contamination that is observed in the samples to the sources of pollutants on site. When contamination is observed, the personnel should be evaluating whether or not additional BMPs should be implemented in the SWPPP to address the observed contaminant, and if BMPs have already been implemented, evaluating whether or not these are working correctly or need maintenance. Permittees may also conduct more frequent visual examinations than the minimum quarterly requirement, if they so choose. By doing so, they may improve their ability to ascertain the effectiveness of their plan. Using this guidance, and employing a strong knowledge of the facility operations, EPA believes that permittees should be able to maximize the effectiveness of their storm water pollution prevention efforts through conducting visual examinations which give direct, frequent feedback to the facility operator or pollution prevention team on the quality of the storm water discharge.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. EPA recommends that the visual examination be conducted at different times than the chemical monitoring, but is not requiring this. In addition, more frequent visual examinations can be conducted if the permittee so chooses. In this way, better assessments of the effectiveness of the pollution prevention plan can be achieved. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the site's storm water problems and the effects of the management practices that are included in the plan.

F. Regional Offices

1. Notice of Intent Address

Notices of Intent to be authorized to discharge under the MSGP should be sent to: Storm Water Notice of Intent (4203), USEPA 401 M Street, SW, Washington, DC 20460.

2. EPA Regional Contacts

For further information, please call the appropriate EPA Regional storm water contacts listed below:

- ME, MA, NH, Indian country in CT, MA, ME, RI, and Federal Facilities in VT.

EPA Region 1, Office of Ecosystem Protection, One Congress Street—CMU, Boston, MA 02114, Contact: Thelma Murphy (617) 918–1615.

- PR

U.S. EPA, Region 2, Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce de Leon Avenue, Suite 417, San Juan, Puerto Rico 00907–4127, Contact: Sergio Bosques (787) 729–6951.

- DC and Federal Facilities in DE

EPA Region 3, Water Protection Division (3WP13), Storm Water Coordinator, 1650 Arch Street, Philadelphia, PA 19103, Contact: Mary Letzkus, (215) 814–2087.

- FL and Indian country in FL

EPA Region 4, Water Management Division, Surface Water Permits Section (SWPFB), 61 Forsyth Street, SW, Atlanta, GA 30303–3104, Contact: Floyd Wellborn (404) 562–9296.

- NM; Indian country in LA, OK, TX and NM (Except Navajo and Ute Mountain Reservation Lands); oil and gas exploration and production related industries and pipeline operations and point source discharges associated with agricultural production, services, and silviculture in OK (which under State law are regulated by the Oklahoma Corporation Commission or the Oklahoma Department of Agriculture and not the Oklahoma Department of Environmental Quality); and oil and gas sites in TX.

EPA Region 6, NPDES Permits Section (6WQ–PP) 1445 Ross Avenue, Dallas, TX 75202–2733, Contact: Brent Larsen (214) 665–7523.

- Federal facilities in the State of Colorado; Indian Country in CO, MT, ND, SD, WY and UT (except Goshute Reservation lands); Ute Mountain Reservation lands in CO and NM ; and Pine Ridge Reservation lands in SD and NE.

EPA Region 8, Ecosystems Protection Program (8EPR–EP), 999 18th Street, Suite 500, Denver, CO 80202–2466, Contact: Vern Berry (303) 312–6071.

- AZ, American Samoa, Commonwealth of Northern Mariana Islands, Johnston Atoll, Guam, Midway Island and Wake Island; all Indian country in AZ, CA, and NV; those portions of the Duck Valley, Fort McDermitt and Goshute Reservations that are outside NV; those portions of the Navajo Reservation that are outside AZ.

EPA Region 9, Water, Management Division, (WTR–5), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105, Contact: Eugene Bromley (415) 744–1906.

• AK and ID; Indian country in AK, ID (except the Duck Valley Reservation), OR (except the Fort McDermitt Reservation), and WA; and Federal facilities in WA.

EPA Region 10, Office of Water (OW–130), Storm Water Staff, 1200 Sixth Avenue, Seattle, WA 98101.

VII. Cost Estimates

Cost estimates for the MSGP were included with the final fact sheet accompanying the issuance of the MSGP on September 29, 1995 and are not being repeated here. However, additional costs for facilities seeking coverage under the reissued MSGP should be minor since the proposed MSGP includes few changes from the existing MSGP. Costs may actually decrease for those facilities required to perform analytic monitoring under the original MSGP if the Agency opts to forgo analytic monitoring in the MSGP–2000 (pending receipt of fourth-year monitoring data and public comments).

VIII. Special Requirements for Discharges Associated With Specific Industrial Activities

Section VIII of the fact sheet accompanying the 1995 MSGP included a detailed description of the industrial sectors covered by the permit, sources of pollutants from the different types of industries, available industry-specific BMPs, and a description of the industrial-specific permit requirements. As noted previously, EPA is not repeating all this information due to its considerable length. Table 1 in Section IV of this fact sheet listed the industrial sectors and subsectors covered by the proposed MSGP. For today's proposed MSGP, EPA reviewed the various sectors and subsectors to determine whether additional BMP opportunities have been identified subsequent to the issuance of the 1995 MSGP which would be appropriate to include in the reissued MSGP.

To update the various sectors and subsectors, EPA reviewed a variety of sources of information. As noted in Section VI.C of this fact sheet, pollution prevention is the cornerstone of the NPDES storm water permit program, and as such, EPA focused on new pollution prevention opportunities in updating the sectors. EPA itself has several ongoing programs directed toward identifying additional pollution prevention opportunities for different industrial sectors. One example would be the ''sector notebooks'' which EPA's Office of Compliance has published covering 28 different industries, including many of those covered by the MSGP. EPA's Design for the Environment Program and Common Sense Initiative would be additional examples. States, municipalities, industry trade associations and individual companies have also been active in recent years in trying to identify additional pollution prevention opportunities for different types of industries.

In reviewing the new information, however, EPA has identified only a few sectors where there appear to be additional storm water BMPs which would be appropriate for the reissued MSGP. For many industries, while considerable work has been conducted to reduce the environmental effects of these industries, little of the work has focused specifically on storm water. Rather the efforts have focused more in areas such as manufacturing process changes to reduce hazardous waste generation or to reduce pollutant discharges in process wastewater. Where additional storm water BMPs have been identified and are proposed to be incorporated into the reissued MSGP, these new requirements are discussed below by sector. In some sectors, additional language clarifying the permit requirements has been added and these changes are also discussed below.

A. Sector C—Chemical and Allied Products Facilities

Industry-specific requirements for the manufacture of fertilizer from leather scraps (SIC 2873) was moved from Sector Z (Leather Tanning and Finishing) to Sector C. This change places the requirements for SIC 2873 in the same sector as other manufacturers of fertilizers.

B. Sector G—Metal Mining (Ore Dressing and Mining)

To clarify the applicability of the MSGP with regards to construction activity at metal mining sites, Sector G has been modified to indicate that earth-disturbing activities which disturb 5 or more acres may require permit coverage under EPA's construction general permit (63 FR 7858, February 17, 1998), or an alternate NPDES permit authorizing storm water discharges associated with construction activity. The discharges requiring such alternate permitting would primarily occur during exploration and start-up of a metal mining activity, but may also apply to expansion of an existing mine into new areas.

Today's proposal also incorporates the MSGP modifications of August 7, 1998 (63 FR 42534) regarding storm water discharges from waste rock and overburden piles. On October 10, 1995, the National Mining Association challenged the interpretation set forth in Table G–4 of the 1995 MSGP that runoff from waste rock and overburden piles would categorically be considered mine drainage subject to effluent limitations guidelines (ELGs) at 40 CFR part 440. The litigation was settled on August 7, 1998 with a revised interpretation by EPA of the applicability of the ELGs which is incorporated into the proposed MSGP–2000. Under the revised interpretation, runoff from waste rock and overburden piles is not subject to ELGs unless it naturally drains (or is intentionally diverted) to a point source and combines with ''mine drainage'' that is otherwise subject to the ELGs.

The August 7, 1998 modification of the MSGP provided permit coverage for storm water discharges from waste rock and overburden piles which are not subject to ELGs. However, due to concerns regarding potential pollutants in the discharges, additional monitoring requirements were included in the permit to determine the pollutant concentrations in the discharges. These monitoring requirements are also included in today's proposed MSGP.

C. Sector J—Mineral Mining and Processing

EPA has re-evaluated the provisions of the current MSGP for industrial facilities in Sector J to determine whether these provisions need to be updated for the reissued MSGP. Although neither additional BMP nor additional monitoring requirements are being proposed, the permit language has been clarified to indicate that earth-disturbing activities which disturb 5 or more acres may require permit coverage under EPA's construction general permit (63 FR 7858, February 17, 1998), or an alternate NPDES permit authorizing storm water discharges associated with construction activity. The discharges requiring such alternate permitting would primarily occur during exploration and start-up of a mineral mining activity, but may also apply to expansion of an existing mine into new areas.

D. Sector K—Hazardous Waste Treatment, Storage or Disposal Facilities

EPA has re-evaluated the provisions of the current MSGP for industrial facilities in Sector K to determine whether these provisions need to be updated for the reissued MSGP. On

January 19, 2000 (65 FR 3008), EPA promulgated final effluent limitations guidelines (ELGs) for ''contaminated storm water discharges'' from new and existing hazardous landfill facilities regulated under RCRA Subtitle C at 40 CFR parts 264 (subpart N) and 265 (subpart N), except for the following ''captive'' landfills:

(a) Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

(b) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

(c) Landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR part 437 so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

(d) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

For Sector K of the new MSGP, EPA is proposing to include the new ELGs (40 CFR part 445 subpart A) for hazardous landfill facilities.

The term ''contaminated storm water'' is defined in the ELGs as ''storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater.'' (40 CFR 445.2). Contaminated storm water may originate from areas at a landfill including (but not limited to): ''the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.'' (40 CFR 445.2).

The term ''non-contaminated storm water'' is defined in the ELGs as ''storm water which does not come in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater.'' (40 CFR 445.2). Non-contaminated storm water includes storm water which ''flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.'' [40 CFR 445.2].

The term ''landfill wastewater'' is defined in the ELGs as ''all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.''

The existing MSGP authorizes discharges of storm water associated with industrial activity which includes contaminated storm water discharges (as defined above) as well as other non-contaminated storm water discharges (also defined above). The proposed MSGP would continue to authorize storm water associated with industrial activity; however, for contaminated storm water discharges as defined above, the proposed MSGP would require compliance with the promulgated ELGs for such discharges (with monitoring once/year during each year of the term of the proposed MSGP). The ELGs for the new and existing hazardous landfills are found in Table K–1 below:

TABLE K–1.—EFFLUENT LIMITATIONS GUIDELINES FOR CONTAMINATED STORM WATER DISCHARGES

[mg/l]

Pollutant	Maximum for 1 day	Monthly average maximum
BOD5	220	56
TSS	88	27
Ammonia	10	4.9
Alpha Terpineol	0.042	0.019
Aniline	0.024	0.015
Benzoic Acid	0.119	0.073
Naphthalene	0.059	0.022
p-Cresol	0.024	0.015
Phenol	0.048	0.029
Pyridine	0.072	0.025
Arsenic (total)	1.1	0.54
Chromium (total)	1.1	0.46
Zinc (total)	0.535	0.296
pH	within the range of 6–9 pH units	

Today's proposed MSGP (like the existing MSGP) would not authorize non-storm water discharges such as leachate and vehicle and equipment washwater. These and other landfill-generated wastewaters are subject to the ELGs. The proposed MSGP would, however, continue to authorize certain minor non-storm water discharges (listed in Part 1.2.2.2) which are very similar to the existing MSGP.

E. Sector L—Landfills, Land Application Sites and Open Dumps

EPA has re-evaluated the provisions of the current MSGP for industrial facilities in Sector L to determine whether these provisions need to be updated for the reissued MSGP. The SWPPP requirements of the existing MSGP already include several special BMPs for this industry in addition to the MSGP's basic BMP requirements.

On January 19, 2000 (65 FR 3008), EPA promulgated final effluent limitations guidelines (ELGs) for ''contaminated storm water discharges'' from new and existing non-hazardous landfill facilities regulated under RCRA Subtitle D (40 CFR part 445 subpart B). For Sector L of today's proposed MSGP, EPA is proposing to include the ELGs as they apply to facilities covered by this sector. For Sector L facilities, the ELGs apply to:

Municipal solid waste landfills regulated under RCRA Subtitle D at 40 CFR part 258 and those landfills which are subject to the provisions of 40 CFR part 257, except for any of the following ''captive'' landfills:

(a) Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

(b) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

(c) Landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR part 437 so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

(d) Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

EPA is not proposing to modify Sector L for the discharges which are not subject to the ELGs. In addition, EPA would like to call attention to a new EPA publication entitled ''Guide for Industrial Waste Management'' (EPA 530–R–99–001, June, 1999) which provides a useful information resource for permittees in complying with the MSGP, and in minimizing the impact of landfills to the environment overall.

The term ''contaminated storm water'' is defined in the ELGs as ''storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater.'' (40 CFR 445.2). Contaminated storm water may originate from areas at a landfill including (but not limited to): ''the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.'' (40 CFR 445.2).

The term ''non-contaminated storm water'' is defined in the ELGs as ''storm water which does not come in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater.'' (40 CFR 445.2). Non-contaminated storm water includes storm water which ''flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.'' (40 CFR 445.2).

The term ''landfill wastewater'' is defined in the ELGs as ''all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.'' (40 CFR 445.2).

The existing MSGP authorizes discharges of storm water associated with industrial activity from landfills including contaminated storm water discharges as defined in the ELGs as well as non-contaminated storm water. Today's proposal would continue to authorize storm water associated with industrial activity; however, for contaminated storm water discharges as defined above, the proposed MSGP would require compliance with the promulgated ELGs for such discharges (with monitoring once/year during each year of the term of the proposed MSGP). The ELGs are found in Table L–1 below:

TABLE L–1.—EFFLUENT LIMITATIONS GUIDELINES FOR CONTAMINATED STORM WATER DISCHARGES

(mg/l)

Pollutant	Maximum for 1 day	Monthly average maximum
BOD5	140	37
TSS	88	27
Ammonia	10	4.9
Alpha Terpineol	0.033	0.016
Benzoic Acid	0.12	0.071
p-Cresol	0.025	0.014
Phenol	0.026	0.015
Zinc (Total)	0.20	0.11
pH	within the range of 6–9 pH units	

The proposed MSGP (like the existing MSGP) would not authorize non-storm water discharges such as leachate and vehicle and equipment washwater. These and other landfill-generated wastewaters are subject to the ELGs. The proposed MSGP would, however, continue to authorize the same minor non-storm water discharges (listed in Part 1.2.2.2) as the existing MSGP.

F. Sector S—Air Transportation Facilities

EPA has re-evaluated the provisions of the current MSGP for industrial facilities in Sector S to determine whether these provisions need to be updated for the reissued MSGP. The SWPPP requirements of the existing MSGP include several special BMP requirements for airports in addition to the MSGP's basic BMP requirements. However, additional technologies have been developed since the original MSGP

issuance for deicing operations which are proposed to be included in today's MSGP. First, with regards to deicing compounds, the existing MSGP requires that permittees consider only one compound (potassium acetate) in lieu of ethylene glycol, propylene glycol and urea. Part 6.S.5.3.6 of today's proposed MSGP also requires a consideration of magnesium acetate, calcium acetate and anhydrous sodium acetate as additional deicing alternatives which (like potassium acetate), EPA believes would be environmentally preferable.

Part 6.S.5.3.6.2 of today's proposed MSGP also requires a consideration of new technologies for aircraft deicing including infra-red treatment, hot air treatment and sonic treatment. Other new deicing options which must be considered include deicing aircraft in a dedicated area or pad with a runoff collection/recovery system, and using a deicer gantry that delivers controlled amounts of chemical to specific areas of the aircraft.

G. Sector T—Treatment Works

EPA has re-evaluated the provisions of the current MSGP for industrial facilities in Sector T to determine whether these provisions need to be updated for the reissued MSGP. The SWPPP requirements of the existing MSGP already include a few special BMP requirements for this industry in addition to the MSGP's basic BMP requirements. In reviewing the information which EPA has available on this industry, EPA has identified several additional areas at treatment works facilities which we believe should be considered more closely for potential storm water controls. As a result, EPA has included additional or modified permit requirements which we believe would be appropriate to include in Sector T.

The proposed MSGP–2000 requires that operators of Sector T treatment works include the following additional areas or activities, where they are exposed to precipitation, in their SWPPP site map, summary of potential pollutant sources, and inspections: Grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage and/or hauled waste receiving stations. An additional BMP that permittees must consider is routing storm water to into the treatment works, or covering exposed materials from these additional areas or activities.

H. Sector Y—Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Industries

EPA has re-evaluated the provisions of the current MSGP for industrial facilities in Sector Y. The existing MSGP includes several special BMP requirements for rubber manufacturers to control zinc in storm water discharges. However, no special BMPs beyond the MSGP's basic SWPPP requirements are included in the existing MSGP for manufacturers of miscellaneous plastic products or miscellaneous manufacturing industries.

EPA has several ongoing programs directed toward identifying additional pollution prevention opportunities for different industrial sectors. For example, EPA's Office of Compliance has published ''sector notebooks'' for a number of industries, including the rubber and miscellaneous plastics industry (EPA 310–R–95–016). The sector notebooks are intended to facilitate a multi-media analysis of environmental issues associated with different industries and include a review of pollution prevention opportunities for the industries. As discussed below, EPA's sector notebook for the rubber and plastic products industry identifies a number of additional BMPs (beyond those in the existing MSGP) which could further reduce pollutants in storm water discharges from these facilities, and which are proposed for the reissued MSGP.

1. Rubber Manufacturing Facilities

The proposed MSGP–2000 requires that rubber manufacturing facility permittees consider the following additional BMPs (which were selected from those in the sector notebook) for the rubber product compounding and mixing area:

(1) Consider the use of chemicals which are purchased in pre-weighed, sealed polyethylene bags. The sector notebook points out that some facilities place such bags directly into the banbury mixer, thereby eliminating a formerly dusty operation which could result in pollutants in storm water discharges.

(2) Consider the use of containers which can be sealed for materials which are in use; also consider ensuring an airspace between the container and the cover to minimize ''puffing'' losses when the container is opened.

(3) Consider the use of automatic dispensing and weighing equipment. The sector notebook observes that such equipment minimizes the chances for chemical losses due to spills.

2. Plastic Products Manufacturing Facilities

For plastic products manufacturing facilities, the proposed MSGP–2000 requires that permittees consider and include (as appropriate) specific measures in the SWPPP to minimize loss of plastic resin pellets to the environment. These measures include (at a minimum) spill minimization, prompt and thorough cleanup of spills, employee education, thorough sweeping, pellet capture and disposal precautions. Additional specific guidance on minimizing loss can be found in the EPA publication entitled ''Plastic Pellets in the Aquatic Environment: Sources and Recommendations'' (EPA 842–B–92–010, December, 1992) and at the website of the Society of the Plastics Industry (www.socplas.org).

3. Industry-Sponsored Efforts

Both the rubber manufacturing and plastic products industries are also active in sponsoring studies designed to reduce the environmental impacts associated with the production, use and ultimate disposal of their products. However, in reviewing recent work in this regard, EPA has not identified any additional BMPs for storm water discharges which would be appropriate for the reissued MSGP. Therefore, only the additional BMPs noted above are proposed for the reissued MSGP for these industries.

IX. Economic Impact (Executive Order 12866)

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that the proposed MSGP is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

X. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Pub L. 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, *e.g.,* UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)'' (emphasis added)). UMRA section 102 defines ''regulation'' by reference to 2 U.S.C. 658 which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of (the Administrative Procedure Act (APA)), or any other law* * * ''

As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

EPA has determined that today's proposal would not result in expenditures of $100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the proposed MSGP–2000 will not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small governmental jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The proposed MSGP also will not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the proposed permit.

XI. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities resulting from the proposed MSGP under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the MSGP have already been approved in previous submissions made for the NPDES permit program under the provisions of the Clean Water Act.

XII. Regulatory Flexibility Act

The Agency has determined that the proposed MSGP being published today is not subject to the Regulatory Flexibility Act (''RFA''), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the rule will have on a substantial number of small entities. By its terms, the RFA only applies to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (''APA'') or any other statute. Today's proposed MSGP is not subject to notice and comment requirements under the APA or any other statute because the APA defines ''rules'' in a manner that excludes permits. See APA section 551 (4), (6), and (8).

APA section 553 does not require public notice and opportunity for comment for interpretative rules or general statements of policy. In addition to proposing the new MSGP to be reissued, today's notice repeats an interpretation of existing regulations promulgated almost twenty years ago. The action would impose no new or additional requirements.

XIII. Official Signatures

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: March 6, 2000.

Linda M. Murphy,

Director, Office of Ecosystem Protection, EPA—Region I.

Dated: March 10, 2000.

Kathleen C. Callahan,

Director, Division of Environmental Planning and Protection, Region 2.

Dated: March 3, 2000.

Jon M. Capacasa,

Acting Director, Water Protection Division, EPA, Region 3.

Dated: March 6, 2000.

Beverly H. Banister,

Deputy Division Director, Region 4.

Dated: March 2, 2000.

William B. Hathaway,

Director, Water Quality Protection Division, EPA Region 6.

Dated: March 6, 2000.

Kerrigan G. Clough,

Assistant Regional Administrator, Office of Pollution Prevention, State and Tribal Assistance, Region 8.

Dated: March 2, 2000.

Alexis Strauss,

Director, Water Division, EPA, Region 9.

XIII. Official Signatures

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: March 6, 2000.

Randall F. Smith,

Director, Office of Water, EPA Region 10.

[**Note to the Public:** ''Notes'' appearing in brackets [...] are used to highlight an area the Agency is particularly interested in soliciting public comment. These bracketed notes will not appear in the final permit. ''Notes'' or ''Cautions'' that do not appear in brackets are part of the proposed permit and are used to highlight or clarify permit conditions.]

NPDES Multi-Sector General Permits For Storm Water Discharges Associated With Industrial Activities

Cover Page

Permit No. (See Part 1.1)

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq.), operators of discharges associated with industrial activities that submit a complete Notice of Intent in accordance with part 2.2 for a discharge that is located in an area specified in part 1.1 and eligible for permit coverage under part 1.2 are authorized to discharge pollutants to

waters of the United States in accordance with the conditions and requirements set forth herein.

This permit becomes effective on March 30, 2000.

This permit and the authorization to discharge expire at midnight, March 30, 2005.

Region 1

Signed and issued this _____ day of _____, 2000
(reserved for final permit decision)

_____
(Signature of Water Management Division Director)

Region 2

Signed and issued this _____ day of _____, 2000
(reserved for final permit decision)

_____
(Signature of Water Management Division Director)

Region 3

Signed and issued this _____ day of _____, 2000
(reserved for final permit decision)

_____
(Signature of Water Management Division Director)

Region 4

Signed and issued this _____ day of _____, 2000
(reserved for final permit decision)

_____
(Signature of Water Management Division Director)

Region 6

Signed and issued this _____ day of _____, 2000
(reserved for final permit decision)

_____
(Signature of Water Management Division Director)

Region 8

Signed and issued this _____ day of _____, 2000
(reserved for final permit decision)

_____
(Signature of Water Management Division Director)

Region 9

Signed and issued this _____ day of _____, 2000
(reserved for final permit decision)

_____
(Signature of Water Management Division Director)

Region 10

Signed and issued this _____ day of _____, 2000
(reserved for final permit decision)

_____
(Signature of Water Management Division Director)

NPDES Multi-Sector General Permits for Storm Water

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12. Definitions

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Addendum B—Historic Properties Guidance

Addendum D—Notice of Intent Form

Addendum E—Notice of Termination Form

Addendum F—No Exposure Certification Form

Note: In the Spirit of the Agency's ''Readable Regulations'' policy, this permit was written as much as practicable in a more reader-friendly, plain language format that should make it easier for people less familiar with traditional EPA permits and regulations to read and understand the permit requirements. Terms like ''you'' and ''your'' are used to refer to the party(ies) that are operators of a discharge, applicants, permittees, etc. Terms like ''must'' are used instead of ''shall.'' Phrasing such as ''If you. * * *'' is used to identify conditions that may not apply to all permittees.

1. Coverage Under This Permit

1.1 Permit Area

The permit language is structured as if it were a single permit, with State, Indian Country land or other area-specific conditions contained in Part 13. Permit coverage is actually provided by legally separate and distinctly numbered permits, all of which are contained herein, and which cover each of the areas listed in Parts 1.1.1 through 1.1.10. Note: EPA can only provide permit coverage for areas and classes of discharges not within the scope of a State's NPDES authorization. For discharges not described in an area of coverage below, please contact the appropriate State NPDES permitting authority to obtain a permit.

1.1.1 EPA Region 1: CT, MA, ME, NH, RI, VT

The states of Connecticut, Rhode Island, and Vermont are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
CTR05*##I	Indian Country lands within the State of Connecticut.
MAR05*###	Commonwealth of Massachusetts, except Indian Country lands.
MAR05*##I	Indian Country lands within the Commonwealth of Massachusetts.
MER05*###	State of Maine, except Indian Country lands.
MER05*##I	Indian Country lands within the State of Maine.
NHR05*###	State of New Hampshire.
RIR05*##I	Indian Country lands within the State of Rhode Island.
VTR05*##F	Federal Facilities in the State of Vermont.

1.1.2 EPA Region 2: NJ, NY, PR, VI

The state of New York is the NPDES Permitting Authority for the majority of discharges within that state. New Jersey and the Virgin Islands are the NPDES Permitting Authority for all discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
NYR05*##I	Indian Country lands within the State of New York.
PRR05*###	The Commonwealth of Puerto Rico.

1.1.3 EPA Region 3: DE, DC, MD, PA, VA, WV

The state of Delaware is the NPDES Permitting Authority for the majority of discharges within that state. Maryland, Pennsylvania, and Virginia, West Virginia are the NPDES Permitting Authority for all discharges within these states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
DCR05*###	The District of Columbia.
DER05*##F	Federal Facilities in the State of Delaware.

1.1.4 EPA Region 4: AL, FL, GA, KY, MS, NC, SC, TN

The states of Alabama, Mississippi, and North Carolina are the NPDES Permitting Authority for the majority of discharges within their respective states. Georgia, Kentucky, South Carolina and Tennessee are the NPDES Permitting Authority for all discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
ALR05*##I	Indian Country lands within the State of Alabama.
FLR05*###	State of Florida.
FLR05*##I	Indian Country lands within the State of Florida.
MSR05*##I	Indian Country lands within the State of Mississippi.
NCR05*##I	Indian Country lands within the State of North Carolina.

1.1.5 EPA Region 5: IL, IN, MI, MN, OH, WI

Coverage Not Available.

1.1.6 EPA Region 6: AR, LA, OK, TX, NM (Except See Region 9 for Navajo Lands, and See Region 8 for Ute Mountain Reservation Lands)

The states of Louisiana, Oklahoma, and Texas are the NPDES Permitting Authority for the majority of discharges within their respective states. Arkansas is the NPDES Permitting Authority for all discharges within that state.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
LAR05*##I	Indian Country lands within the State of Louisiana.
NMR05*###	The State of New Mexico, except Indian Country lands.
NMR05*##I	Indian Country lands within the State of New Mexico, except Navajo Reservation Lands that are covered under Arizona permit AZR05*##I listed in Part 1.1.9 and Ute Mountain Reservation Lands that are covered under Colorado permit COR05*##I listed in Part 1.1.8.
OKR05*##I	Indian Country lands within the State of Oklahoma.
OKR05*##F	Oil and gas facilities under SIC codes 1311, 1381, 1382, and 1389 and 5171 and point source (but not non-point source) discharges associated with agricultural production, services, and silviculture in the State of Oklahoma, except those on Indian Country lands (i.e., discharges not under the authority of the Oklahoma Department of Environmental Quality).
TXR05*##F	Oil and gas facilities in the State of Texas under SIC codes 1311, 1321, 1381, 1382, and 1389, except those on Indian Country lands (i.e., discharges not under the authority of the Texas Natural Resource Conservation Commission).
TXR05*##I	Indian Country lands within the State of Texas.

1.1.7 EPA Region 7: IA, KS, MO, NE

Coverage Not Available.

1.1.8 EPA Region 8: CO, MT, ND, SD, WY, UT (Except See Region 9 for Goshute Reservation and Navajo Reservation Lands), the Ute Mountain Reservation in NM, and the Pine Ridge Reservation in NE

The states of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
COR05*##F	Federal Facilities in the State of Colorado, except those located on Indian Country lands.
COR05*##I	Indian Country lands within the State of Colorado, including the portion of the Ute Mountain Reservation located in New Mexico.
MTR05*##I	Indian Country lands within the State of Montana.
NDR05*##I	Indian Country lands within the State of North Dakota, including that portion of the Standing Rock Reservation located in South Dakota except for the Lake Traverse Reservation that is covered under South Dakota permit SDR05*##I listed below.
SDR05*##I	Indian Country lands within the State of South Dakota, including the portion of the Pine Ridge Reservation located in Nebraska and the portion of the Lake Traverse Reservation located in North Dakota except for the Standing Rock Reservation that is covered under North Dakota permit NDR05*##I listed above.
UTR05*##I	Indian Country lands within the State of Utah, except Goshute and Navajo Reservation lands that are covered under Arizona permit AZR05*##I (Goshute) listed in Part 1.1.9 and Nevada permit NVR05*##I (Navaho) listed in Part 1.1.9.
WYR05*##I	Indian Country lands within the State of Wyoming.

1.1.9 EPA Region 9: AZ, CA, HI, NV, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Duck Valley Reservation in ID, and the Fort McDermitt Reservation in OR

The states of California and Nevada are the NPDES Permitting Authority for the majority of discharges within their respective states. Hawaii is the NPDES Permitting Authority for all discharges within that state.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
ASR05*###	The Island of American Samoa.
AZR05*###	The State of Arizona, except Indian Country lands.
AZR05*##I	Indian Country lands within the State of Arizona, including Navajo Reservation lands in New Mexico and Utah.
CAR05*##I	Indian Country lands within the State of California.
GUR05*###	The Island of Guam.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
JAR05*###	Johnston Atoll.
MWR05*###	Midway Island and Wake Island.
NIR05*###	Commonwealth of the Northern Mariana Islands.
NVR05*##I	Indian Country lands within the State of Nevada, including the Duck Valley Reservation in Idaho, the Fort McDermitt Reservation in Oregon and the Goshute Reservation in Utah.

1.1.10 Region 10: AK, ID (Except See Region 9 for Duck Valley Reservation Lands), OR (Except See Region 9 for Fort McDermitt Reservation), WA

The states of Oregon and Washington are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
AKR05*###	The State of Alaska, except Indian Country lands.
AKR05*##I	Indian Country lands within Alaska.
IDR05*###	The State of Idaho, except Indian Country lands.
IDR05*##I	Indian Country lands within the State of Idaho, except Duck Valley Reservation lands which are covered under Nevada permit NVR05*##I listed in Part 1.1.9.
ORR05*##I	Indian Country lands within the State of Oregon except Fort McDermitt Reservation lands that are covered under Nevada permit NVR10*#I listed in Part 1.1.9.
WAR05*##I	Indian Country lands within the State of Washington.
WAR05*##F	Federal Facilities in the State of Washington, except those located on Indian Country lands.

1.2 Eligibility

You must maintain permit eligibility to discharge under this permit. Any discharges that are not compliant with the eligibility conditions of this permit are not authorized by the permit and you must either apply for a separate permit to cover those ineligible discharges or take necessary steps to make the discharges eligible for coverage.

1.2.1 Facilities Covered

Your permit eligibility is limited to discharges from facilities in the ''sectors'' of industrial activity based on Standard Industrial Classification (SIC) codes and Industrial Activity Codes summarized in Table 1–1. References to ''sectors'' in this permit (*e.g.,* sector-specific monitoring requirements, etc.) refer to these sectors.

TABLE 1–1.—SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT

SIC Code or activity code [1]	Activity represented
	Sector A: Timber Products
2411	Log Storage and Handling (Wet deck storage areas only authorized if no chemical additives are used in the spray water or applied to the logs).
2421	General Sawmills and Planning Mills.
2426	Hardwood Dimension and Flooring Mills.
2429	Special Product Sawmills, Not Elsewhere Classified.
2431–2439 (except 2434)	Millwork, Veneer, Plywood, and Structural Wood (see Sector W).
2448, 2449	Wood Containers.
2451, 2452	Wood Buildings and Mobile Homes.
2491	Wood Preserving.
2493	Reconstituted Wood Products.
2499	Wood Products, Not Elsewhere Classified.
	Sector B: Paper and Allied Products
2611	Pulp Mills.
2621	Paper Mills.
2631	Paperboard Mills.
2652–2657	Paperboard Containers and Boxes.
2671–2679	Converted Paper and Paperboard Products, Except Containers and Boxes.
	Sector C: Chemical and Allied Products
2812–2819	Industrial Inorganic Chemicals.
2821–2824	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Man-made Fibers Except Glass.
2833–2836	Medicinal chemicals and botanical products; pharmaceutical preparations,; in vitro and in vivo diagnostic substances; biological products, except diagnostic substances.
2841–2844	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
2861–2869	Industrial Organic Chemicals.
2873–2879	Agricultural Chemicals.

TABLE 1–1.—SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT—Continued

SIC Code or activity code [1]	Activity represented
2873	Facilities that Make Fertilizer Solely from Leather Scraps and Leather Dust.
2891–2899	Miscellaneous Chemical Products.
3952 (limited to list)	Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's Paints and Artist's Watercolors.
Sector D: Asphalt Paving and Roofing Materials and Lubricants	
2951, 2952	Asphalt Paving and Roofing Materials.
2992, 2999	Miscellaneous Products of Petroleum and Coal.
Sector E: Glass Clay, Cement, Concrete, and Gypsum Products	
3211	Flat Glass.
3221, 3229	Glass and Glassware, Pressed or Blown.
3231	Glass Products Made of Purchased Glass.
3241	Hydraulic Cement.
3251–3259	Structural Clay Products.
3262–3269	Pottery and Related Products.
3271–3275	Concrete, Gypsum and Plaster Products.
3295	Minerals and Earth's, Ground, or Otherwise Treated.
3297	Non-Clay Refractories.
Sector F: Primary Metals	
3312–3317	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
3321–3325	Iron and Steel Foundries.
3331–3339	Primary Smelting and Refining of Nonferrous Metals.
3341	Secondary Smelting and Refining of Nonferrous Metals.
3351–3357	Rolling, Drawing, and Extruding of Nonferrous Metals.
3363–3369	Nonferrous Foundries (Castings).
3398,3399	Miscellaneous Primary Metal Products
Sector G: Metal Mining (Ore Mining and Dressing)	
1011	Iron Ores.
1021	Copper Ores.
1031	Lead and Zinc Ores.
1041,1044	Gold and Silver Ores.
1061	Ferroalloy Ores, Except Vanadium.
1081	Metal Mining Services.
1094,1099	Miscellaneous Metal Ores.
Sector H: Coal Mines and Coal Mining Related Facilities	
1221–1241	Coal Mines and Coal Mining-Related Facilities.
Sector I: Oil and Gas Extraction	
1311	Crude Petroleum and Natural Gas.
1321	Natural Gas Liquids.
1381–1389	Oil and Gas Field Services.
2911	Petroleum Refineries.
Sector J: Mineral Mining and Dressing	
1411	Dimension Stone.
1422–1429	Crushed and Broken Stone, Including Rip Rap.
1442,1446	Sand and Gravel.
1455,1459	Clay, Ceramic, and Refractory Materials.
1474–1479	Chemical and Fertilizer Mineral Mining.
1481	Nonmetallic Minerals Services, Except Fuels.
1499	Miscellaneous Nonmetallic Minerals, Except Fuels.
Sector K: Hazardous Waste Treatment, Storage, or Disposal Facilities	
HZ	Hazardous Waste Treatment Storage or Disposal.
Sector L: Landfills and Land Application Sites	
LF	Landfills, Land Application Sites, and Open Dumps.

TABLE 1–1.—SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT—Continued

SIC Code or activity code [1]	Activity represented
Sector M: Automobile Salvage Yards	
5015	Automobile Salvage Yards.
Sector N: Scrap Recycling Facilities	
5093	Scrap Recycling Facilities.
Sector O: Steam Electric Generating Facilities	
SE	Steam Electric Generating Facilities.
Sector P: Land Transportation and Warehousing	
4011, 4013	Railroad Transportation.
4111–4173	Local and Highway Passenger Transportation.
4212–4231	Motor Freight Transportation and Warehousing.
4311	United States Postal Service.
5171	Petroleum Bulk Stations and Terminals.
Sector Q: Water Transportation	
4412–4499	Water Transportation.
Sector R: Ship and Boat Building or Repairing Yards	
3731, 3732	Ship and Boat Building or Repairing Yards.
Sector S: AIr Transportation	
4512–4581	Air Transportation Facilities.
Sector T: Treatment Works	
TW	Treatment Works.
Sector U: Food and Kindred Products	
2011–2015	Meat Products.
2021–2026	Dairy Products.
2032	Canned, Frozen and Preserved Fruits, Vegetables and Food Specialties.
2041–2048	Grain Mill Products.
2051–2053	Bakery Products.
2061–2068	Sugar and Confectionery Products.
2074–2079	Fats and Oils.
2082–2087	Beverages.
2091–2099	Miscellaneous Food Preparations and Kindred Products.
2111–2141	Tobacco Products.
Sector V: Textile Mills, Apparel, and Other Fabric Product Manufacturing, Leather and Leather Products	
2211–2299	Textile Mill Products.
2311–2399	Apparel and Other Finished Products Made From Fabrics and Similar Materials.
3131–3199 (except 3111)	Leather and Leather Products, except Leather Tanning and Finishing (see Sector Z).
Sector W: Furniture and Fixtures	
2434	Wood Kitchen Cabinets
2511–2599	Furniture and Fixtures.
Sector X: Printing and Publishing	
2711–2796	Printing, Publishing, and Allied Industries.
Sector Y: Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries	
3011	Tires and Inner Tubes.
3021	Rubber and Plastics Footwear.
3052, 3053	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
3061, 3069	Fabricated Rubber Products, Not Elsewhere Classified.
3081–3089	Miscellaneous Plastics Products.
3931	Musical Instruments.
3942–3949	Dolls, Toys, Games and Sporting and Athletic Goods.

TABLE 1–1.—SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT—Continued

SIC Code or activity code [1]	Activity represented
3951–3955 (except 3952 facilities as specified in Sector C).	Pens, Pencils, and Other Artists' Materials.
3961, 3965	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal.
3991–3999	Miscellaneous Manufacturing Industries.
Sector Z: Leather Tanning and Finishing	
3111	Leather Tanning and Finishing.
Sector AA: Fabricated Metal Products	
3411–3499	Fabricated Metal Products, Except Machinery and Transportation Equipment.
3911–3915	Jewelry, Silverware, and Plated Ware.
Sector AB: Transportation Equipment, Industrial or Commercial Machinery	
3511–3599 (except 3571–3579)	Industrial and Commercial Machinery (except Computer and Office Equipment) (see Sector AC).
3711–3799 (except 3731, 3732)	Transportation Equipment (except Ship and Boat Building and Repairing) (see Sector R).
Sector AC: Electronic, Electrical, Photographic, And Optical Goods	
3571–3579	Computer and Office Equipment.
3612–3699	Electronic, Electrical Equipment and Components, except Computer Equipment.
3812	Measuring, Analyzing and Controlling Instrument; Photographic and Optical Goods.
Sector AD: Non-Classified Facilities	
N/A	Other storm water discharges designated by the Director as needing a permit (see 40 CFR 122.26(g)(1)(I)) or any facility discharging storm water associated with industrial activity not described by any of Sectors A–AC. NOTE: Facilities may not elect to be covered under Sector AD. Only the Director may assign a facility to Sector AD.

[1] A complete list of SIC codes (and conversions from the newer North American Industry Classification System'' (NAICS)) can be obtained from the Internet at *www.census.gov/epcd/www/naics.html* or in paper form from various locations in the document entitled ''Handbook of Standard Industrial Classifications,'' Office of Management and Budget, 1987. Industrial activity codes are provided on the Multi-Sector General Permit Notice of Intent (NOI) application form (EPA Form Number xxxxx).

1.2.1.1 Co-located Activities. If you have co-located industrial activities on-site that are described in a sector(s) other than your primary sector, you must comply with all other applicable sector-specific conditions found in Part 6 for the co-located industrial activities. The extra sector-specific requirements are applied only to those areas of your facility where the extra-sector activities occur. An activity at a facility is not considered co-located if the activity, when considered separately, does not meet the description of a category of industrial activity covered by the storm water regulations, and identified by the MSGP–2000 SIC code list. For example, unless you are actually hauling substantial amounts of freight or materials with your own truck fleet or are providing a trucking service to outsiders, simple maintenance of vehicles used at your facility is unlikely to meet the SIC code group 42 description of a motor freight transportation facility. Even though Sector P may not apply, the runoff from your vehicle maintenance facility would likely still be considered storm water associated with industrial activity. As such, your SWPPP must still address the runoff from the vehicle maintenance facility—although not necessarily with the same degree of detail as required by Sector P—but you would not be required to monitor as per Sector P.

If runoff from co-located activities commingle, you must monitor the discharge as per the requirements of all applicable sectors (regardless of the actual location of the discharge). If you comply with all applicable requirements from all applicable sections of Part 6 for the co-located industrial activities, the discharges from these co-located activities are authorized by this permit.

1.2.2 Discharges Covered

1.2.2.1 Allowable Storm Water Discharges. Subject to compliance with the terms and conditions of this permit, you are authorized to discharge pollutants in:

1.2.2.1.1 Discharges of storm water runoff associated with industrial activities as defined in 40 CFR 122.26 (b)(14)((i)–(ix) and (xi)) from the sectors of industry described in Table 1–1, and that are specifically identified by outfall or discharge location in the pollution prevention plan (see Part 4.2.2.3.7);

1.2.2.1.2 Non-storm water discharges as noted in Part 1.2.2.2 or otherwise specifically allowed by the permit;

1.2.2.1.3 Discharges subject to an effluent guideline listed in Table 1–2 that also meet all other eligibility requirements of the permit. Discharges subject to a New Source Performance Standard (NSPS) effluent guideline must also meet the requirements of Part 1.2.4;

1.2.2.1.4 Discharges designated by the Director as needing a storm water permit under 40 CFR 122.26(a)(1)(v) or under 122.26(a)(9) and 122.26(g)(1)(i); and

1.2.2.1.5 Discharges comprised of a discharge listed in Parts 1.2.2.1.1 to 1.2.2.1.4 above commingled with a discharge authorized by a different NPDES permit. Also authorized are discharges not needing authorization by an NPDES permit commingled with discharges authorized by this permit.

TABLE 1–2.—EFFLUENT GUIDELINES APPLICABLE TO DISCHARGES THAT MAY BE ELIGIBLE FOR PERMIT COVERAGE

Effluent guideline	New source [1]	Sectors [2]
Runoff from material storage piles at cement manufacturing facilities [40 CFR Part 411, Subpart C (established February 23, 1977)].	Yes	E
Contaminated runoff from phosphate fertilizer manufacturing facilities [40 CFR Part 418, Subpart A (established April 8, 1974)].	Yes	C
Coal pile runoff at steam electric generating facilities [40 CFR Part 423 (established November 19, 1982)]	Yes	O
Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas [40 CFR Part 429, Subpart I (established January 26, 1981)].	Yes	A
Mine dewatering discharges at crushed stone mines [40 CFR Part 436, Subpart B]	No	J
Mine dewatering discharges at construction sand and gravel mines [40 CFR Part 436, Subpart C]	No	J
Mine dewatering discharges at industrial sand mines [40 CFR Part 436, Subpart D]	No	J
Runoff from asphalt emulsion facilities [40 CFR Part 443, Subpart A (established July 24, 1975)].	Yes	D
Runoff from landfills [40 CFR Part 445, Subpart A and B (established February 2, 2000.)]	Yes	K & L

[1] New Source Performance Standards Included in Effluent Guidelines?
[2] Sectors with Affected Facilities.

1.2.2.2 Allowable Non-Storm Water Discharges. You are also authorized for the following non-storm water discharges, provided the non-storm water component of your discharge is in compliance with Part 4.4.2 (non-storm water discharges):

1.2.2.2.1 Discharges from fire fighting activities;

1.2.2.2.2 Fire hydrant flushings;

1.2.2.2.3 Potable water including drinking fountain water and water line flushings;

1.2.2.2.4 Uncontaminated air conditioning or compressor condensate;

1.2.2.2.5 Irrigation drainage;

1.2.2.2.6 Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer's instructions;

1.2.2.2.7 Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);

1.2.2.2.8 Routine external building wash down which does not use detergents;

1.2.2.2.11 Uncontaminated ground water or spring water;

1.2.2.2.12 Foundation or footing drains where flows are not contaminated with process materials such as solvents;

1.2.2.2.13 Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of your facility, but NOT intentional discharges from the cooling tower (e.g., ''piped'' cooling tower blowdown or drains).

1.2.3 Limitations on Coverage

1.2.3.1 Prohibition on Discharges Mixed with Non-Storm Water. You are not authorized for discharges that are mixed with sources of non-storm water. This exclusion does not apply to discharges identified in Part 1.2.2.2, provided the discharges are in compliance with Part 4.4.2 (pollution prevention plan requirements for authorized non-storm water discharges), and to any discharge explicitly authorized by the permit.

1.2.3.2 Storm Water Discharges Associated with Construction Activity. You are not authorized for storm water discharges associated with construction activity as defined in 40 CFR 122.26(b)(14)(x) or 40 CFR 122.26(b)(15).

1.2.3.3 Discharges Currently or Previously Covered by Another Permit

You are not authorized for the following:

1.2.3.3.1 Storm water discharges associated with industrial activity that are currently covered under an individual permit or an alternative general permit.

1.2.3.2 Discharges previously covered by an individual permit or alternative general permit (except the 1992 ''Baseline'' or the 1995 Multi-Sector NPDES General Permits for Storm Water Discharges Associated With Industrial Activity) that has expired, or been terminated at the request of the permittee unless:

1.2.3.3.2.1 All wastewater discharges in the individual permit have been eliminated and only storm water discharges and eligible non-storm water discharges remain (e.g., wastewater is now discharged to a municipal sanitary sewer); and

1.2.3.3.2.2 The individual permit did not contain numeric water quality-based limitations developed for the storm water component of the discharge; and

1.2.3.3.2.3 The permittee includes any specific BMPs for storm water required under the individual permit in the SWPPP required under Part 4 of this permit.

1.2.3.3.3 Storm water discharges associated with industrial activity from facilities where any NPDES permit has been or is in the process of being denied, terminated, or revoked by the Director (other than in a replacement permit issuance process). Upon request, the Director may waive this exclusion if operator of the facility has since passed to a different owner/operator and new circumstances at the facility justify a waiver.

1.2.3.4 Discharges Subject to Effluent Limitations Guidelines. You are not authorized for discharges subject to any effluent limitation guideline that is not included in Table 1–2. For discharges subject to a New Source Performance Standard (NSPS) effluent guideline identified in Table 1–2, you must comply with Part 1.2.4 prior to being eligible for permit coverage.

1.2.3.5 Discharge Compliance with Water Quality Standards. You are not authorized for storm water discharges that the Director determines will cause, or have reasonable potential to cause or contribute to, violations of water quality standards. Where such determinations have been made, the Director may notify you that an individual permit application is necessary in accordance with Part 9.12. However, the Director may authorize your coverage under this permit after you have included appropriate controls and implementation procedures designed to bring your discharges into compliance with water quality standards in your storm water pollution prevention plan.

1.2.3.6 Endangered and Threatened Species or Critical Habitat Protection. You are not authorized for discharges that do not avoid unacceptable effects on Federally listed endangered and threatened (''listed'') species or designated critical habitat (''critical habitat'')

[Note: This Section Is Likely to Change as a Result of Consultations Under the Endangered Species Act On Issuance of The Permit.]

CAUTION: Additional endangered and threatened species have been listed and critical habit designated since the 1995 MSGP was issued. Even if you were previously covered by the 1995 MSGP, you must determine eligibility for this permit through the processes described below and in Addendum A. Where applicable, you may incorporate information from your previous endangered species analysis in your documentation of eligibility for this permit.

1.2.3.6.1 Coverage under this permit is available only if your storm water discharges, allowable non-storm water discharges, and discharge-related activities avoid unacceptable effects on Federally listed endangered and threatened (''listed'') species or designated critical habitat (''critical habitat''). Submission of a signed NOI will be deemed to also constitute your certification of eligibility.

1.2.3.6.2 ''Discharge-related activities'' include: activities which cause, contribute to, or result in storm water point source pollutant discharges; and measures to control storm water discharges including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.

1.2.3.6.3 Determining Eligibility: You must use the most recent Endangered and Threatened Species County-Species List available from EPA and the process in Addendum A (ESA Screening Process) to determine your eligibility *PRIOR* to submittal

of your NOI. As of the effective date of this permit, the most current version of the List is located on the EPA Office of Water Web site at *www.epa.gov/owm/esalst2.htm.* You must meet one or more of the criteria in 1.2.3.6.3.1 through 1.2.3.6.3.5 below for the entire term of coverage under the permit. You must include a certification of eligibility and supporting documentation on the eligibility determination in your pollution prevention plan.

1.2.3.6.3.1 Criteria A: No endangered or threatened species or critical habitat are in proximity to your facility or the point where authorized discharges reach the receiving water; or

1.3.6.3.2 Criteria B: In the course of a separate federal action involving your facility (e.g., EPA processing request for an individual NPDES permit, issuance of a CWA Section 404 wetlands dredge and fill permit, etc.), formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service (the ''Services'') under section 7 of the Endangered Species Act (ESA) has been concluded and that consultation:

(a) Addressed the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat and

(b) The consultation resulted in either a no jeopardy opinion or a written concurrence by the Service on a finding that your storm water discharges, allowable non-storm water discharges, and discharge-related activities are not likely to adversely affect listed species or critical habitat; or

1.2.3.6.3.3 Criteria C: Your activities are authorized under section 10 of the ESA and that authorization addresses the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat; or

1.2.3.6.3.4 Criteria D: Using due diligence, you have evaluated the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed endangered or threatened species and critical habitat and do not have reason to believe listed species or critical habitat would be adversely affected.

1.2.3.6.3.5 Criteria E: Your storm water discharges, allowable non-storm water discharges, and discharge-related activities were already addressed in another operator's certification of eligibility under Part 1.2.3.6.3.1 through 1.2.3.6.3.4 which included your facility's activities. By certifying eligibility under this Part, you agree to comply with any measures or controls upon which the other operator's certification was based;

1.2.3.6.4 The Director may require any permittee or applicant to provide documentation of the permittee or applicant's determination of eligibility for this permit using the procedures in Addendum A where EPA or the Fish and Wildlife and/or National Marine Fisheries Services determine that there is a potential impact on endangered or threatened species or a critical habitat.

1.2.3.6.5 You are not authorized to discharge if the discharges or discharge-related activities cause a prohibited ''take'' of endangered or threatened species (as defined under section 3 of the Endangered Species Act and 50 CFR 17.3), unless such takes are authorized under sections 7 or 10 of the Endangered Species Act.

1.2.3.6.6 You are not authorized for any discharges where the discharges or discharge-related activities are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated or proposed to be designated as critical under the ESA.

1.2.3.6.7 The Endangered Species Act (ESA) provisions upon which part 1.2.3.7 is based do not apply to state-issued permits. Should administration of all or a portion of this permit be transfer to a State as a result of that State assuming the NPDES program pursuant to Clean Water Act section 402(b), Part 1.2.3.6 will not apply to any new NOIs submitted to the State after the State assumes administration of the permit (unless otherwise provided in the state program authorization agreement). Likewise, any other permit conditions based on Part 1.2.3.6 will no longer apply to new NOIs accepted by the NPDES-authorized state.

1.2.3.7 Storm water Discharges and Storm Water Discharge-Related Activities with Unconsidered Adverse Effects on Historic Properties.

[**Note:** This Section Is Likely to Change as a Result of Consultations Under the National Historic Preservation Act.]

1.2.3.7.1 Determining Eligibility: In order to be eligible for coverage under this permit, you must be in compliance with the National Historic Preservation Act. Your discharges may be authorized under this permit only if:

1.2.3.7.1.1 Criteria A: your storm water discharges, allowable non-storm water discharges, and discharge-related activities do not affect a property that is listed or is eligible for listing on the National Register of Historic Places as maintained by the Secretary of the Interior; or

1.2.3.7.1.2 Criteria B: you have obtained and are in compliance with a written agreement with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) that outlines all measures you will undertake to mitigate or prevent adverse effect to the historic property.

1.2.3.7.2 Addendum B of this permit provides guidance and references to assist you with determining your permit eligibility concerning this provision.

1.2.3.7.3 The National Historic Preservation Act (NHPA) provisions upon which the provisions in Part 1.2.3.7 are based do not apply to state-issued permits. Should administration of all or a portion of this permit be transferred to a State as a result of that State assuming the NPDES program pursuant to Clean Water Act § 402(b), Part 1.2.3.7 will not apply to any new NOIs submitted to the State after the State assumes administration of the permit (unless otherwise provided in the state program authorization agreement). Likewise, any other permit conditions based on Part 1.2.3.7 will no longer apply to new NOIs accepted by the NPDES-authorized state.

1.2.3.8 Discharges to Water Quality-Impaired or Water Quality-Limited Receiving Waters.

1.2.3.8.1 You are not authorized for new discharges to waters identified by the State under section 303(d) of the Clean Water Act as not meeting applicable water quality standards (a ''303(d) waterbody''), except as provided under 40 CFR 122.4(i). This provision applies only to discharges containing the pollutant(s) for which the waterbody is impaired. State 303(d) waterbody lists can be obtained from the appropriate State environmental office or their Internet sites. You are a new discharger if your facility started discharging after August 13, 1979 and your storm water was not previously permitted (see 40 CFR 122.2 for full regulatory definition of ''New Discharger'').

1.2.3.8.2 You are not authorized to discharge any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been either established or approved by the EPA unless your discharge is consistent with that TMDL.

1.2.3.9 Storm Water Discharges Subject to Anti-degradation Water Quality Standards. You are not authorized for discharges that do not comply with your State's anti-degradation policy for water quality standards. State anti-degradation policies can be obtained from the appropriate State environmental office or their Internet sites.

1.2.3.10 Dischargers Notified of Permit In-eligibility. Unless otherwise specified by the Director, you are not authorized for discharges after you have been notified that you do not meet the eligibility conditions of this permit.

1.2.4 Discharges Subject to New Source Performance Standards (NSPS).[10] [11]

1.2.4.1 Documentation of New Source Review. If you have a discharge(s) subject to a NSPS effluent guideline, you must obtain and retain the following on site prior to the submittal of your Notice of Intent:

1.2.4.1.1 Documentation from EPA of ''No Significant Impact'' or

1.2.4.1.2 A completed Environmental Impact Statement in accordance with an environmental review conducted by EPA pursuant to 40 CFR 6.102(a)(6).

1.2.4.2 Initiating a New Source Review. If the Agency's decision has not been obtained, you may use the format and procedures specified in Addendum C to submit information to EPA to initiate the process of the environmental review.

To maintain eligibility, you must implement any mitigation required of the

[10] NSPS apply only to discharges from those facilities or installations that were constructed after the promulgation of NSPS. For example, storm water discharges from areas where the production of asphalt paving and roofing emulsions occurs are subject to NSPS only if the asphalt emulsion facility was constructed after July 24, 1975.

[11] The provisions specified in Part 1.2.2.3 and Part 1.2.4 related to documenting New Source reviews are requirements of Federal programs under the National Environmental Policy Act of 1969 and will not apply to such facilities in the event that authority for the NPDES program has been assumed by the State/Tribe agency and administration of this permit has been transferred to the State Tribe.

facility as a result of the National Environmental Policy Act (NEPA) review process. Failure to implement mitigation measures upon which the Agency's NEPA finding is based is grounds for termination of permit coverage.

1.2.4.3 NEPA Requirements after State Assumption of this Permit. The National Environmental Policy Act (NEPA) provisions upon which part 1.2.4 is based do not apply to state-issued permits. Should administration of all or a portion of this permit be transfer to a State as a result of that State assuming the NPDES program pursuant to Clean Water Act section 402(b), Part 1.2.4 will not apply to any new NOIs submitted to the State after the State assumes administration of the permit. Likewise, any other permit conditions based on Part 1.2.4 will no longer apply to new NOIs accepted by the NPDES-authorized state.

1.3 How To Obtain Authorization Under This Permit

1.3.1 Basic Eligibility

You may be authorized under this permit only if you have a discharge of storm water associated with industrial activity from your facility. In order to obtain authorization under this permit, you must:

1.3.1.1 Meet the Part 1.2 eligibility requirements; and

1.3.1.2 Develop and implement a storm water pollution prevention plan (SWPPP) (see definition in Part 12) according to the requirements in Part 4 of this permit.

1.3.1.3 Submit a complete Notice of Intent (NOI) in accordance with the requirements of Part 2 of this permit. Any new operator at a facility, including those who replace an operator who has previously obtained permit coverage, must submit an NOI to be covered for discharges for which they are the operator.

1.3.2 Effective Date of Permit Coverage

Unless notified by the Director to the contrary, if you submit a correctly completed NOI in accordance with the requirements of this permit, you are authorized to discharge under the terms and conditions of this permit two (2) days after the date that the NOI is postmarked (but in no event, earlier than the effective date of the permit). The Director may deny coverage under this permit and require submission of an application for an individual NPDES permit based on a review of your NOI or other information (see Part 9.12). Authorization to discharge is *not* automatically granted two days after the NOI is mailed if your NOI is materially incomplete (e.g., critical information left off, NOI unsigned, etc.) or if your discharge(s) is not eligible for coverage by the permit.

1.4 Terminating Coverage

1.4.1 Submitting a Notice of Termination

If you wish to terminate coverage under this permit, you must submit a Notice of Termination (NOT) in accordance with Part 11 of this permit. You must continue to comply with this permit until you submit an NOT. Your authorization to discharge under the permit terminates at midnight of the day the NOT is signed.

1.4.2 When To Submit an NOT

You must submit an NOT within thirty (30) days after one or more of the following conditions have been met:

1.4.2.1 A new owner/operator has assumed responsibility for the facility

1.4.2.2 You have ceased operations at the facility and there no longer are discharges of storm water associated with industrial activity from the facility

1.4.3 Discharges After the NOT Is Submitted

Enforcement actions may be taken if you submit an NOT without meeting one or more of these conditions, unless you have obtained coverage under an alternate permit or have satisfied the requirements of Part 1.5.

1.5 Conditional Exclusion for No Exposure

If you are covered by this permit, but later are able to file a ''no exposure'' certification to be excluded from permitting under 40 CFR 122.26(g), you are no longer authorized by nor required to comply with this permit. If you are no longer required to have permit coverage due to a ''no exposure'' exclusion, you are not required to submit a Notice of Termination.

2. Notice of Intent Requirements

2.1 Notice of Intent (NOI) Deadlines

Your NOI must be submitted in accordance with the deadlines in Table 2–1. You must meet all applicable eligibility conditions of Part 1.2 before you submit your NOI.

TABLE 2–1.—DEADLINES FOR NOI SUBMITTAL

Category	Deadline
1. Existing discharges covered under the 1995 MSGP (see also Part 2.1.2—Interim Coverage).	December 29, 2000.
2. New discharges	Two (2) days prior to commencing operation of the facility with discharges of storm water associated with industrial activity.
3. New owner/operators of existing discharges.	Two (2) days prior to taking operational control of the facility.
4. Continued coverage when the permit expires in 2005.	See Part 9.2.

Only one NOI need be submitted to cover all of your activities at the facility (*e.g.,* you do not need to submit a separate NOI for each separate type of industrial activity located at a facility or industrial complex, provided your SWPPP covers each area for which you are an operator).

2.1.1 Submitting a Late NOI

You are not prohibited from submitting an NOI after the dates provided in Table 2–1. If a late NOI is submitted, your authorization is only for discharges that occur after permit coverage is granted. The Agency reserves the right to take appropriate enforcement actions for any unpermitted discharges.

2.1.2 Interim Permit Coverage for 1995 MSGP Permittees

If you had coverage for your facility under the 1995 MSGP, you may be eligible for continued coverage under this permit on an interim basis.

2.1.2.1 Discharges Authorized Under the 1995 MSGP. If permit coverage for your facility under the 1995 MSGP was effective as of the date the 1995 MSGP expired (or the date this permit replaced the 1995 MSGP if earlier), your authorization is automatically continued into this replacement permit on an interim basis for up to ninety (90) days from the effective date of the permit. Interim coverage will terminate earlier than the 90 days contingent on: an NOI submitted and coverage either granted or denied; or after submittal of an NOI.

2.1.2.2 Discharges Authorized Under the 1995 MSGP, But Not Clearly Eligible for Coverage Under This Permit. If you were previously covered by the 1995 MSGP, but cannot meet (or cannot immediately determine if you meet) the eligibility requirements of this permit, you may nonetheless be authorized under this permit for a period not to exceed 270 days from the date this permit is published in the **Federal Register**, provided you submit an application for an alternative permit within 90 days from the permit publication date.

2.1.2.3 Interim Coverage Permit Requirements. While you are operating under interim coverage status , you must:

2.1.2.3.1 Submit a complete NOI (see Part 2.2) by the deadlines listed in Table 2–1 or Part 2.1.2.2 above.

2.1.2.3.2 Comply with the terms and conditions of the 1995 MSGP.

2.1.2.3.3 Update your storm water pollution prevention plan to comply with the requirements of this permit within 90 days after the effective date of this permit.

2.2 Contents of Notice of Intent (NOI)

Your NOI for coverage under this permit must include the following information:

2.2.1 Owner/Operator Information

2.2.1.1 The name, address, and telephone number of the operator (*e.g.,* your company, etc.) filing the NOI for permit coverage;

2.2.1.2 an indication of whether you are a Federal, State, Tribal, private, or other public entity;

2.2.2 Facility Information

2.2.2.1 The name (or other identifier), address, county, and latitude/longitude of the facility for which the NOI is submitted;

2.2.2.2 An indication of whether the facility is located on Indian Country lands;

2.2.2.3 Certification that a storm water pollution prevention plan (SWPPP) meeting the requirements of Part 4 has been developed (including attaching a copy of this permit to the plan;

2.2.2.4 The name of the receiving water(s);

2.2.2.5 The name of the municipal operator if the discharge is through a municipal separate storm sewer system;

2.2.2.6 Identification of applicable sector(s) in this permit, as designated in Table 1–1, that cover the discharges associated with industrial activity you wish to cover under this permit;

2.2.2.7 Up to four 4-digit Standard Industrial Classification (SIC) codes or the 2-letter Activity Codes for hazardous waste treatment, storage, or disposal activities (HZ); land/disposal facilities that receive or have received any industrial waste (LF); steam electric power generating facilities (SE); or treatment works treating domestic sewage (TW) that best represent the principal products produced or services rendered by your facility and major co-located activities;

2.2.2.8 The permit number of the permit for which you are filing the NOI. Your facility must be located within the area of coverage for that permit. (*e.g.,* a facility located on Navajo Reservation lands in New Mexico would be filing for coverage under the AZR05*##I permit, a private contractor operating a federal facility in Colorado that is not located on Indian Country lands would be filing for coverage under the COR05*##F permit). See Part 1.1 for the coverage areas of the various permits.

2.2.3 Eligibility Screening

2.2.3.1 Based on the instructions in Addendum A, whether any listed or proposed threatened or endangered species, or designated critical habitat, are in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit;

2.2.3.2 Under which Part(s) of Part 1.2.3.6 (Endangered Species) you are certifying eligibility and whether the USFWS or NMFS was involved in making the determination of eligibility;

2.2.3.3 Whether any historic property listed or eligible for listing on the National Register of Historic Places is located on the facility or in proximity to the discharge;

2.2.3.4 Under which Part(s) of Part 1.2.3.7 (Historic Properties) you are certifying eligibility and whether the SHPO or THPO was involved in making the determination of eligibility;

2.2.3.5 A signed and dated certification, signed by a authorized representative of your facility as detailed in Part 9.7 that certifies the following:

I certify under penalty of law that I have read and understand the Part 1.2 eligibility requirements for coverage under the multi-sector storm water general permit including those requirements relating to the protection of endangered or threatened species or critical habitat. To the best of my knowledge, the storm water and allowable non-storm discharges authorized by this permit (and discharged related activities), are not likely and will not likely, adversely affect endangered or threatened species or critical habitat, or are otherwise eligible for coverage under Part 1.2.3.6 of the permit. To the best of my knowledge, I further certify that such discharges and discharge related activities do not have an effect on properties listed or eligible for listing on the National Register or Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage under Part 1.2.3.7 of the permit. I understand that continued coverage under the multi-sector storm water general permit is contingent upon maintaining eligibility as provided for in Part 1.2''

2.3 Use of NOI Form

You must submit the information required under Part 2.2 on the latest version of the NOI form (or photocopy thereof) contained in Addendum D. Your NOI must be signed and dated in accordance with Part 7.7 of this permit.

Note: If EPA notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOI form options that become available at a later date (e.g., electronic submission of forms), you may take advantage of those options to satisfy the NOI use and submittal requirements of Part 2.

2.4 Where To Submit

Your NOI must be signed in accordance with Part 9.7 of this permit and submitted to the Director of the NPDES Permitting Program at the following address: Storm Water Notice of Intent (4203), US EPA 401 M. Street, SW, Washington, D.C. 20460.

2.5 Additional Notification

If your facility discharges through a large or medium municipal separate storm sewer system (MS4), or into a MS4 that has been designated by the permitting authority, you must also submit a signed copy of the NOI to the operator of that MS4 upon request by the MS4 operator.

3. Special Conditions

3.1 Hazardous Substances or Oil

You must prevent or minimize the discharge of hazardous substances or oil in your discharge(s) in accordance with the storm water pollution prevention plan for your facility. This permit does not relieve you of the reporting requirements of 40 CFR part 110, 40 CFR part 117 and 40 CFR part 302 relating to spills or other releases of oils or hazardous substances.

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR part 110, 40 CFR part 117 or 40 CFR part 302, occurs during a 24 hour period:

3.1.1 You must notify the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area call 202–426–2675) in accordance with the requirements of 40 CFR part 110, 40 CFR part 117 and 40 CFR part 302 as soon as he or she has knowledge of the discharge;

3.1.2 You must modify your storm water pollution prevention plan required under Part 4 within 14 calendar days of knowledge of the release to: Provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, you must review your plan to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and you must modify your plan where appropriate.

3.2 Additional Requirements for Salt Storage

If you have storage piles of salt used for deicing or other commercial or industrial purposes and those piles generate a storm water discharge associated with industrial activity, they must be enclosed or covered to prevent exposure to precipitation (except for exposure resulting from adding or removing materials from the pile). Piles do not need to be enclosed or covered where storm water from the pile is not discharged to waters of the United States or the discharges from the piles are authorized under another permit.

3.3 Discharge Compliance With Water Quality Standards

Your discharges must not be causing or have the reasonable potential to cause or contribute to a violation of a water quality standard. Where a discharge is already authorized under this permit and is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the Director will notify you of such violation(s). You must take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the storm water pollution prevention plan. If violations remain or re-occur, then coverage under this permit may be terminated by the Director, and an alternative general permit or individual permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act for the underlying violation.

4. Storm Water Pollution Prevention Plans

4.1 Storm Water Pollution Prevention Plan Requirements

You must prepare a storm water pollution prevention plan (SWPPP) for your facility before submitting your Notice of Intent for permit coverage. Your SWPPP must be prepared in accordance with good engineering practices. Use of a registered professional engineer for SWPPP preparation is not required by the permit, but may be independently required under state law and/or local ordinance. Your SWPPP must:

4.1.1 Identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from your facility;

4.1.2 Describe and ensure implementation of practices which you will use to reduce the pollutants in storm water discharges from the facility; and

4.1.3 Assure compliance with the terms and conditions of this permit.

4.2 Contents of Plan

4.2.1 Pollution Prevention Team

You must identify the staff individual(s) (by name or title) that comprise the facility's storm water Pollution Prevention Team. Your Pollution Prevention Team is responsible for assisting the facility/plant manager in developing, implementing, maintaining and revising the facility's SWPPP. Responsibilities of each staff individual on the team must be listed.

4.2.2 Site Description

Your SWPPP must include the following:

4.2.2.1 Activities at Facility. description of the nature of the industrial activity(ies) at your facility;

4.2.2.2 General Location Map. a general location map (e.g., U.S.G.S. quadrangle, or other map) with enough detail to identify the location of your facility and the receiving waters within one mile of the facility;

4.2.2.3 A legible site map identifying the following:

4.2.2.3.1 Directions of storm water flow (e.g, use arrows to show which ways storm water will flow);

4.2.2.3.2 Locations of all existing structural BMPs

4.2.2.3.3 Locations of all surface water bodies

4.2.2.3.4 Locations of potential pollutant sources identified under 4.2.4 and where significant materials are exposed to precipitation;

4.2.2.3.5 Locations where major spills or leaks identified under 4.2.5 have occurred;

4.2.2.3.6 Locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, and liquid storage tanks;

4.2.2.3.7 Locations of storm water outfalls and an approximate outline of the area draining to each outfall;

4.2.2.3.8 Location and description of non-storm water discharges;

4.2.2.3.9 Locations of the following activities where such activities are exposed to precipitation: processing and storage areas; access roads, rail cars and tracks; the location of transfer of substance in bulk; and machinery;

4.2.2.3.10 Location and source of runoff from adjacent property containing significant quantities of pollutants of concern to the facility (an evaluation of how the quality of the runoff impacts your storm water discharges may be included).

4.2.3 Receiving Waters and Wetlands

You must provide the name of the nearest receiving water(s), including intermittent streams, dry sloughs, arroyos and the areal extent and description of wetland or other ''special aquatic sites'' (see Part 12 for definition) that may receive discharges from your facility;

4.2.4 Summary of Potential Pollutant Sources

You must identify each separate area at your facility where industrial materials or activities are exposed to storm water. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. For each, separate area identified, the description must include:

4.2.4.1 Activities in Area. A list of the activities (e.g., material storage, equipment fueling and cleaning, cutting steal beams); and

4.2.4.2 Pollutants. A list of the associated pollutant(s) or pollutant parameter(s) (e.g., crankcase oil, iron, biochemical oxygen demand, pH, etc.) for each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three (3) years before being covered under this permit and the present.

4.2.5 Spills and Leaks

You must clearly identify areas where potential spills and leaks, which can contribute pollutants to storm water discharges, can occur, and their accompanying drainage points. For areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility to be covered under this permit, you must provide a list of significant spills and leaks of toxic or hazardous pollutants that occurred during the three (3) year period prior to the date of the submission of a Notice of Intent (NOI). Your list must be updated if significant spills or leaks occur in exposed areas of your facility during the time you are covered by the permit.

Significant spills and leaks include, but are not limited to releases of oil or hazardous substances in excess of quantities that are reportable under CWA section 311 (see 40 CFR 110.10 and 40 CFR 117.21) or section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements.

4.2.6 Sampling Data

You must provide a summary of existing storm water discharge sampling data taken at your facility. All storm water sampling data collected during the term of this permit must also be summarized and included in this part of the SWPPP.

4.2.7 Storm Water Controls

4.2.7.1 Description of Existing and Planned BMPs. Describe the type and location of existing non-structural and structural best management practices (BMPs) selected for each of the areas where industrial materials or activities are exposed to storm water. All the areas identified in Part 4.2.4 should have a BMP(s) identified for the area's discharges. For areas where BMPs are not currently in place, describe appropriate BMPs that you will use to control pollutants in storm water discharges. Selection of BMPs should take into consideration:

4.2.7.1.1 The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;

4.2.7.1.2 Opportunities to combine the dual purposes of water quality protection and local flood control benefits (including physical impacts of high flows on streams—*e.g.,* bank erosion, impairment of aquatic habitat, etc.);

4.2.7.1.3 Opportunities to offset the impact of impervious areas of the facility on ground water recharge and base flows in local streams (taking into account the potential for ground water contamination—See ''User's Guide to the MSGP–2000'' section on groundwater considerations).

4.2.7.2 BMP Types to be Considered. The following types of structural, non-structural and other BMPs must be considered for implementation at your facility. Describe how each is, or will be, implemented. This requirement may have been fulfilled with the area-specific BMPs identified under Part 4.2.7.2, in which case the previous description is sufficient. However, many of the following BMPs may be more generalized or non site-specific and therefore not previously considered. If you determine that any of these BMPs are not appropriate for your facility, you must include an explanation of why they are not appropriate. The BMP examples listed below are not intended to be an exclusive list of BMPs that you may use. You are encouraged to keep abreast of new BMPs or new applications of existing BMPs to find the most cost effective means of permit compliance for your facility. If BMPs are being used or planned at the facility which are not listed here (*e.g.,* replacing a chemical with a less toxic alternative, adopting a new or innovative BMP, etc.), include descriptions of them in this section of the SWPPP.

4.2.7.2.1 *Non-Structural BMPs*

4.2.7.2.1.1 Good Housekeeping: You must keep all exposed areas of the facility in a clean, orderly manner where such exposed areas could contribute pollutants to storm water discharges. Common problem areas include: around trash containers, storage areas and loading docks. Measures must also include: a schedule for regular pickup and disposal of garbage and waste materials; routine inspections for leaks and conditions of drums, tanks and containers.

4.2.7.2.1.2 Minimizing Exposure: Where practicable, industrial materials and activities should be protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff. Note: Eliminating exposure at all industrial areas may make the facility eligible for the 40 CFR 122.26(g) ''No Exposure'' exclusion from needing to have a permit.

4.2.7.2.1.3 Preventive Maintenance: You must have a preventive maintenance program which includes timely inspection and maintenance of storm water management devices, (*e.g.,* cleaning oil/water separators, catch basins) as well as inspecting, testing, maintaining and repairing facility equipment and systems to avoid breakdowns or failures that may result in discharges of pollutants to surface waters.

4.2.7.2.1.4 Spill Prevention and Response Procedures: You must describe the procedures which will be followed for cleaning up spills or leaks. Those procedures, and necessary spill response equipment, must be made available to those employees that may cause or detect a spill or leak. Where appropriate, you must explain existing or planned material handling procedures, storage requirements, secondary containment, and equipment (*e.g.,* diversion valves), which are intended to minimize spills or leaks at the facility. Measures for cleaning up hazardous material spills or

leaks must be consistent with applicable RCRA regulations at 40 CFR part 264 and 40 CFR part 265.

4.2.7.2.1.5 Routine Facility Inspections: In addition to or as part of the comprehensive site evaluation required under Part 4.9, you must have qualified facility personnel inspect all areas of the facility where industrial materials or activities are exposed to storm water. The inspections must include an evaluation of existing storm water BMPs. Your SWPPP must identify how often these inspections will be conducted. You must correct any deficiencies in implementation of your SWP3 you find as soon as practicable, but not later than within 14 days of the inspection. You must document in your SWPPP the results of your inspections and the corrective actions you took in response to any deficiencies or opportunities for improvement that you identify.

4.2.7.2.1.6 Employee Training : You must describe the storm water employee training program for the facility. The description should include the topics to be covered, such as spill response, good housekeeping and material management practices, and must identify periodic dates (*e.g.,* every 6 months during the months of July and January) for such training. You must provide employee training for all employees that work in areas where industrial materials or activities are exposed to storm water, and for employees that are responsible for implementing activities identified in the SWPPP (*e.g.,* inspectors, maintenance people). The employee training should inform them of the components and goals of your SWPPP.

4.2.7.2.2 Structural BMPs

4.2.7.2.2.1 Sediment and Erosion Control: You must identify the areas at your facility which, due to topography, land disturbance (e.g., construction), or other factors, have a potential for significant soil erosion. You must describe the structural, vegetative, and/or stabilization BMPs that you will be implementing to limit erosion.

4.2.7.2.2.2 Management of Runoff: You must describe the traditional storm water management practices (permanent structural BMPs other than those which control the generation or source(s) of pollutants) that currently exist or that are planned for your facility. These types of BMPs typically are used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site. All BMPs that you determine are reasonable and appropriate, or are required by a State or local authority; or are necessary to maintain eligibility for the permit (see Part 1.2.3—Limitations on Coverage) must be implemented and maintained. Factors to consider when you are selecting appropriate BMPs should include: (1) The industrial materials and activities that are exposed to storm water, and the associated pollutant potential of those materials and activities; and (2) the beneficial and potential detrimental effects on surface water quality, ground water quality, receiving water base flow (dry weather stream flow), and physical integrity of receiving waters. [See ''User's Guide to the MSGP–2000'' for Considerations in Selection of BMPs]. Structural measures should be placed on upland soils, avoiding wetlands and floodplains, if possible. Structural BMPs may require a separate permit under section 404 of the CWA before installation begins.

4.2.7.2.2.3 Example BMPs: BMPs you could use include but are not limited to: Storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices).

4.2.7.2.3 Other Controls

No solid materials, including floatable debris, may be discharged to waters of the United States, except as authorized by a permit issued under section 404 of the CWA. Off-site vehicle tracking of raw, final, or waste materials or sediments, and the generation of dust must be minimized. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas must be minimized. Velocity dissipation devices must be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

4.3 Maintenance

All BMPs you identify in your SWPPP must be maintained in effective operating condition. If site inspections required by Part 4.9 identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable. In the case of non-structural BMPs, the effectiveness of the BMP must be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

4.4 Non-Storm Water Discharges

4.4.1 Certification of Non-Storm Water Discharges

4.4.1.1 Your SWPPP must include a certification that all discharges (i.e., outfalls) have been tested or evaluated for the presence of non-storm water. The certification must be signed in accordance with Part 9.7 of this permit, and include:

4.4.1.1.1 The date of any testing and/or evaluation;

4.4.1.1.2 Identification of potential significant sources of non-storm water at the site;

4.4.1.1.3 A description of the results of any test and/or evaluation for the presence of non-storm water discharges;

4.4.1.1.4 A description of the evaluation criteria or testing method used; and

4.4.1.1.5 A list of the outfalls or onsite drainage points that were directly observed during the test.

4.4.1.2 You do not need to sign a new certification if one was already completed for either the 1992 baseline Industrial General Permit or the 1995 Multi-sector General Permit and you have no reason to believe conditions at the facility have changed.

4.4.1.3 If you are unable to provide the certification required (testing for non-storm water discharges), you must notify the Director 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification must describe:

4.4.1.3.1 Reason(s) why certification was not possible;

4.4.1.3.2 The procedure of any test attempted;

4.4.1.3.3 The results of such test or other relevant observations; and

4.4.1.3.4 Potential sources of non-storm water discharges to the storm sewer.

4.4.1.4 A copy of the notification must be included in the SWPPP at the facility. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

4.4.2 Allowable Non-Storm Water Discharges

4.4.2.1 Certain sources of non-storm water are allowable under this permit (see 1.2.2.2—Allowable Non-Storm Water Discharges). In order for these discharges to be allowed, your SWPPP must include:

4.4.2.1.1 Identification of each allowable non-storm water source;

4.4.2.1.2 The location where it is likely to be discharged; and

4.4.2.1.3 Descriptions of appropriate BMPs for each source.

4.4.2.2 Except for flows from fire fighting activities, you must identify in your SWPPP all sources of allowable non-storm water that are discharged under the authority of this permit.

4.4.2.3 If you include mist blown from cooling towers amongst your allowable non-storm water discharges, you must specifically evaluate the potential for the discharges to be contaminated by chemicals used in the cooling tower and determined that the levels of such chemicals in the discharges would not cause or contribute to a violation of an applicable water quality standard after implementation of the BMPs you have selected to control such discharges.

4.5 Documentation of Permit Eligibility Related to Endangered Species

Your SWPPP must include documentation supporting your determination of permit eligibility with regard to Part 1.2.3.6 (Endangered Species), including:

4.5.1 Information on whether listed endangered or threatened species, or critical habitat, are found in proximity to your facility;

4.5.2 Whether such species may be affected by your storm water discharges or storm water discharge-related activities;

4.5.3 Results of your Addendum A endangered species screening determinations; and

4.5.4 A description of measures necessary to protect listed endangered or threatened species, or critical habitat, including any terms or conditions that are imposed under the eligibility requirements of Part 1.2.3.6. If

you fail to describe and implement such measures, your discharges are ineligible for coverage under this permit.

4.6 Documentation of Permit Eligibility Related to Historic Places

Your SWPPP must include documentation supporting your determination of permit eligibility with regard to Part 1.2.3.7 (Historic Places), including:

4.6.1 Information on whether your storm water discharges or storm water discharge-related activities would have an effect on a property that is listed or eligible for listing on the National Register of Historic Places;

4.6.2 Where effects may occur, any written agreements you have made with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other Tribal leader to mitigate those effects;

4.6.3 Results of your Addendum B historic places screening determinations; and

4.6.4 Description of measures necessary to avoid or minimize adverse impacts on places listed, or eligible for listing, on the National Register of Historic Places, including any terms or conditions that are imposed under the eligibility requirements of Part 1.2.3.7 of this permit. If you fail to describe and implement such measures, your discharges are ineligible for coverage under this permit.

4.7 Copy of Permit Requirements

You must include a copy of the permit requirements (attaching a copy of this permit is acceptable) in your SWPPP.

Note: The confirmation of coverage letter you receive from the NOI Processing Center assigning your permit number IS NOT your permit—it merely acknowledges that your NOI has been accepted and you have been authorized to discharge subject to the terms and conditions of today's permit.

4.8 Applicable State, Tribal or Local Plans

Your SWPPP must be consistent (and updated as necessary to remain consistent) with applicable State, Tribal and/or local storm water, waste disposal, sanitary sewer or septic system regulations to the extent these apply to your facility and are more stringent than the requirements of this permit.

4.9 Comprehensive Site Compliance Evaluation

4.9.1 Frequency and Inspectors

You must conduct facility inspections at least once a year. The inspections must be done by qualified personnel provided by you. The qualified personnel you use may be either your own employees or outside consultants that you have hired, provided they are knowledgeable and possess the skills to assess conditions at your facility that could impact storm water quality and assess the effectiveness of the BMPs you have chosen to use to control the quality of your storm water discharges. If you decide to conduct more frequent inspections, your SWPPP must specify the frequency of inspections.

4.9.2 Scope of the Compliance Evaluation

Your inspections must include all areas where industrial materials or activities are exposed to storm water, as identified in 4.2.4, and areas where spills and leaks have occurred within the past 3 years. Inspectors should look for: (a) Industrial materials, residue or trash on the ground that could contaminate or be washed away in storm water; (b) leaks or spills from industrial equipment, drums, barrels, tanks or similar containers; (c) offsite tracking of industrial materials or sediment where vehicles enter or exit the site; (d) tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas and (e) for evidence of, or the potential for, pollutants entering the drainage system. Storm water BMPs identified in your SWPPP must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to see whether BMPs are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations must be inspected if possible.

4.9.3 Followup Actions

Based on the results of the inspection, you must modify your SWPPP as necessary (*e.g.,* show additional controls on map required by Part 4.4.2.4; revise description of controls required by Part 4.4.5) to include additional or modified BMPs designed to correct problems identified. You must complete revisions to the SWPPP within 14 calendar days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, they must be implemented as soon as practicable.

4.9.4 Compliance Evaluation Report

You must insure a report summarizing the scope of the inspection, name(s) of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP is completed and retained as part of the SWPPP for at least three years from the date permit coverage expires or is terminated. Major observations should include: The location(s) of discharges of pollutants from the site; location(s) of BMPs that need to be maintained; location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and location(s) where additional BMPs are needed that did not exist at the time of inspection. You must retain a record of actions taken in accordance with 4.9 of this permit as part of the storm water pollution prevention plan for at least three years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance. Where an inspection report does not identify any incidents of non-compliance, the report must contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. Both the inspection report and any reports of follow-up actions must be signed in accordance with Part 6 (reporting) of this permit.

4.9.5 Credit As a Routine Facility Inspection

Where compliance evaluation schedules overlap with inspections required under Part 4.2.7.5, your annual compliance evaluation may also be used as one of the Part 4.2.7.5 routine inspections.

4.10 Maintaining Updated SWPPP

You must amend the storm water pollution prevention plan whenever:

4.10.1 There is a change in design, construction, operation, or maintenance at your facility which has a significant effect on the discharge, or potential for discharge, of pollutants from your facility;

4.10.2 During inspections or investigations by you or by local, State, Tribal or Federal officials it is determined the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under 4.2.4, or is otherwise not achieving the general objectives of controlling pollutants in discharges from your facility.

4.11 Signature, Plan Review and Making Plans Available

4.11.1 You must sign your SWPPP in accordance with Part 9.7, and retain the plan on-site at the facility covered by this permit (see Part 8 for records retention requirements).

4.11.2 You must keep a copy of the SWPPP on-site or locally available to the Director for review at the time of an on-site inspection. You must make your SWPPP available upon request to the Director, a State, Tribal or local agency approving storm water management plans, or the operator of a municipal separate storm sewer receiving discharge from the site. Also, in the interest of public involvement, EPA encourages you to make your SWPPPs available to the public for viewing during normal business hours.

4.11.3 The Director may notify you at any time that your SWPPP does not meet one or more of the minimum requirements of this permit. The notification will identify provisions of this permit which are not being met, as well as the required modifications. Within thirty (30) calendar days of receipt of such notification, you must make the required changes to the SWPPP and submit to the Director a written certification that the requested changes have been made.

4.11.4 You must make the SWPPP available to the USFWS or NMFS upon request.

4.12 Additional Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Reporting Requirements.

Potential pollutant sources for which you have reporting requirements under EPCRA 313 must be identified in your summary of potential pollutant sources as per Part 4.2.4. Note this additional requirement only applies to you if you are subject to reporting requirements under EPCRA 313.

5. Monitoring Requirements and Numeric Limitations

[**Note:** EPA is requesting comment on the monitoring requirements presented in this

section. Specifically, EPA is requesting input on the value of benchmark monitoring in meeting its intended goal, as well as alternative approaches that are more efficient and cost-effective. Unlike compliance monitoring where results are use to determine compliance with numerical effluent limitations, the purpose of benchmark monitoring is to determine the overall effectiveness of a facility's storm water pollution prevention plan in controlling the discharge of pollutants to receiving waters. The goal of benchmark monitoring is to provide facility operators with information on whether additional or alternative best management practices are necessary at their facility, as well as identify specific areas that need additional attention. EPA is requesting input on alternatives to benchmark monitoring that are more effective in assisting facility operators in evaluating the effectiveness of their storm water pollution prevention plans.

Presentation of the benchmark monitoring option in the proposed permit language is included simply to allow the public and permittees familiar with the process used in the current permit to better comment on ways EPA has identified that benchmark monitoring, if selected for use in the final permit, could be improved. A decision on whether to continue use of benchmark monitoring, and if so, with what modifications, will NOT be made until considering all input received during the public comment period. The Fact Sheet section of today's notice provides more detail on potential alternatives to benchmark monitoring to encourage comment on this issue.]

There are five individual and separate categories of monitoring requirements and numeric limitations that your facility may be subject to under this permit. The monitoring requirements and numeric limitations applicable to your facility depend on a number of factors, including: (1) The types of industrial activities generating storm water runoff from your facility, and (2) the state or tribe where your facility is located. Part 6 identifies monitoring requirements applicable to specific sectors of industrial activity. Part 13 contains additional requirements that apply only to facilities located in a particular State or Indian Country land. You must review Parts 5, 6 and 13 of the permit to determine which monitoring requirements and numeric limitations apply to your facility. Unless otherwise specified, limitations and monitoring requirements under Parts 5, 6, and 13 are additive.

Sector-specific monitoring requirements and limitations are applied discharge by discharge at facilities with co-located activities. Where storm water from the co-located activities are co-mingled, the monitoring requirements and limitations are additive. Where more than one numeric limitation for a specific parameter applies to a discharge, compliance with the more restrictive limitation is required. Where monitoring requirements for a monitoring quarter overlap (e.g., need to monitor TSS 1/year for a limit and also 1/quarter for benchmark monitoring), you may use a single sample to satisfy both monitoring requirements.

5.1 Types of Monitoring Requirements and Limitations

5.1.1 Quarterly Visual Monitoring

The requirements and procedures for quarterly visual monitoring are applicable to all facilities covered under this permit, regardless of your facility's sector of industrial activity.

5.1.1.1 You must perform and document a quarterly visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The visual examination must be made during daylight hours (e.g., normal working hours). If no storm event resulted in runoff from the facility during a monitoring quarter, you are excused from visual monitoring for that quarter provided you document in your monitoring records that no runoff occurred. You must sign and certify the documentation in accordance with Part 9.7.

5.1.1.2 Your visual examinations must be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging from your facility. The examination must document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples must be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term. If no qualifying storm event resulted in runoff from the facility during a monitoring quarter, you are excused from visual monitoring for that quarter provided you document in your monitoring records that no qualifying storm event occurred that resulted in storm water runoff during that quarter. You must sign and certify the documentation in accordance with Part 9.7.

5.1.1.3 You must maintain your visual examination reports onsite with the pollution prevention plan. The report must include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

5.1.1.4 Inactive and Unstaffed Sites: When you are unable to conduct visual storm water examinations at an inactive and unstaffed site, you may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. If you exercise this waiver, you must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed and that performing visual examinations during a qualifying event is not feasible. You must sign and certify the waiver in accordance with Part 9.7.

5.1.2 Benchmark Monitoring of Discharges Associated With Specific Industrial Activities

Table 5–1 identifies the specific industrial sectors subject to the Benchmark Monitoring requirements of this permit and the industry-specific pollutants of concern. You must refer to the tables found in the individual Sectors in Part 6 for Benchmark Monitoring Cut-Off Concentrations. If your facility has co-located activities (see Part 1.2.1.1) described in more than one sector in Part 6, you must comply with all applicable benchmark monitoring requirements from each sector.

The results of benchmark monitoring are primarily for your use to determine the overall effectiveness of your SWPPP in controlling the discharge of pollutants to receiving waters. Benchmark values, included in Part 6 of this permit, are not viewed as effluent limitations. An exceedence of a benchmark value does not, in and of itself, constitute a violation of this permit. While exceedence of a benchmark value does not automatically indicate that violation of a water quality standard has occurred, it does signal that modifications to the SWPPP may be necessary. In addition, exceedence of benchmark values may identify facilities that would be more appropriately covered under an individual, or alternative general permit where more specific pollution prevention controls could be required.

TABLE 5–1.—INDUSTRY SECTORS/SUB-SECTORS SUBJECT TO BENCHMARK MONITORING

MSGP sector [1]	Industry Sub-sector	Required parameters for benchmark Monitoring
A	General Sawmills and Planing Mills	COD, TSS, Zinc.
	Wood Preserving Facilities	Arsenic, Copper.
	Log Storage and Handling	TSS.
	Hardwood Dimension and Flooring Mills	COD, TSS.
B	Paperboard Mills	COD.
C	Industrial Inorganic Chemicals	Aluminum, Iron, Nitrate + Nitrite N.
	Plastics, Synthetic Resins, etc.	Zinc.

TABLE 5–1.—INDUSTRY SECTORS/SUB-SECTORS SUBJECT TO BENCHMARK MONITORING—Continued

MSGP sector [1]	Industry Sub-sector	Required parameters for benchmark Monitoring
	Soaps, Detergents, Cosmetics, Perfumes	Nitrate + Nitrite N, Zinc.
	Agricultural Chemicals	Nitrate + Nitrite N, Lead, Iron, Zinc, Phosphorus.
D	Asphalt Paving and Roofing Materials	TSS.
E	Clay Products	Aluminum.
	Concrete Products	TSS, Iron.
F	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.	Aluminum, Zinc.
	Iron and Steel Foundries	Aluminum, TSS, Copper, Iron, Zinc.
	Non-Ferrous Rolling and Drawing	Copper, Zinc.
	Non-Ferrous Foundries (Castings)	Copper, Zinc.
G [2]	Copper Ore Mining and Dressing	COD, TSS, Nitrate + Nitrite N.
H	Coal Mines and Coal-Mining Related Facilities	TSS, Aluminum, Iron.
J	Dimension Stone, Crushed Stone, and Nonmetallic Minerals (except fuels).	TSS.
	Sand and Gravel Mining	Nitrate + Nitrite N, TSS.
K	Hazardous Waste Treatment Storage or Disposal	Ammonia, Magnesium, COD, Arsenic, Cadmium, Cyanide, Lead, Mercury, Selenium, Silver.
L	Landfills, Land Application Sites, and Open Dumps	Iron, TSS.
M	Automobile Salvage Yards	TSS, Aluminum, Iron, Lead.
N	Scrap Recycling	Copper, Aluminum, Iron, Lead, Zinc, TSS, COD.
O	Steam Electric Generating Facilities	Iron.
Q	Water Transportation Facilities	Aluminum, Iron, Lead, Zinc.
S	Airports with deicing activities [3]	BOD, COD, Ammonia, pH.
U	Grain Mill Products	TSS.
	Fats and Oils	BOD, COD, Nitrate + Nitrite N, TSS.
Y	Rubber Products	Zinc.
AA	Fabricated Metal Products Except Coating	Iron, Aluminum, Zinc, Nitrate + Nitrite N.
	Fabricated Metal Coating and Engraving	Zinc, Nitrate + Nitrite N.

[1] Table does not include parameters for compliance monitoring under effluent limitations guidelines.
[2] See Sector G (Part 6.G) for additional monitoring discharges from waste rock and overburden piles from active ore mining or dressing facilities.
[3] Monitoring requirement is for airports with deicing activities that utilize more than 100 tons of urea or more than 100,000 gallons of ethylene glycol per year.

5.1.2.1 Monitoring Periods for Benchmark Monitoring. Unless otherwise specified in Part 6, benchmark monitoring periods are October 1, 2001 to September 30, 2002 (year two of the permit) and October 1, 2003 to September 30, 2004 (year four of the permit). If your facility falls within a Sector(s) required to conduct benchmark monitoring, you must monitor quarterly (4 times a year) during at least one, and potentially both, monitoring periods; unless otherwise specified in the sector-specific requirements of Part 6. Depending on the results of the 2001–2002 monitoring year, you may not be required to conduct benchmark monitoring in the 2003–2004 monitoring year (see Part 5.1.2.2).

5.1.2.2 Benchmark Monitoring Year 2003–2004 Waivers for Facilities Testing Below Benchmark Values. All of the provisions of Part 5.1.2.2 are available to permittees except as noted in Part 6. Waivers from benchmark monitoring are available to facilities whose discharges are below benchmark values, thus there is an incentive for facilities to improve the effectiveness of their SWPPPs in eliminating discharges of pollutants and avoid the cost of monitoring.

On both a parameter by parameter and outfall by outfall basis, you are not required to conduct sector-specific benchmark monitoring in the 2003–2004 monitoring year provided:

- You collected samples for all four quarters of the 2001–2002 monitoring year and the average concentration was below the benchmark value in Part 6; and
- You are not subject to a numeric limitation or State/Tribal-specific monitoring requirement for that parameter established in Part 5.2 or Part 13; and
- You include a certification in the SWPPP that based on current potential pollutant sources and BMPs used, discharges from the facility are reasonable expected to be essentially the same (or cleaner) compared to when the benchmark monitoring for the 2001–2002 monitoring year was done.

5.1.3 Coal Pile Runoff

5.1.3.1 If your facility has discharges of storm water from coal storage piles , you must comply with the limitations and monitoring requirements of Table 5–2 for all discharges containing the coal pile runoff, regardless of your facility's sector of industrial activity.

TABLE 5–2.—NUMERIC LIMITATIONS FOR COAL PILE RUNOFF

Parameter	Limit	Monitoring frequency	Sample type
Total Suspended Solids (TSS)	50 mg/l, max	1/year	Grab.
pH	6.0—9.0, min. and max	1/year	Grab.

5.1.3.2 You must not dilute coal pile runoff with storm water or other flows in order to meet this limitation.

5.1.3.3 If your facility is designed, constructed and operated to treat the volume of coal pile runoff that is associated with a 10-year, 24-hour rainfall event, any untreated overflow of coal pile runoff from the treatment unit is not subject to the 50 mg/L limitation for total suspended solids.

5.1.3.4 You must collect and analyze your samples in accordance with Parts 5.2.2. Results of the testing must be retained and reported in accordance with Part 8 and 9.16.

5.1.4 Compliance Monitoring for Discharges Subject to Numerical Effluent Limitation Guidelines

Table 1–2 of Part 1.2.2.1.3 of the permit identifies storm water discharges subject to effluent limitation guidelines that are authorized for coverage under the permit. Facilities subject to storm water effluent limitation guidelines are required to monitor such discharges to evaluate compliance with numerical effluent limitations. Industry-specific numerical limitations and compliance monitoring requirements are described in Part 6 of the permit.

5.1.5 Monitoring for Limitations Required by a State or Tribe

Unless otherwise specified in Part 13 (state/tribal-specific permit conditions), you must sample once per year for any permit limit established as a result of a state or tribe's conditions for certification of this permit under CWA § 401.

5.2 Monitoring Instructions

5.2.1 Monitoring Periods

If you are required to conduct monitoring on an annual or quarterly basis, you must collect your samples within the following time periods (unless otherwise specified in Part 6):

- the monitoring year is from October 1 to September 30
- if your permit coverage was effective less than one month from the end of a quarterly or yearly monitoring period, your first monitoring period starts with the next respective monitoring period. (e.g., if permit coverage begins June 5th, you would not need to start quarterly sampling until the July–September quarter, but you would only have from June 5th to September 30th to complete that year's annual monitoring)

5.2.2 Collection and Analysis of Samples

You must assess your sampling requirements on an outfall by outfall basis. You must collect and analyze your samples in accordance with the requirements of Part 9.16.

5.2.2.1 When and How to Sample. Take a minimum of one grab sample from the discharge associated with industrial activity resulting from a storm event with at least 0.1 inch of precipitation (defined as a ''measurable'' event), providing the interval from the preceding measurable storm is at least 72 hours. The 72-hour storm interval is waived when the preceding measurable storm did not yield a measurable discharge, or if you are able to document that less than a 72-hour interval is representative for local storm events during the sampling period.

Take the grab sample during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, sample during the first hour of discharge and describe why a grab sample during the first 30 minutes was impracticable. Submit this information on or with the discharge monitoring report (see Part 7.1). If the sampled discharge commingles with process or non-process water, attempt to sample the storm water discharge before it mixes with the non-storm water.

To get help with monitoring, consult the Guidance Manual for the Monitoring and Reporting Requirements of the NPDES Storm Water Multi-Sector General Permit which can be down loaded from the EPA Web Site at *www.epa.gov/OWM/sw/industry/index.htm.* It can also be ordered from the Office of Water Resource Center by calling 202–260–7786.

5.2.3 Storm Event Data

Along with the results of your monitoring, you must provide the date and duration (in hours) of the storm event(s) samples; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event samples and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge samples.

5.2.4 Representative Outfalls—Essential Identical Discharges

If your facility has two (2) or more outfalls that you believe discharge substantially identical effluents, based on similarities of the industrial activities, significant materials or storm water management practices occurring within the outfalls' drainage areas, you may test the effluent of just one of the outfalls and report that the quantitative data also applies to the substantially identical outfall(s). For this to be permissible, you must describe in the pollution prevention plan and include in the Discharge Monitoring Report the following: locations of the outfalls; why the outfalls are expected to discharge substantially identical effluents; estimates of the size of the drainage area (in square feet) for each of the outfalls; and an estimate of the runoff coefficient of the drainage areas (low: under 40 percent; medium: 40 to 65 percent; high: above 65 percent).

5.3 General Monitoring Waivers

The following waivers may be applied to any monitoring required under this permit.

5.3.1 Adverse Climatic Conditions Waiver

When adverse weather conditions prevent the collection of samples, take a substitute sample during a qualifying storm event in the next monitoring period. Adverse conditions (i.e., those which are dangerous or create inaccessibility for personnel) may include such things as local flooding, high winds, electrical storms, or situations which otherwise make sampling impracticable such as drought or extended frozen conditions.

5.3.2 Alternative Certification of ''Not Present or No Exposure''

You are not subject to the analytical monitoring requirements of this Part provided:

5.3.2.1 you make a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring required under Part 5, that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period; and

5.3.2.2 your certification is signed in accordance with Part 9.7, retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part 6. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required Part 6; and

5.3.2.3 if you cannot certify for an entire period, you must submit the date exposure was eliminated and any monitoring required up until that date; and

5.3.2.4 no numeric limitation or State-specific monitoring requirement for that parameter is established in Part 5 or Part 12.

5.4 Monitoring Required the Director

The Director may provide written notice to any facility, including those otherwise exempt from the sampling requirements of Parts 5, 6 and 12, requiring discharge sampling for a specific monitoring frequency for specific parameters. Any such notice will briefly state the reasons for the monitoring, parameters to be monitored,

frequency and period of monitoring, sample types, and reporting requirements.

5.5 Reporting Monitoring Results

Deadlines and procedures for submitting monitoring reports are contained in Part 7.

6. Sector-Specific Requirements for Industrial Activity

You only need to comply with the additional requirements of Part 6 that apply to the sector(s) of industrial activity at your facility. These sector-specific requirements are in addition to the ''basic'' requirements specified in Parts 1–5 and 7–13 of this permit.

6.A Sector A—Timber Products

6.A.1 Covered Storm Water Discharges

The requirements in Part 6.A apply to storm water discharges associated with industrial activity from Timber Products facilities as identified by the SIC Codes specified under Sector A in Table 1–1 of Part 1.2.1.

6.A.2 Industrial Activities Covered by Sector A

The types of activities that permittees under Sector A are primarily engaged in are:

6.A.2.1 Cutting timber and pulpwood (those that have log storage or handling areas);

6.A.2.2 Mills, including merchant, lath, shingle, cooperage stock, planing, plywood and veneer;

6.A.2.3 Producing lumber and wood basic materials;

6.A.2.4 Wood preserving;

6.A.2.5 Manufacturing finished articles made entirely of wood or related materials except wood kitchen cabinet manufacturers (covered under Part 6.23);

6.A.2.6 Manufacturing wood buildings or mobile homes.

6.A.3 Special Coverage Conditions.

6.A.3.1 Prohibition of Discharges. (See also Part 1.2.3.1)

Not covered by this permit: Storm water discharges from areas where there may be contact with the chemical formulations sprayed to provide surface protection. These discharges must be covered by a separate NPDES permit.

6.A.3.2 Authorized Non-Storm Water Discharges.

(See also Part 1.2.3.1) Also authorized by this permit, provided the non-storm water component of the discharge is in compliance with SWPPP requirements in Part 4.2.7 (Controls): Discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage.

6.A.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements.

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.A.4.1 Drainage Area Site Map. (See also Part 4.2.2.3) Also identify where any of the following may be exposed to precipitation/surface runoff: Processing areas; treatment chemical storage areas; treated wood and residue storage areas; wet decking areas; dry decking areas; untreated wood and residue storage areas; and treatment equipment storage areas.

6.A.4.2 Inventory of Exposed Materials. (See also Part 4.2.4) Where such information exists, if your facility has used chlorophenolic, creosote or chromium-copper-arsenic formulations for wood surface protection or preserving, identify the following: Areas where contaminated soils, treatment equipment and stored materials still remain, and the management practices employed to minimize the contact of these materials with storm water runoff.

6.A.4.3 Description of Storm Water Management Controls. (See also Part 4.2.7). Describe and implement measures to address the following activities/sources: Log, lumber and wood product storage areas; residue storage areas; loading and unloading areas; material handling areas; chemical storage areas; and equipment/vehicle maintenance, storage and repair areas. If your facility performs wood surface protection/preservation activities, address the specific BMPs for these activities.

6.A.4.4 Good Housekeeping. (See also Part 4.2.7.2.1.1). In areas where storage, loading/unloading and material handling occur, perform good housekeeping to limit the discharge of wood debris; minimize the leachate generated from decaying wood materials; and minimize the generation of dust.

6.A.4.5 Inspections. (See also Part 4.2.7.2.1.5). If your facility performs wood surface protection/preservation activities, inspect processing areas, transport areas and treated wood storage areas monthly to assess the usefulness of practices to minimize the deposit of treatment chemicals on unprotected soils and in areas that will come in contact with storm water discharges.

6.A.5 Monitoring and Reporting Requirements. (See also Part 5)

TABLE A–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

[Sector of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation [3]
General Sawmills and Planning Mills (SIC 2421)	Chemical Oxygen Demand (COD).	120.0 mg/L.	
	Total Suspended Solids (TSS).	100 mg/L.	
	Total Zinc	0.117 mg/L.	
Wood Preserving (SIC 2491)	Total Arsenic	0.16854 mg/L.	
	Total Copper	0.0636 mg/L.	
Log Storage and Handling (SIC 2411)	Total Suspended Solids (TSS).	100 mg/L.	
Wet Decking Discharges at Log Storage and Handling Areas (SIC 2411).	pH		6.0–9.0 s.u.
	Debris (woody material such as bark, twigs, branches, heartwood, or sapwood).		No Discharge of debris that will not pass through a 2.54 cm (1'') diameter round opening.

TABLE A–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING—Continued

[Sector of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation [3]
Hardwood Dimension and Flooring Mills; Special Products Sawmills, not elsewhere classified; Millwork, Veneer, Plywood and Structural Wood; Wood Containers; Wood Buildings and Mobile Homes; Reconstituted Wood Products; and Wood Products Facilities not elsewhere classified (SIC Codes 2426, 2429, 2431–2439 (except 2434), 2448, 2449, 2451, 2452, 2493, and 2499)	Chemical Oxygen Demand (COD).	120.0 mg/L..	
	Total Suspended Solids (TSS).	100.0 mg/L..	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 monitoring years.
[3] Monitor once per year for each monitoring year.

6.B Sector B. Paper and Allied Products Manufacturing

6.B.1 Covered Storm Water Discharges

The requirements in Part 6.B apply to storm water discharges associated with industrial activity from Paper and Allied Products Manufacturing facilities as identified by the SIC Codes specified under Sector B in Table 1–1 of Part 1.2.1.

6.B.2 Industrial Activities Covered by Sector B

The types of activities that permittees under Sector B are primarily engaged in are:

6.B.2.1 manufacture of pulps from wood and other cellulose fibers and from rags;

6.B.2.2 manufacture of paper and paperboard into converted products, *i.e.* paper coated off the paper machine, paper bags, paper boxes and envelopes;

6.B.2.3 manufacture of bags of plastic film and sheet.

6.B.3 Monitoring and Reporting Requirements

(See also Part 5)

TABLE B–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Paperboard Mills (SIC Code 2631)	COD	120.0 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 monitoring years.

6.C Sector C—Chemical and Allied Products Manufacturing

6.C.1 Covered Storm Water Discharges

The requirements in Part 6.C apply to storm water discharges associated with industrial activity from Chemical and Allied Products Manufacturing facilities as identified by the SIC Codes specified under Sector C in Table 1–1 of Part 1.2.1.

6.C.2 Industrial Activities Covered by Sector C

The requirements listed under this part apply to storm water discharges associated with industrial activity from a facility engaged in manufacturing the following products:

6.C.2.1 basic industrial inorganic chemicals;

6.C.2.2 plastic materials and synthetic resins, synthetic rubbers, and cellulosic and other human made fibers, except glass;

6.C.2.3 soap and other detergents, including facilities producing glycerin from vegetable and animal fats and oils; speciality cleaning, polishing and sanitation preparations; surface active preparations used as emulsifiers, wetting agents and finishing agents, including sulfonated oils; and perfumes, cosmetics and other toilet preparations;

6.C.2.4 paints (in paste and ready mixed form); varnishes; lacquers; enamels and shellac; putties, wood fillers, and sealers; paint and varnish removers; paint brush cleaners; and allied paint producers;

6.C.2.5 industrial organic chemicals;

6.C.2.6 industrial and household adhesives, glues, caulking compounds, sealants, and linoleum, tile and rubber cements from vegetable, animal or synthetic plastic materials; explosives; printing ink, including gravure, screen process and lithographic inks; miscellaneous chemical preparations such as fatty acids, essential oils, gelatin (except vegetable), sizes, bluing, laundry sours, writing and stamp pad ink, industrial compounds such as boiler and heat insulating compounds, and chemical supplies for foundries;

6.C.2.7 ink and paints, including china painting enamels, indian ink, drawing ink, platinum paints for burnt wood or leather work, paints for china painting, artists' paints and artists' water colors.

6.C.3 Limitations on Coverage

6.C.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.3)

Not covered by this permit: non-storm water discharges containing inks, paints or substances (hazardous, nonhazardous, *etc.*) resulting from an onsite spill, including materials collected in drip pans; washwater from material handling and processing areas; and washwater from drum, tank or container rinsing and cleaning.

6.C.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.C.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3)

Also identify where any of the following may be exposed to precipitation/surface runoff: Processing and storage areas; access roads, rail cars and tracks; areas where substances are transferred in bulk; and operating machinery.

6.C.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4)

Describe the following sources and activities that have potential pollutants associated with them: Loading, unloading and transfer of chemicals; outdoor storage of salt, pallets, coal, drums, containers, fuels, fueling stations; vehicle and equipment maintenance/cleaning areas; areas where the treatment, storage or disposal (on-or off-site) of waste/wastewater occur; storage tanks and other containers; processing and storage areas; access roads, rail cars and tracks; areas where the transfer of substances in bulk occurs; and areas where machinery operates.

6.C.4.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

As part of your good housekeeping program, include a schedule for regular pickup and disposal of garbage and waste materials, or adopt other appropriate measures to reduce the potential for discharging storm water that has contacted garbage or waste materials. Routinely inspect the condition of drums, tanks and containers for potential leaks.

6.C.5 Monitoring and Reporting Requirements

(See also Part 5)

TABLE C–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric Limitation [3]
Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category (40 CFR § 418.10)—applies to precipitation runoff, that during manufacturing or processing, comes into contact with any raw materials, intermediate product, finished product, by-products or waste product (SIC 2874).	Total Phosphorus (as P) ...	.....	105.0 mg/L, daily max. 35 mg/L, 30-day avg.
	Fluoride	.....	105.0 mg/L, daily max. 25.0 mg/L, 30-day avg.
Agricultural Chemicals (2873–2879)	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
	Total Recoverable Lead	0.0816 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	
	Phosphorus	2.0 mg/L.	
Industrial Inorganic Chemicals (2812–2819)	Total Recoverable Aluminum.	0.75 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
Soaps, Detergents, Cosmetics, and Perfumes (SIC 2841–2844).	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	
Plastics, Synthetics, and Resins (SIC 2821–2824)	Total Recoverable Zinc	0.117 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.
[3] Monitor once/year for each Monitoring Year.

6.D Sector D—Asphalt Paving and Roofing Materials and Lubricant Manufacturers

6.D.1 Covered Storm Water Discharges

The requirements in Part 6.D apply to storm water discharges associated with industrial activity from Asphalt Paving and Roofing Materials and Lubricant Manufacturers facilities as identified by the SIC Codes specified under Sector D in Table 1–1 of Part 1.2.1.

6.D.2 Industrial Activities Covered by Sector D.

The types of activities that permittees under Sector D are primarily engaged in are:

6.D.2.1 manufacturing asphalt paving and roofing materials;

6.D.2.2 portable asphalt plant facilities;

6.D.2.3 manufacturing lubricating oils and greases.

6.D.3 Limitations on Coverage

The following storm water discharges associated with industrial activity are not authorized by this permit:

6.D.3.1 discharges from petroleum refining facilities, including those that manufacture asphalt or asphalt products that are classified as SIC code 2911;

6.D.3.2 discharges from oil recycling facilities;

6.D.3.3 discharges associated with fats and oils rendering.

6.D.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.D.4.1 *Inspections.* (See also Part 4.2.7.2.1.5) Inspect at least once per month, as part of the maintenance program, the following areas: Material storage and handling areas, liquid storage tanks, hoppers/silos, vehicle and equipment maintenance, cleaning and fueling areas, material handling vehicles, equipment and processing areas. Ensure appropriate action is taken in response to the inspection by implementing tracking or follow up procedures.

6.D.5 Monitoring and Reporting Requirements

(See also Part 5)

TABLE D–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

[Sector of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation [3]
Asphalt Paving and Roofing Materials (SIC 2951, 2952)	Total Suspended Solids (TSS).	100 mg/L.	
Discharges from areas where production of asphalt paving and roofing emulsions occurs (SIC 2951, 2952).	TSS		23.0 mg/L, daily max. 15.0 mg/L 30-day avg.
	Oil and Grease		15.0 mg/L daily max. 10 mg/L, 30-day avg.
	pH		6.0–9.0.

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 monitoring years.
[3] Monitor once per year for each monitoring year.

6.E Sector E—Glass Clay, Cement, Concrete, and Gypsum Products

6.E.1 Covered Storm Water Discharges

The requirements in Part 6.E apply to storm water discharges associated with industrial activity from Glass, Clay, Cement, Concrete, and Gypsum Products facilities as identified by the SIC Codes specified under Sector E in Table 1–1 of Part 1.2.1.

6.E.2 Industrial Activities Covered by Sector E

The requirements listed under this permit apply to storm water discharges associated with industrial activity from a facility engaged in either manufacturing the following products or performing the following activities:

6.E.2.1 flat, pressed, or blown glass or glass containers;
6.E.2.2 hydraulic cement;
6.E.2.3 clay products including tile and brick;
6.E.2.4 Pottery and porcelain electrical supplies;
6.E.2.5 concrete products;
6.E.2.6 gypsum products;
6.E.2.7 minerals and earths, ground or otherwise treated;
6.E.2.8 non-clay refractories.

6.E.3 Limitations on Coverage

Facilities engaged in the following activities are not eligible for coverage under this permit:

6.E.3.1 lime manufacturing;
6.E.3.2 cut stone and stone products;
6.E.3.3 asbestos products;
6.E.3.4 mineral wool and mineral wool insulation products.

6.E.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements.

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.E.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3)

Identify the locations of the following, as applicable: Bag house or other dust control device; recycle/sedimentation pond, clarifier or other device used for the treatment of process wastewater, and the areas that drain to the treatment device.

6.E.4.2 *Good Housekeeping Measures.* (See also Part 4.2.2.3)

With good housekeeping prevent or minimize the discharge of: Spilled cement; aggregate (including sand or gravel); kiln dust; fly ash; settled dust; or other significant material in storm water from paved portions of the site that are exposed to storm water. Consider using regular sweeping or other equivalent measures to minimize the presence of these materials. Indicate in your SWPPP the frequency of sweeping or equivalent measures. Determine the frequency from the amount of industrial activity occurring in the area and the frequency of precipitation, but it must be performed at least once a week if cement, aggregate, kiln dust, fly ash or settled dust are being handled/processed. You must also prevent the exposure of fine granular solids (cement, fly ash, kiln dust, etc.) to storm water where practicable, by storing these materials in enclosed silos/hoppers, buildings or under other covering.

6.E.4.3 *Inspections.* (See also Part 4.2.7.2.1.5)

Perform inspections while the facility is in operation and include all of the following areas exposed to storm water: Material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, truck wash down/ equipment cleaning areas.

6.E.4.4 *Certification.* (See also Part 4.4.1)

For facilities producing ready-mix concrete, concrete block, brick or similar products, include in the non-storm water discharge certification a description of measures that insure that process waste water resulting from truck washing, mixers, transport buckets, forms or other equipment are discharged in accordance with NPDES requirements or are recycled.

6.E.5 Monitoring and Reporting Requirements

(See also Part 5)

TABLE E–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

[Sector of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation [3]
Clay Product Manufacturers (SIC 3251–3259, 3262–3269).	Total Recoverable Aluminum.	0.75 mg/L	

[1] Discharge may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 monitoring years.
[3] Monitor once per year for each monitoring year.

TABLE E–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

[Sector of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation [3]
Concrete and Gypsum Product Manufacturers (SIC 3271–3275).	TSS	100 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
Cement Manufacturing Facility, Material Storage Runoff: Any discharge composed of runoff that derives from the storage of materials including raw materials, intermediate products, finished products, and waste materials that are used in or derived from the manufacture of cement.	Total Suspended Solids (TSS).		50 mg/L, daily max.
	pH		6.0–9.0 S.U.

[1] Discharge may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 monitoring years.
[3] Monitor once per year for each monitoring year.

6.F Sector F—Primary Metals

6.F.1 Covered Storm Water Discharges

The requirements in Part 6.F apply to storm water discharges associated with industrial activity from Primary Metals facilities as identified by the SIC Codes specified under Sector F in Table 1–1 of Part 1.2.1.

6.F.2 Industrial Activities Covered by Sector F

The types of activities under this Part are facilities primarily engaged in are:

6.F.2.1 steel works, blast furnaces, and rolling and finishing mills including: Steel wire drawing and steel nails and spikes; cold-rolled steel sheet, strip, and bars; and steel pipes and tubes;

6.F.2.2 iron and steel foundries, including: Gray and ductile iron, malleable iron, steel investment, and steel foundries not elsewhere classified;

6.F.2.3 primary smelting and refining of nonferrous metals, including: Primary smelting and refining of copper, and primary production of aluminum;

6.F.2.4 secondary smelting and refining of nonferrous metals;

6.F.2.5 rolling, drawing, and extruding of nonferrous metals, including: Rolling, drawing, and extruding of copper; rolling, drawing and extruding of nonferrous metals except copper and aluminum; and drawing and insulating of nonferrous wire;

6.F.2.6 nonferrous foundries (castings), including: Aluminum die-casting, nonferrous die-casting, except aluminum, aluminum foundries, copper foundries, and nonferrous foundries, except copper and aluminum;

6.F.2.7 miscellaneous primary metal products, not elsewhere classified, including: Metal heat treating, and primary metal products not elsewhere classified;

Activities covered include but are not limited to storm water discharges associated with cooking operations, sintering plants, blast furnaces, smelting operations, rolling mills, casting operations, heat treating, extruding, drawing, or forging all types of ferrous and nonferrous metals, scrap and ore.

6.F.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.F.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Also identify where any of the following activities may be exposed to precipitation/surface runoff: Storage or disposal of wastes such as spent solvents/baths, sand, slag/dross; liquid storage tanks/drums; processing areas including pollution control equipment (*e.g.,* baghouses); and storage areas of raw material such as coal, coke, scrap, sand, fluxes, refractories or metal in any form. In addition, indicate where an accumulation of significant amounts of particulate matter could occur from such sources as furnace or oven emissions, losses from coal/coke handling operations, etc., and which could result in a discharge of pollutants to waters of the United States.

6.F.3.2 *Inventory of Exposed Material.* (See also Part 4.2.4) Include in the inventory of materials handled at the site that potentially may be exposed to precipitation/runoff, areas where deposition of particulate matter from process air emissions or losses during material handling activities are possible.

6.F.3.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1) As part of your good housekeeping program, include: A cleaning/maintenance program for all impervious areas of the facility where particulate matter, dust or debris may accumulate, especially areas where material loading/unloading, storage, handling and processing occur; the paving of areas where vehicle traffic or material storage occur but where vegetative or other stabilization methods are not practicable (institute a sweeping program in these areas too). For unstabilized areas where sweeping is not practicable, consider using storm water management devices such as sediment traps, vegetative buffer strips, filter fabric fence, sediment filtering boom, gravel outlet protection or other equivalent measures that effectively trap or remove sediment.

6.F.3.4 *Inspections.* (See also Part 4.2.7.2.1.5) Conduct inspections routinely, or at least on a quarterly basis, and address all potential sources of pollutants, including (if applicable): Air pollution control equipment (*e.g.,* baghouses, electrostatic precipitators, scrubbers and cyclones) for any signs of degradation (*e.g.,* leaks, corrosion or improper operation) that could limit their efficiency and lead to excessive emissions. Consider monitoring air flow at inlets/outlets (or use equivalent measures) to check for leaks (*e.g.,* particulate deposition) or blockage in ducts. Also inspect all process and material handling equipment (*e.g.,* conveyors, cranes and vehicles) for leaks, drips or the potential loss of material; and material storage areas (*e.g.,* piles, bins or hoppers for storing coke, coal, scrap or slag, as well as chemicals stored in tanks/drums) for signs of material losses due to wind or storm water runoff.

6.F.4 Monitoring and Reporting Requirements (See also Part 5)

TABLE F–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Sector of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [f 2]	Numeric limitation
Steel Works, Blast Furnaces, and Rolling and Finishing Mills (SIC 3312–3317).	Total Recoverable Aluminum.	0.75 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	
Iron and Steel Foundries (SIC 3321–3325)	Total Recoverable Aluminum.	0.75 mg/L.	
	Total Suspended Solids	100 mg/L.	
	Total Recoverable Copper	0.0636 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	
Rolling, Drawing, and Extruding of Non-Ferrous Metals (SIC 3351–3357).	Total Recoverable Copper	0.0636 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	
Non-Ferrous Foundries (SIC 3363–3369)	Total Recoverable Copper	0.0.636 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.G Sector G—Metal Mining (Ore Mining and Dressing)

6.G.1 Covered Storm Water Discharges

The requirements in Part 6.G apply to storm water discharges associated with industrial activity from active, temporarily inactive and inactive metal mining and ore dressing facilities, including mines abandoned on Federal Lands, as identified by the SIC Codes specified under Sector G in Table 1–1 of Part 1.2.1. Coverage is required for storm water discharges that have come into contact (directly or indirectly) with any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the operation.

6.G.1.1 *Covered Discharges from Inactive Facilities:* All storm water discharges.

6.G.1.2 *Covered Discharges from Active and Temporarily Inactive Facilities:* Only the discharges from these following areas are covered: Waste rock/overburden piles if composed entirely of storm water and not combined with mine drainage; topsoil piles; offsite haul/access roads; onsite haul roads constructed of waste rock/overburden/spent ore if composed entirely of storm water and not combining with mine drainage; onsite haul roads not constructed of waste rock/overburden/spent ore except if mine drainage is used for dust control; runoff from tailings dams/dikes not constructed of waste rock/tailings if no process fluids are present; runoff from dams/dikes constructed of waste rock/tailings if no process fluids are present, and not combining with mine drainage; concentration building if no contact with material piles; mill site, if no contact with material piles; office/administrative building and housing if mixed with storm water from industrial area; chemical storage piles; docking facility if no excessive contact with waste product that would otherwise constitute mine drainage; explosive storage; fuel storage; vehicle/equipment maintenance area/buildings; parking areas (if necessary); power plant; truck wash areas if no excessive contact with waste product that would otherwise constitute mine drainage; unreclaimed disturbed areas outside of active mining area; reclaimed areas released from reclamation bonds prior to December 17, 1990; partially/inadequately reclaimed areas; areas not released from reclamation bonds.

6.G.2 Industrial Activities Covered by Sector G

Note: ''metal mining'' will connote any of the separate activities listed in Part 6.G.2.

The types of activities that permittees under Sector G are primarily engaged in are:

6.G.2.1 exploring for metallic minerals (ores), developing mines and the mining of ores;

6.G.2.1 ore dressing and beneficiating, whether performed at co-located, dedicated mills or separate (*i.e.,* custom) mills.

6.G.3 Limitations on Coverage

6.G.3.1 *Prohibition of Storm Water Discharges:* Storm water discharges not authorized by this permit: Discharges from active metal mining facilities which are subject to effluent limitation guidelines for the Ore Mining and Dressing Point Source Category (40 CFR part 440).

Note: discharges that come in contact with overburden/waste rock are subject to 40 CFR part 440, providing: The discharges drain to a point source (either naturally or as a result of intentional diversion) and they combine with ''mine drainage'' that is otherwise regulated under the part 440 regulations. Discharges from overburden/waste rock can be covered under this permit if they are composed entirely of storm water, do not combine with sources of mine drainage that are subject to 40 CFR Part 440, and meet other eligibility criteria contained in Part 1.2.2.1.

6.G.3.2 *Prohibition of Non-Storm Water Discharges.* Not authorized by this permit: Adit drainage and contaminated springs or seeps (see also the standard Limitations on Coverage in Part 1.2.3).

6.G.4 Definitions

6.G.4.1 *Mining operation*—typically consists of three phases, any one of which individually qualifies as a ''mining activity.'' The phases are the exploration and construction phase, the active phase, and the reclamation phase.

6.G.4.2 *Exploration and construction phase*—entails exploration and land disturbance activities to determine the financial viability of a site. Construction includes the building of site access roads and removal of overburden and waste rock to expose mineable minerals.

6.G.4.3 *Active phase*—activities including each step from extraction through production of a salable product.

6.G.4.4 *Reclamation phase*—activities intended to return the land to its pre-mining state.

The following definitions are not intended to supercede the definitions of active and inactive mining facilities established by 40 CFR 122.26(b)(14)(iii).

6.G.4.5 *Active Metal Mining Facility*—a place where work or other activity related to the extraction, removal or recovery of metal ore is

being conducted. For surface mines, this definition does not include any land where grading has returned the earth to a desired contour and reclamation has begun.

6.G.4.6 *Inactive Metal Mining Facility*—a site or portion of a site where metal mining and/or milling occurred in the past but is not an active facility as defined above, and where the inactive portion is not covered by an active mining permit issued by the applicable State or Federal government agency.

6.G.4.7 *Temporarily Inactive Metal Mining Facility*—a site or portion of a site where metal mining and/or milling occurred in the past but currently are not being actively undertaken, and the facility is covered by an active mining permit issued by the applicable State or Federal government agency.

6.G.5 Clearing, Grading and Excavation Activities

Clearing, grading and excavation (activities typically associated with the exploration and construction phase of a mining operation, but may also apply to active mining operations such as the expansion of existing pits) cannot be covered under this permit if these activities will disturb 5 or more acres of land. If the land disturbance is from 1 to 5 acres, you may or may not be able to utilize the MSGP–2000 to cover your clearing, grading and excavation activities. All mining activities disturbing less than 1 acre must continue to comply with the requirements of this permit. The 5-acre cut-off may not be simply determined by the extent of earth disturbance at a given time, rather it could depend on whether there is a ''common plan of development or sale'' totaling 5 acres (*i.e.,* a plan to disturb, or the possibility of disturbing, at least 5 acres at some later date). For further information on common plan of development or sale, refer to the EPA's General Permit for Storm Water Discharges from Construction Activities (the ''Construction General Permit;'' **Federal Register**, Vol. 63, p. 7858).

6.G.5.1 *Requirements for Activities Disturbing 5 or More Acres of Earth.* If the 5-acre limit as defined in Part 6.G.5 is attained, coverage for these activities must be under the latest version of EPA's General Permit for Storm Water Discharges from Construction Activities (the ''Construction General Permit''), or an applicable State-issued permit. You must obtain and comply with the Construction General Permit's requirements before submitting the separate Construction General Permit Notice of Intent (NOI) form (EPA Form 3510–9) to obtain coverage. The February 17, 1998 version of the permit can be downloaded from the EPA's Web Site at *www.epa.gov/owm/sw/construction/cgp/cgp-nat.pdf* or obtained from the Office of Water Resource Center at 202.260.7786. The NOI form is also available from the Web Site at *www.epa.gov/owm/sw/construction/connoi.pdf* or from your EPA Regional office at the address listed under Part 8.3. Discharges in compliance with the provisions of the Construction General Permit are also authorized under the MSGP.

6.G.5.2 *Requirements for Activities Disturbing From 1 to 5 Acres of Earth.* For earth disturbances of 1 to 5 acres, coverage of mining activities under a construction permit may be required pursuant to the Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges (also known as the Storm Water Phase II Rule; see **Federal Register**, Vol. 64, p. 68722). Under these regulations there are provisions that allow certain dischargers to waive out of the Phase II construction permit requirement, so you must refer to the Phase II Rule to determine the waivers' applicability to your site. If you choose to waive out of the Phase II construction permit requirement, you still must maintain compliance with the MSGP–2000. As of the publication date of the MSGP–2000, there is not yet available a construction permit for land disturbances of 1 to 5 acres. This permit may be available at any time up to March 10, 2003. Until such time when application for coverage under the Phase II construction permit is required, compliance with the MSGP–2000 must be maintained. Alternatively, you may opt to apply for coverage under the CGP as per Part 6.G.5.1 at any time. Information and updates on the Phase II Rule can be obtained from the EPA's Web Site at *www.epa.gov/owm/sw/phase2/index.htm.*

6.G.5.3 *Cessation of Earth Disturbing Activities.* If exploration phase clearing, grading and excavation activities are completed and no further mining activities will occur at the site, you must comply with the requirements for terminating the Construction General Permit (*i.e.,* stabilize the disturbed land, submit a Notice of Termination, etc.). If further mining activities will occur, you may opt for either of the following: Maintain coverage under the CGP (*i.e.,* maintain necessary BMPs, perform inspections, etc.) and apply for coverage under the MSGP for those discharges associated with mineral mining and dressing activities that will occur under the active and reclamation phases; or terminate coverage under the CGP and apply for coverage under the MSGP for all discharges from the site.

6.G.6 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.G.6.1 *SWPPP Requirements for Active and Temporarily Inactive Metal Mining Facilities.*

6.G.6.1.1 *Nature of Industrial Activities.* (See also Part 4.2.2.1) Briefly describe the mining and associated activities that can potentially affect the storm water discharges covered by this permit, including: The total acreage within the mine site; the estimated acreage of disturbed land; the estimated acreage of land proposed to be disturbed throughout the life of the mine; and a general description of the location of the site relative to major transportation routes and communities.

6.G.6.1.2 *Site Map.* (See also Part 4.2.2.3) Also identify the locations of the following (as appropriate): Mining/milling site boundaries; access and haul roads; outline of the drainage areas of each storm water outfall within the facility and indicate the types of discharges from the drainage areas; equipment storage, fueling and maintenance areas; materials handling areas; outdoor manufacturing, storage or material disposal areas; chemicals and explosives storage areas; overburden, materials, soils or waste storage areas; location of mine drainage (where water leaves mine) or other process water; tailings piles/ponds (including proposed ones); heap leach pads; off-site points of discharge for mine drainage/process water; surface waters; and boundary of tributary areas that are subject to effluent limitations guidelines.

6.G.6.1.3 *Potential Pollutant Sources.* (See also Part 4.2.4)

For each area of the mine/mill site where storm water discharges associated with industrial activities occur, identify the types of pollutants (e.g., heavy metals, sediment) likely to be present in significant amounts. Consider these factors: The mineralogy of the ore and waste rock (*e.g.,* acid forming); toxicity and quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; vegetation of site (if any); history of significant leaks/spills of toxic or hazardous pollutants. Also include a summary of any existing ore or waste rock/overburden characterization data and test results for potential generation of acid rock. If any new data is acquired due to changes in ore type being mined,

update your SWPPP with this information.

6.G.6.1.4 *Site Inspections.* (See also Part 4.2.7.2.1.5)

Inspect active mining sites at least monthly. Inspect temporarily inactive sites at least quarterly unless adverse weather conditions make the site inaccessible.

6.G.6.1.5 *Employee Training.* (See also Part 4.2.7.2.1.6)

Conduct employee training at least annually at active mining and temporarily inactive sites.

6.G.6.1.6 *Controls.* (See also Part 4.2.7)

Consider each of the following BMPs. The potential pollutants identified in Part 6.G.6.1.3 shall determine the priority and appropriateness of the BMPs selected. If you determine that one or more of these BMPs are not appropriate for your facility, explain why it is not appropriate. If BMPs are implemented or planned but are not listed here (*e.g.,* substituting a less toxic chemical for a more toxic one), include descriptions of them in your SWPPP.

6.G.6.1.6.1 *Storm Water Diversions.* Consider diverting storm water away from potential pollutant sources. BMP options: Interceptor/diversion controls (*e.g.,* dikes, swales, curbs or berms); pipe slope drains; subsurface drains; conveyance systems (*e.g.,* channels or gutters, open top box culverts and waterbars; rolling dips and road sloping; roadway surface water deflector, and culverts); or their equivalents.

6.G.6.1.6.2 *Sediment and Erosion Control.* (See also Part 4.2.7.2.2.1)

At active and temporarily inactive sites consider a range of erosion controls within the broad categories of: Flow diversion (*e.g.,* swales); stabilization (*e.g.,* temporary or permanent seeding); and structural controls (*e.g.,* sediment traps, dikes, silt fences).

6.G.6.1.6.3 *Management of Runoff.* (See also Part 4.2.7.2.2.2)

Consider the potential pollutant sources given in Part 6.G.6.1.3 when determining reasonable and appropriate measures for managing runoff.

6.G.6.1.6.4 *Capping.* When capping is necessary to minimize pollutant discharges in storm water, identify the source being capped and the material used to construct the cap.

6.G.6.1.6.5 *Treatment.* If treatment of storm water (*e.g.,* chemical or physical systems, oil/water separators, artificial wetlands, etc.) from active and temporarily inactive sites is necessary to protect water quality, describe the type and location of treatment used.

6.G.6.1.6.6 *Certification of Discharge Testing.* (See also Part 4.4.1)

Test for specific mining-related discharges such as seeps or adit discharges or discharges subject to effluent limitations guidelines (*e.g.,* 40 CFR part 440), such as mine drainage or process water. Alternatively (if applicable), you may certify in your SWPPP that a particular discharge comprised of commingled storm water and non-storm water is covered under a separate NPDES permit; and that permit subjects the non-storm water portion to effluent limitations prior to any commingling. This certification shall identify the non-storm water discharges, the applicable NPDES permit(s), the effluent limitations placed on the non-storm water discharge by the permit(s), and the points at which the limitations are applied.

6.G.6.2 SWPPP Requirements for Inactive Metal Mining Facilities

6.G.6.2.1 *Nature of Industrial Activities.* (See also Part 4.2.2.1)

Briefly describe the mining and associated activities that took place at the site that can potentially affect the storm water discharges covered by this permit. Include: Approximate dates of operation; total acreage within the mine and/or processing site; estimate of acres of disturbed earth; activities currently occurring onsite (*e.g.,* reclamation); a general description of site location with respect to transportation routes and communities.

6.G.6.2.2 *Site Map.* (See also Part 4.2.2.3)

See Part 6.G.6.1.2 for requirements.

6.G.6.2.3 *Potential Pollutant Sources.*

(See also Part 4.2.4) See Part 6.G.6.1.3 for requirements.

6.G.6.2.4 *Controls.* (See also Part 4.2.7)

Consider each of the following BMPs. The potential pollutants identified in Part 6.G.6.2.3 shall determine the priority and appropriateness of the BMPs selected. If you determine that one or more of these BMPs are not appropriate for your facility, explain why it is not appropriate. If BMPs are implemented or planned but are not listed here (*e.g.,* substituting a less toxic chemical for a more toxic one), include descriptions of them in your SWPPP. The non-structural controls in the general requirements at Part 4.2.7.2.1 are not required for inactive facilities.

6.G.6.2.4.1 *Storm Water Diversions.* See Part 6.G.6.1.6.2 for requirements.

6.G.6.2.4.2 *Sediment and Erosion Control.* (See also Part 4.2.7.2.2.1)

See Part 6.G.6.1.6 for requirements.

6.G.6.2.4.3 *Management of Runoff.* (See also Part 4.2.7.2.2.2)

Also consider the potential pollutant sources as described in Part 6.G.6.2.3 (Summary of Potential Pollutant Sources) when determining reasonable and appropriate measures for managing runoff.

6.G.6.2.4.4 *Capping.* See Part 6.G.6.1.7 for requirements.

6.G.6.2.4.5 *Treatment.* See Part 6.G.6.1.8 for requirements.

6.G.6.2.5 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9)

Annual site compliance evaluations may be impractical for inactive mining sites due to remote location/inaccessibility of the site; in which case conduct the evaluation at least once every 3 years. Document in the SWPPP why annual compliance evaluations are not possible. If the evaluations will be conducted more often than every 3 years, specify the frequency of evaluations.

6.G.7 Monitoring and Reporting Requirements

(See also Part 5)

6.G.7.1 *Analytic Monitoring for Copper Ore Mining and Dressing Facilities.* Active copper ore mining and dressing facilities must sample and analyze storm water discharges for the pollutants listed in Table G–1.

TABLE G–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING FOR COPPER ORE MINING AND DRESSING FACILITIES

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Copper Ore Mining and Dressing Facilities	Total Suspended Solids (TSS).	100 mg/L.	
	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	

TABLE G–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING FOR COPPER ORE MINING AND DRESSING FACILITIES—Continued

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
(SIC 1021)	Chemical Oxygen Demand (COD).	120 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.G.7.2 *Analytic Monitoring Requirements for Discharges From Waste Rock and Overburden Piles.* For discharges from waste rock and overburden piles, perform analytic monitoring at least twice annually for the parameters listed in Table G–2. Sample once between January 1 and June 30 and once between July 1 and December 31, with at least 3 months separating the storm events. A parameter whose level is below the benchmark value in Table G–2 for the first monitoring period of the year does not have to be monitored for a second time that year. The director may, however, notify you that you must perform additional monitoring to accurately characterize the quality and quantity of pollutants discharged from your waste rock/overburden piles. Monitoring requirements for discharges from waste rock and overburden piles are not eligible for the waivers in Part 5.3.

TABLE G–2.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING FOR DISCHARGES FROM WASTE ROCK AND OVERBURDEN PILES FROM ACTIVE ORE MINING OR DRESSING FACILITIES

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Iron Ores; Copper Ores; Lead and Zinc Ores; Gold and Silver Ores; Ferroalloy Ores Except Vanadium; Miscellaneous Metal Ores (SIC Codes 1011, 1021,1031, 1041, 1044, 1061, 1081, 1094, 1099).	Total Suspended Solids (TSS).	100 mg/L.	
	Turbidity (NTUs)	5 NTUs above background.	
	pH	6.0–9.0 standard units.	
	Hardness (as $CaCO_3$)	No benchmark value.	
See above, as applicable	Antimony, Total	0.636 mg/L.	
	Arsenic, Total	0.16854 mg/L.	
	Beryllium, Total	0.13 mg/L.	
	Cadmium, Total (hardness dependent).	0.0159 mg/L.	
	Copper, Total (hardness dependent).	0.0636 mg/L.	
	Iron, Total	1.0 mg/L.	
	Lead, Total (hardness dependent).	0.0816 mg/L.	
	Manganese, Total	1.0 mg/L.	
	Mercury, Total	0.0024 mg/L.	
	Nickel, Total (hardness dependent).	1.417 mg/L.	
	Selenium, Total	0.2385 mg/L.	
	Silver, Total (hardness dependent).	0.0318 mg/L.	
	Zinc, Total (hardness dependent).	0.117 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor twice annually.

6.G.7.2.1 *Additional Analytic Monitoring Requirements for Discharges From Waste Rock and Overburden Piles.* Table G–3 contains additional monitoring requirements for specific ore mine categories. Perform the monitoring biannually using the schedule established in Part 6.G.7.2. The initial sampling event for a pollutant parameter required in Table G–2 satisfies the requirement for the first sample of any pollutant measurement in Table G–3. Compare with the benchmarks as given in Table G–2.

TABLE G–3.—ADDITIONAL MONITORING REQUIREMENTS FOR DISCHARGES FROM WASTE ROCK AND OVERBURDEN PILES FROM ACTIVE ORE MINING OR DRESSING FACILITIES

[Supplemental requirements]

Type of ore mined	Pollutants of concern		
	Total Suspended solids (TSS)	pH	Metals, total
Tungsten Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Nickel Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Aluminum Ore	X	X	Iron.
Mercury Ore	X	X	Nickel (H).
Iron Ore	X	X	Iron (Dissolved).
Platinum Ore			Cadmium (H), Copper (H), Mercury, Lead (H), Zinc (H).
Titanium Ore	X	X	Iron, Nickel (H), Zinc (H).
Vanadium Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead, Zinc (H).
Copper, Lead, Zinc, Gold, Silver and Molybdenum	X	X	Arsenic, Cadmium (H), Copper (H), Lead, Mercury, Zinc (H).
Uranium, Radium and Vanadium	X	X	Chemical Oxygen Demand, Arsenic, Radium (Dissolved and Total), Uranium, Zinc (H).

Note:(H) indicates that hardness must also be measured when this pollutant is measured.

6.G.7.2.2 *Reporting Requirements Storm Water Discharges From Waste Rock And Overburden Piles From Active Ore Mining or Dressing Facilities.* From active ore mining and dressing facilities, submit monitoring results for each outfall discharging storm water from waste rock and overburden piles, or certifications in accordance with Part 7. Submit monitoring reports on discharge monitoring report (DMR) forms postmarked no later than January 28 of the next year after the samples were collected.

6.H Sector H—Coal Mines and Coal Mining Related Facilities

6.H.1 Covered Storm Water Discharges

The requirements in Part 6.H apply to storm water discharges associated with industrial activity from Coal Mines and Coal Mining Related facilities as identified by the SIC Codes specified under Sector H in Table 1–1 of Part 1.2.1.

6.H.2 Industrial Activities Covered by Sector H

Storm water discharges from the following portions of coal mines may be eligible for this permit:

6.H.2.1 haul roads (nonpublic roads on which coal or coal refuse is conveyed);

6.H.2.2 access roads (nonpublic roads providing light vehicular traffic within the facility property and to public roadways);

6.H.2.3 railroad spurs, siding and internal haulage lines (rail lines used for hauling coal within the facility property and to offsite commercial railroad lines or loading areas);

6.H.2.4 conveyor belts, chutes and aerial tramway haulage areas (areas under and around coal or refuse conveyer areas, including transfer stations); and

6.H.2.5 equipment storage and maintenance yards, coal handling buildings and structures, and inactive coal mines and related areas (abandoned and other inactive mines, refuse disposal sites and other mining-related areas).

6.H.3 Limitation on Coverage

6.H.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.2.2) Not covered by this permit: Discharges from pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not result from precipitation events; and discharges from floor drains in maintenance buildings and other similar drains in mining and preparation plant areas.

6.H.3.2 *Discharges Subject to Storm Water Effluent Guidelines.* (See also Part 1.2.3.4) Not authorized by this permit: Storm water discharges subject to an existing effluent limitation guideline at 40 CFR part 434.

6.H.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4 of the MSGP.

6.H.4.1 *Other Applicable Regulations.* Most active coal mining-related areas (SIC Codes 1221–1241) are subject to sediment and erosion control regulations of the U.S. Office of Surface Mining (OSM) that enforces the Surface Mining Control and Reclamation Act (SMCRA). OSM has granted authority to most coal producing states to implement SMCRA through State SMCRA regulations. All SMCRA requirements regarding control of storm water-related pollutant discharges must be addressed in the SWPPP (directly or by reference).

6.H.4.2 *Drainage Area Site Map.* (See also Part 4.2.2.3) Also identify where any of the following may be exposed to precipitation/surface runoff: All applicable mining related areas described in Part 6.H.2; acidic spoil, refuse or unreclaimed disturbed areas, and liquid storage tanks containing pollutants such as caustics, hydraulic fluids and lubricants.

6.H.4.3 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following sources and activities that have potential pollutants associated with them: Truck traffic on haul roads and resulting generation of sediment subject to runoff and dust generation; fuel or other liquid storage; pressure lines containing slurry, hydraulic fluid or other potential harmful liquids; and loading or temporary storage of acidic refuse/spoil.

6.H.4.4 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1) As part of your good housekeeping program, consider: Using sweepers; covered storage; watering haul roads to minimize dust generation; and conserving vegetation (where possible) to minimize erosion.

6.H.4.5 *Preventive Maintenance.* (See also Part 4.2.7.2.1.3) Also perform inspections of storage tanks and pressure lines of fuels, lubricants, hydraulic fluid or slurry to prevent leaks due to deterioration or faulty connections; or other equivalent measures.

6.H.4.6 *Inspections of Active Mining-Related Areas and Inactive*

Areas Under SMCRA Bond Authority. (See also Part 4.2.7.2.1.5) Perform quarterly inspections of areas covered by this permit, corresponding with the inspections, as performed by SMCRA inspectors, of all mining-related areas required by SMCRA. Also maintain the records of the SMCRA authority representative.

6.H.4.7 *Sediment and Erosion Control.* (See also Part 4.2.7.2.2.1) As indicated in Part 6.H.4.1 above, SMCRA requirements regarding sediment and erosion control measures are primary requirements of the SWPPP for mining-related areas subject to SMCRA authority.

6.H.4.8 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9.2) Include in your evaluation program, inspections for pollutants entering the drainage system from activities located on or near coal mining-related areas. Among the areas to be inspected: Haul and access roads; railroad spurs, sliding and internal hauling lines; conveyor belts, chutes and aerial tramways; equipment storage and maintenance yards; coal handling buildings/structures; and inactive mines and related areas.

6.H.6 Monitoring and Reporting Requirements

(See also Part 5).

TABLE H–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of Permit Affected/Supplemental Requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Coal Mines and Related Areas (SIC 1221–1241)	Total Recoverable Aluminum.	0.75 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Total Suspended Solids	100 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.I Sector I—Oil and Gas Extraction

6.I.1 Covered Storm Water Discharges

The requirements in Part 6.I apply to storm water discharges associated with industrial activity from Oil and Gas Extraction facilities as identified by the SIC Codes specified under Sector I in Table 1–1 of Part 1.2.1.

6.I.2 Industrial Activities Covered By Sector I

The types of activities that permittees under Sector I are primarily engaged in are:

6.I.2.1 oil and gas exploration, production, processing or treatment operations, or transmission facilities;

6.I.2.2 extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oil field service, supply and repair industries.

6.I.3 Limitations On Coverage

6.I.3.1 *Prohibition of Storm Water Discharges.* This permit does not authorize contaminated storm water discharges from petroleum refining or drilling operations that are subject to nationally established BAT or BPT guidelines found at 40 CFR parts 419 and 435, respectively. Note: Most contaminated discharges at petroleum refining and drilling facilities are subject to these effluent guidelines and are not eligible for coverage by this permit.

6.I.3.2 *Prohibition of Non-Storm Water Discharges.* Not authorized by this permit: Discharges of vehicle and equipment washwater, including tank cleaning operations. Alternatively, washwater discharges must be authorized under a separate NPDES permit, or be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

6.I.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.I.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Reportable Quantity (RQ) releases; locations used for the treatment, storage or disposal of wastes; processing areas and storage areas; chemical mixing areas; construction and drilling areas; all areas subject to the effluent guidelines requirements for ''No Discharge'' in accordance with 40 CFR 435.32; and the structural controls to achieve compliance with the ''No Discharge'' requirements.

6.I.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Also describe the following sources and activities that have potential pollutants associated with them: Chemical, cement, mud or gel mixing activities; drilling or mining activities; and equipment cleaning and rehabilitation activities. In addition, include information about the RQ release that triggered the permit application requirements; the nature of release (*e.g.,* spill of oil from a drum storage area); the amount of oil or hazardous substance released; amount of substance recovered; date of the release; cause of the release (*e.g.,* poor handling techniques and lack of containment in the area); areas affected by the release (*i.e.,* land and water); procedure to clean up release; actions or procedures implemented to prevent or improve response to a release; and remaining potential contamination of storm water from release (taking into account human health risks, the control of drinking water intakes and the designated uses of the receiving water).

6.I.4.3 *Inspections.* (See also Part 4.2.7.2.1.5)

6.I.4.3.1 *Inspection Frequency.* Inspect all equipment and areas addressed in the SWPPP at a minimum of 6-month intervals. Routinely (but not less than quarterly) inspect equipment and vehicles which store, mix (including all on and offsite mixing tanks) or transport chemicals/hazardous materials (including those transporting supplies to oil field activities).

6.I.4.3.2 *Temporarily or Permanently Inactive Oil and Gas Extraction Facilities.* For these facilities that are remotely located and unstaffed, perform the inspections at least annually.

6.I.4.4 *Sediment and Erosion Control.* (See also Part 4.2.7.2.2.1) Unless covered by the General Permit for Construction Activity, the additional sediment and erosion control requirements for well drillings, and sand/shale mining areas include the following:

6.I.4.4.1 *Site Description:* Also include: a description of the nature of the exploration activity; estimates of the total area of site and area disturbed due

to exploration activity; an estimate of runoff coefficient of the site; site drainage map, including approximate slopes; and the name of all receiving waters. All sediment and erosion control measures must be inspected once every seven days.

6.I.4.4.2 *Vegetative Controls:* Describe and implement vegetative practices designed to preserve existing vegetation where attainable and re-vegitate open areas as soon as practicable after grade drilling. Consider the following (or equivalent measures): temporary or permanent seeding, mulching, sod stabilization, vegetative buffer strips, tree protection practices. Begin implementing appropriate vegetative practices on all disturbed areas within 14 days following the last activity in that area.

6.I.4.5 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.I.4.5.1 *Vehicle and Equipment Storage Areas.* Confine vehicles/equipment awaiting or having undergone maintenance to designated areas (as marked on site map). Describe and implement measures to minimize contaminants from these areas (*e.g.,* drip pans under equipment, indoor storage, use of berms or dikes, or other equivalent measures).

6.I.4.5.2 *Material and Chemical Storage Areas.* Maintain these areas in good conditions to prevent contamination of storm water. Plainly label all hazardous materials.

6.I.4.5.3 *Chemical Mixing Areas.* (See also Part 4.4) Describe and implement measures that prevent or minimize contamination of storm water runoff from chemical mixing areas.

6.J Sector J—Mineral Mining and Dressing

6.J.1 Covered Storm Water Discharges

The requirements in Part 6.J apply to storm water discharges associated with industrial activity from active and inactive mineral mining and dressing facilities as identified by the SIC Codes specified under Sector J in Table 1–1 of Part 1.2.1.

6.J.2 Industrial Activities Covered by Sector J

The types of activities that permittees under Sector J are primarily engaged in are:

6.J.2.1 exploring for minerals (*e.g.,* stone, sand, clay, chemical and fertilizer minerals, non-metallic minerals, etc.), developing mines and the mining of minerals; and

6.J.2.2 mineral dressing, and non-metallic mineral services.

6.J.3 Limitations on Coverage

Not authorized by this permit: most storm water discharges subject to an existing effluent limitation guideline at 40 CFR part 436. The exceptions to this limitation and which are therefore covered by the MSGP–2000 are mine dewatering discharges composed entirely of storm water or ground water seepage from: construction sand and gravel, industrial sand, and crushed stone mining facilities in Arizona.

6.J.4 Definitions

6.J.4.1 *Mining Operation*—typically consists of three-phases, any one of which individually qualifies as a ''mining activity.'' The phases are the exploration and construction phase, the active phase and the reclamation phase.

6.J.4.2 *Exploration and Construction Phase*—entails exploration and land disturbance activities to determine the financial viability of a site. Construction includes the building of site access roads and removal of overburden and waste rock to expose mineable minerals.

6.J.4.3 *Active Phase*—activities including each step from extraction through production of a salable product.

6.J.4.4 *Reclamation phase*—activities intended to return the land to its pre-mining state.

Note: The following definitions are not intended to supercede the definitions of active and inactive mining facilities established by 40 CFR 122.26(b)(14)(iii).

6.J.4.5 *Active Mineral Mining Facility*—a place where work or other activity related to the extraction, removal or recovery of minerals is being conducted. This definition does not include any land where grading has returned the earth to a desired contour and reclamation has begun.

6.J.4.6 *Inactive Mineral Mining Facility*—a site or portion of a site where mineral mining and/or dressing occurred in the past but is not an active facility as defined above, and where the inactive portion is not covered by an active permit issued by the applicable State or Federal government agency.

6.J.4.7 *Temporarily Inactive Mineral Mining Facility*—a site or portion of a site where mineral mining and/or dressing occurred in the past but currently are not being actively undertaken, and the facility is covered by an active mining permit issued by the applicable State or Federal government agency.

6.J.5 Clearing, Grading and Excavation Activities

Clearing, grading and excavation (activities typically associated with the exploration and construction phase of a mining operation, but may also apply to active mining operations such as the expansion of existing pits) cannot be covered under this permit if these activities will disturb 5 or more acres of land. If the land disturbance is from 1 to 5 acres, you may or may not be able to utilize the MSGP–2000 to cover your clearing, grading and excavation activities. All mining activities disturbing less than 1 acre must continue to comply with the requirements of this permit. The 5-acre cut-off may not be simply determined by the extent of earth disturbance at a given time, rather it could depend on whether there is a ''common plan of development or sale'' totaling 5 acres (i.e., a plan to disturb, or the possibility of disturbing, at least 5 acres at some later date). For further information on common plan of development or sale, refer to the EPA's General Permit for Storm Water Discharges from Construction Activities (the ''Construction General Permit;'' **Federal Register**, Vol. 63, p. 7858).

6.J.5.1 *Requirements for Activities Disturbing 5 or More Acres of Earth.* If the 5-acre limit as defined in Part 6.G.5 is attained, coverage for these activities must be under the latest version of EPA's General Permit for Storm Water Discharges from Construction Activities (the ''Construction General Permit''), or an applicable State-issued permit. You must obtain and comply with the Construction General Permit's requirements before submitting the separate Construction General Permit Notice of Intent (NOI) form (EPA Form 3510–9) to obtain coverage. The February 17, 1998 version of the permit can be downloaded from the EPA's Web Site at *www.epa.gov/owm/sw/construction/cgp/cgp-nat.pdf* or obtained from the Office of Water Resource Center at 202.260.7786. The NOI form is also available from the Web Site at *www.epa.gov/owm/sw/construction/connoi.pdf* or from your EPA Regional office at the address listed under Part 8.3. Discharges in compliance with the provisions of the Construction General Permit are also authorized under the MSGP.

6.J.5.2 *Requirements for Activities Disturbing From 1 to 5 Acres of Earth.* For earth disturbances of 1 to 5 acres, coverage of mining activities under a construction permit may be required pursuant to the Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges (also known as the Storm Water Phase II Rule; see **Federal Register**, Vol. 64, p. 68722). Under these regulations there are provisions that allow certain dischargers to waive out of the Phase II

construction permit requirement, so you must refer to the Phase II Rule to determine the waivers' applicability to your site. If you choose to waive out of the Phase II construction permit requirement, you still must maintain compliance with the MSGP–2000. As of the publication date of the MSGP–2000, there is not yet available a construction permit for land disturbances of 1 to 5 acres. This permit may be available at any time up to March 10, 2003. Until such time when application for coverage under the Phase II construction permit is required, compliance with the MSGP–2000 must be maintained. Alternatively, you may opt to apply for coverage under the CGP as per Part 6.G.5.1 at any time. Information and updates on the Phase II Rule can be obtained from the EPA's Web Site at *www.epa.gov/owm/sw/phase2/index.htm.*

6.J.5.3 *Cessation of Earth Disturbing Activities.* If exploration phase clearing, grading and excavation activities are completed and no further mining activities will occur at the site, you must comply with the requirements for terminating the Construction General Permit (*i.e.,* stabilize the disturbed land, submit a Notice of Termination, *etc.*). If further mining activities will occur, you may opt for either of the following: maintain coverage under the CGP (*i.e.,* maintain BMPs, perform inspections, *etc.*) and apply for coverage under the MSGP for those discharges associated with mineral mining and dressing activities that will occur under the active and reclamation phases; or terminate coverage under the CGP and apply for coverage under the MSGP for all discharges from the site.

6.J.6 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4 of the MSGP.

6.J.6.1 *Inspections.* (See also Part 4.2.7.2.1.5) Conduct quarterly visual inspections of all BMPs at active mining facilities. At temporarily or permanently inactive facilities, perform annual inspections. Include in your inspection program: assessment of the integrity of storm water discharge diversions, conveyance systems, sediment control and collection systems and containment structures; inspections to determine if soil erosion has occurred at, or as a result of vegetative BMPs, serrated slopes and benched slopes; inspections of material handling and storage areas and other potential sources of pollution for evidence of actual or potential discharges of contaminated storm water.

6.J.7 Monitoring and Reporting Requirements. (See also Part 5)

TABLE J–2.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of Permit Affected/Supplemental Requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation [3]
Mine Dewatering Activities at Construction Sand and Gravel Stone Mining Facilities (SIC 1422–1429, 1442, 1446).	Total Suspended Solids	.....	45 mg/L, daily max.
	pH	.....	6.0–9.0.
Sand and Gravel Mining (SIC 1442, 1446)	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
	Total Suspended Solids	100 mg/L.	
Dimension and Crushed Stone and Nonmetallic Minerals (except fuels) (SIC 1411, 1422–1429, 1481, 1499).	Total Suspended Solids	100 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.
[3] Monitor once/year for Each Monitoring Year.

6.K Sector K—Hazardous Waste Treatment, Storage or Disposal Facilities

6.K.1 Covered Storm Water Discharges

The requirements in Part 6.K apply to storm water discharges associated with industrial activity from Hazardous Waste Treatment, Storage or Disposal facilities as identified by the Activity Code specified under Sector K in Table 1–1 of Part 1.2.1.

6.K.2 Industrial Activities Covered by Sector K

This permit authorizes storm water discharges associated with industrial activity from facilities that treat, store or dispose of hazardous wastes, including those that are operating under interim status or a permit under subtitle C of RCRA.

6.K.3 Limitations on Coverage

For facilities located in Region 6, coverage is limited to Hazardous Waste Treatment Storage or Disposal Facilities (TSDF's) that are self-generating or handle residential wastes only and to those facilities that only store hazardous wastes and do not treat or dispose. Those permits are issued by EPA Region 6 for Louisiana (LAR05*###), New Mexico (NMR05*###), Oklahoma (OKR05*###), and Federal Indian Reservations in these States (LAR05*##F, NMR05*##F, OKR05*##F, or TXR05*##F). Coverage under this permit is not available to commercial hazardous waste disposal / treatment facilities located in Region 6 that dispose and treat on a commercial basis any produced hazardous wastes (not their own) as a service to generators.

6.K.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not authorized by this permit: Leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory-derived wastewater and contact washwater from washing truck and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

6.K.4 Definitions

6.K.4.1 *Contaminated storm water*—storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined in Part 6.K.4.5. Some specific areas of a landfill that may produce contaminated storm water include (but are not limited to): The open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.

6.K.4.2 *Drained free liquids*—aqueous wastes drained from waste

containers (*e.g.,* drums, etc.) prior to landfilling.

6.K.4.3 *Land treatment facility*—a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

6.K.4.4 *Landfill*—an area of land or an excavation in which wastes are placed for permanent disposal, that is not a land application or land treatment unit, surface impoundment, underground injection well, waste pile, salt dome formation, a salt bed formation, an underground mine or a cave as these terms are defined in 40 CFR 257.2, 258.2 and 260.10.

6.K.4.5 *Landfill wastewater*—as defined in 40 CFR part 445 (Landfills Point Source Category) all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

6.K.4.6 *Leachate*—liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

6.K.4.7 *Non-contaminated storm water*—storm water which does not come into direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined in Part 6.K.4.5. Non-contaminated storm water includes storm water which flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.

6.K.4.8 *Pile*—any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

6.K.4.9 *Surface impoundment*—a facility or part of a facility which is a natural topographic depression, man-made excavation or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds and lagoons.

6.K.5 Numeric Limitations, Monitoring and Reporting Requirements

(See also Part 5)

TABLE K–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK AND COMPLIANCE MONITORING

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cutoff concentration [2]	Numeric limitation [3]
ALL—Industrial Activity Code ''HZ'' (Note: permit coverage limited in some States)	Ammonia	19.0 mg/L.	
	Total Recoverable Magnesium.	0.0636 mg/L.	
	Chemical Oxygen Demand (COD).	120.0 mg/L.	
	Total Recoverable Arsenic	0.16854 mg/L.	
	Total Recoverable Cadmium.	0.0159 mg/L.	
	Total Cyanide	0.0636 mg/L	
	Total Recoverable Lead	0.0816 mg/L.	
	Total Recoverable Mercury	0.0024 mg/L.	
	Total Recoverable Selenium.	0.2385 mg/L.	
	Total Recoverable Silver	0.0318 mg/L.	
ALL—Industrial Activity Code ''HZ'' Subject to the Provisions of 40 CFR Part 445 Subpart A.	BOD5		220 mg/l, daily max.
			56 mg/l, monthly avg maximum.
	TSS		88 mg/l, daily max.P27 mg/l, monthly ave maximum.
	Ammonia		10 mg/l, daily maximum.
			4.9 mg/l, monthly avg. maximum.
	Alpha Terpineol		0.042 mg/l, daily max.
			0.019 mg/l, monthly avg. maximum.
	Aniline		0.024 mg/l, daily max.
			0.015 mg/l, monthly avg. maximum.
	Benzoic Acid		0.119 mg/l, daily max.
			0.073 mg/l, monthly avg. maximum.
	Naphthalene		0.059 mg/l, daily max.
			0.022 mg/l, monthly avg. maximum.
	p-Cresol		0.024 mg/l, daily max.
			0.015 mg/l, monthly avg. maximum.
	Phenol		0.048 mg/l, daily max.
			0.029 mg/l, monthly avg. maximum.
	Pyridine		0.072 mg/l, daily max.
			0.025 mg/l, monthly avg. maximum.

TABLE K–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK AND COMPLIANCE MONITORING—Continued

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cutoff concentration [2]	Numeric limitation [3]
	Arsenic (Total)		1.1 mg/l, daily maximum. 0.54 mg/l, monthly avg. maximum.
	Chromium (Total)		1.1 mg/l, daily maximum. 0.46 mg/l, monthly avg. maximum.
	Zinc (Total)		0.535 mg/l, daily max. 0.296 mg/l, monthly avg. maximum.
	pH		Within the range of 6–9 pH units.

[1] Discharges may be subject to requirements for more than one sector/subsector.

[2] These benchmark monitoring cutoff concentrations apply to storm water discharges associated with industrial activity other than contaminated storm water discharges from landfills subject to the numeric effluent limitations set forth in Table K–1. Monitor once/quarter for the year 2 and year 4 monitoring years.

[3] As set forth at 40 CFR part 445 subpart A, these numeric limitations apply to contaminated storm water discharges from hazardous waste landfills subject to the provisions of RCRA Subtitle C at 40 CFR parts 264 (subpart N) and 265 (subpart N) except for any of the facilities described below:

(a) landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

(b) landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

(c) landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR part 437 so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

(d) landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

For the discharges subject to the numeric effluent limitations, monitoring for the specified parameters is required once/year during each year of the term of the permit.

6.L Sector L—Landfills, Land Application Sites and Open Dumps

6.L.1 Covered Storm Water Discharges

The requirements in Part 6.L apply to storm water discharges associated with industrial activity from Landfills and Land Application Sites and Open Dumps as identified by the Activity Codes specified under Sector L in Table 1–1 of Part 1.2.1.

6.L.2 Industrial Activities Covered by Sector L

This permit may authorize storm water discharges for Sector L facilities associated with waste disposal at landfills, land application sites and open dumps that receive or have received industrial waste, including sites subject to regulation under Subtitle D of RCRA.

6.L.3 Limitations on Coverage

6.L.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1)

Not authorized by this permit: Leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory wastewater, and contact washwater from washing truck and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

6.L.4 Definitions

6.L.4.1 *Contaminated storm water*—storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Some specific areas of a landfill that may produce contaminated storm water include (but are not limited to): The open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.

6.L.4.2 *Drained free liquids*—aqueous wastes drained from waste containers (*e.g.,* drums, *etc.*) prior to landfilling.

6.L.4.3 *Landfill wastewater*—as defined in 40 CFR part 445 (Landfills Point Source Category) all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill process wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

6.L.4.4 *Leachate*—liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste.

6.L.4.5 *Non-contaminated storm water*—storm water which does not come in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Non-contaminated storm water includes storm water which flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.

6.L.5 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in part 4.

6.L.5.1 *Drainage Area Site Map.* (See also Part 4.2.2.3)

Identify where any of the following may be exposed to precipitation/ surface

runoff: Active and closed landfill cells or trenches, active and closed land application areas, locations where open dumping is occurring or has occurred, locations of any known leachate springs or other areas where uncontrolled leachate may commingle with runoff, leachate collection and handling systems.

6.L.5.2 *Summary of Potential Pollutant Sources.* (See also Part 4.2.4)

Describe the following sources and activities that have potential pollutants associated with them: Fertilizer, herbicide and pesticide application; earth/soil moving; waste hauling and loading/unloading; outdoor storage of significant materials including daily, interim and final cover material stockpiles as well as temporary waste storage areas; exposure of active and inactive landfill and land application areas; uncontrolled leachate flows; failure or leaks from leachate collection and treatment systems.

6.L.5.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

As part of your good housekeeping program, consider providing protected storage areas for pesticides, herbicides, fertilizer and other significant materials.

6.L.5.4 *Preventative Maintenance Program.* (See also Part 4.2.7.1)

As part of your preventive maintenance program, maintain: All containers used for outdoor chemical/significant materials storage to prevent leaking; all elements of leachate collection and treatment systems to prevent commingling of leachate with storm water; the integrity and effectiveness of any intermediate or final cover (including repairing the cover as necessary to minimize the effects of settlement, sinking and erosion).

6.L.5.5 Inspections.

6.L.5.5.1 *Inspections of Active Sites.* (See also Part 4.2.7.2.1.2) Inspect operating landfills, open dumps and land application sites at least once every 7 days. Focus on areas of landfills that have not yet been finally stabilized, active land application areas, areas used for storage of material/wastes that are exposed to precipitation, stabilization and structural control measures, leachate collection and treatment systems, and locations where equipment and waste trucks enter/exit the site. Ensure that sediment and erosion control measures are operating properly. For stabilized sites and areas where land application has been completed, or where the climate is seasonally arid (annual rainfall averages from 0 to 10 inches) or semi-arid (annual rainfall averages from 10 to 20 inches), conduct inspections at least once every month.

6.L.5.5.2 *Inspections of Inactive Sites.* (See also Part 4.2.7.2.1.5) Inspect inactive landfills, open dumps and land application sites at least quarterly. Qualified personnel must inspect landfill (or open dump) stabilization and structural erosion control measures and leachate collection and treatment systems, and all closed land application areas.

6.L.5.6 *Recordkeeping and Internal Reporting.* Implement a tracking system for the types of wastes disposed of in each cell or trench of a landfill or open dump. For land application sites, track the types and quantities of wastes applied in specific areas.

6.L.5.7 *Non-Storm Water Discharge Test Certification.* (See also Part 4.) The discharge test and certification must also be conducted for the presence of leachate and vehicle washwater.

6.L.5.8 *Sediment and Erosion Control Plan.* (See also Part 4.2.7.2.2.1) Provide temporary stabilization (*e.g.,* consider temporary seeding, mulching and placing geotextiles on the inactive portions of stockpiles): For materials stockpiled for daily, intermediate and final cover; for inactive areas of the landfill or open dump; for any landfill or open dump area that have gotten final covers but where vegetation has yet to established itself; and where waste application has been completed at land application sites but final vegetation has not yet been established.

6.L.5.9 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9.2) Evaluate areas contributing to a storm water discharge associated with industrial activities at landfills, open dumps and land application sites for evidence of, or the potential for, pollutants entering the drainage system.

6.L.6 Numeric Limitations, Monitoring and Reporting Requirements

(See also Part 5)

TABLE L–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK AND COMPLIANCE MONITORING

[Section of Permit Affected/Supplemental Requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation [3]
All Landfill, Land Application Sites and Open Dumps (Industrial Activity Code ''LF'').	Total Suspended Solids (TSS).	100 mg/L.	
All Landfill, Land Application Sites and Open Dumps, Except Municipal Solid Waste Landfill (MSWLF) Areas Closed in Accordance with 40 CFR 258.60 (Industrial Activity Code ''LF'').	Total Recoverable Iron	1.0 mg/L.	
All Landfills Which are Subject to the Requirements of 40 CFR Part 445 Subpart B (Industrial Activity Code ''LF'').	BOD5	.....	140 mg/l, daily max. 37 mg/l, monthly ave maximum.
	TSS	.....	88 mg/l, daily max. 27 mg/l, monthly ave maximum.
	Ammonia	.....	10 mg/l, daily max. 4.9 mg/l, monthly ave maximum.
	Alpha Terpineol	.....	0.033 mg/l, daily max. 0.016 mg/l, monthly ave maximum.
	Benzoic Acid	.....	0.12 mg/l, daily max. 0.071 mg/l, monthly ave maximum.
	p-Cresol	.....	0.025 mg/l, daily max. 0.014 mg/l, monthly ave maximum.

TABLE L–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK AND COMPLIANCE MONITORING—Continued

[Section of Permit Affected/Supplemental Requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation [3]
	Phenol		0.026 mg/l, daily max. 0.015 mg/l, monthly ave maximum.
	Zinc (Total)		0.20 mg/l, daily max. 0.11 mg/l, monthly ave maximum.
	pH		Within the range of 6–9 pH units.

[1] Discharges may be subject to requirements for more than one sector/subsector.

[2] These benchmark monitoring cutoff concentrations apply to storm water discharges associated with industrial activity other than contaminated storm water discharges from landfills subject to the numeric effluent limitations set forth in Table L–1. Monitor once/quarter for the year 2 and year 4 monitoring years.

[3] As set forth at 40 CFR part 445 subpart B, these numeric limitations apply to contaminated storm water discharges from MSWLFs which have not been closed in accordance with 40 CFR 258.60, and contaminated storm water discharges from those landfills which are subject to the provisions of 40 CFR part 257 except for discharges from any of facilities described in (a) through (d) below:

(a) landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

(b) landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

(c) landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR part 437 so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

(d) landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

For the discharges subject to the numeric effluent limitations, monitoring for the specified parameters is required once/year during each year of the term of the permit.

6.M Sector M—Automobile Salvage Yards

6.M.1 Covered Storm Water Discharges

The requirements in Part 6.M apply to storm water discharges associated with industrial activity from Automobile Salvage Yards as identified by the Activity Code specified under Sector M in Table 1–1 of Part 1.2.1.

6.M.2 Industrial Activities Covered by Sector M

The types of activities that permittees under Sector M are primarily engaged in are dismantling or wrecking used motor vehicles for parts recycling/resale and for scrap.

6.M.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.M.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Indicate the location of each monitoring point, and estimate the total acreage used for industrial activity including, but not limited to, dismantling, storage and maintenance of used motor vehicle parts. Also identify where any of the following may be exposed to precipitation/surface runoff: dismantling areas; parts (*e.g.,* engine blocks, tires, hub caps, batteries, hoods, mufflers) storage areas; liquid storage tanks and drums for fuel and other fluids.

6.M.3.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Assess the potential for the following to contribute pollutants to storm water discharges: Vehicle storage areas; dismantling areas; parts storage area (*e.g.,* engine blocks, tires, hub caps, batteries, hoods, mufflers); fueling stations.

6.M.3.3 *Spill and Leak Prevention Procedures.* (See also Part 4.2.7.2.1.4) Drain vehicles intended to be dismantled of all fluids upon arrival at the site (or as soon thereafter as feasible); or employ some other equivalent means to prevent spills/leaks.

6.M.3.4 *Inspections.* (See also Part 4.2.7.2.1.5) Immediately (or as soon thereafter as feasible) inspect vehicles arriving at the site for leaks. Inspect quarterly for signs of leakage, all equipment containing oily parts, hydraulic fluids or any other types of fluids. Also inspect quarterly for signs of leakage, all vessels and areas where fluids are stored, including, but not limited to, brake fluid, transmission fluid, radiator water and antifreeze.

6.M.3.5 *Employee Training.* (See also Part 4.2.7.2.1.6) If applicable to your facility, address the following areas (at a minimum) in your employee training program: proper handling (collection, storage, and disposal) of oil, used mineral spirits, anti-freeze and solvents.

6.M.3.6 *Management of Runoff.* (See also Part 4.2.7.2.2.2) Consider the following management practices: Berms or drainage ditches on the property line (to help prevent run-on from neighboring properties); berms for uncovered outdoor storage of oily parts, engine blocks and above-ground liquid storage; installation of detention ponds; and the installation of filtering devices and oil/water separators.

6.M.4 Monitoring and Reporting Requirements

(See also Part 5)

TABLE M–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

[Sector of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Automobile Salvage Yards (SIC 5015)	Total Suspended Solids (TSS).	100.0 mg/L.	
	Total Recoverable Aluminum.	0.75 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Total Recoverable Lead	0.0816 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 monitoring years.

6.N Sector N—Scrap Recycling and Waste Recycling Facilities

6.N.1 Covered Storm Water Discharges

The requirements in Part N apply to storm water discharges associated with industrial activity from Scrap Recycling and Waste Recycling facilities as identified by the SIC Codes specified under Sector N in Table 1–1 of Part 1.2.1.

6.N.2 Industrial Activities Covered by Sector N

The types of activities that permittees under Sector N are primarily engaged in are:

6.N.2.1 processing, reclaiming and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals, paper, plastic, cardboard, glass, animal hides;

6.N.2.2 reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits and industrial solvents.

6.N.3 Coverage Under This Permit

Separate permit requirements have been established for recycling facilities that only receive source-separated recyclable materials primarily from non-industrial and residential sources (*i.e.,* common consumer products including paper, newspaper, glass, cardboard, plastic containers, aluminum and tin cans). This includes recycling facilities commonly referred to as material recovery facilities (MRF).

6.N.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.2.2) Not covered by this permit: Non-storm water discharges from turnings containment areas (see also Part 6.N.5.1.3). Discharges from containment areas in the absence of a storm event are prohibited unless covered by a separate NPDES permit.

6.N.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4 of the MSGP. Part 6.N.4.1 contains a requirement that applies to all recycling facilities and is followed by Parts 6.N.4.2 to 6.N.4.4.4, which have requirements for specific types of recycling facilities. Implement and describe in your SWPPP a program to address those items that apply. Included are lists of BMP options which, along with any functional equivalents, should be considered for implementation. Selection or deselection of a particular BMP or approach is up to the best professional judgement of the operator, as long as the objective of the requirement is met.

6.N.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3)

Identify the locations of any of the following activities or sources which may be exposed to precipitation/surface runoff: Scrap and waste material storage, outdoor scrap and waste processing equipment, and containment areas for turnings exposed to cutting fluids.

6.N.4.2 *Scrap and Waste Recycling Facilities (Non-Source Separated, Non-Liquid Recyclable Materials).* Requirements for facilities that receive, process and do wholesale distribution of non-liquid recyclable wastes (*e.g.,* ferrous and nonferrous metals, plastics, glass, cardboard and paper). These facilities may receive both nonrecyclable and recyclable materials. This section is not intended for those facilities that only accept recyclables from primarily non-industrial and residential sources.

6.N.4.2.1 *Inbound Recyclable and Waste Material Control Program.* Minimize the chance of accepting materials that could be significant sources of pollutants by conducting inspections of inbound recyclables and waste materials. BMP options: (a) Provide information/education to suppliers of scrap and recyclable waste materials on draining and properly disposing of residual fluids (*e.g.,* from vehicles and equipment engines, radiators and transmissions, oil filled transformers and individual containers or drums), prior to delivery to your facility; (b) procedures to minimize the potential of any residual fluids from coming into contact with precipitation/runoff; (c) procedures for accepting scrap lead-acid batteries (additional requirements for the handling, storage and disposal or recycling of batteries are contained in the scrap lead-acid battery program provisions in N.5.1.6); (d) training targeted for those personnel engaged in the inspection and acceptance of inbound recyclable materials. In addition, (e) liquid wastes, including used oil, must be stored in materially compatible and non-leaking containers and disposed or recycled in accordance with RCRA.

6.N.4.2.2 *Scrap and Waste Material Stockpiles/Storage (Outdoor).* Minimize contact of storm water runoff with stockpiled materials, processed materials and non-recyclable wastes. BMP options: (a) Permanent or semi-permanent covers; (b) to facilitate settling or filtering of pollutants: Sediment traps, vegetated swales and strips, catch basin filters and sand filters; (c) divert runoff away from storage areas via dikes, berms, containment trenches, culverts and surface grading; (d) silt fencing; (e) oil/water separators, sumps and dry absorbents for areas where potential sources of residual fluids are stockpiled (*e.g.,* automobile engine storage areas).

6.N.4.2.3 *Stockpiling of Turnings Exposed to Cutting Fluids (Outdoor).* Minimize contact of surface runoff with residual cutting fluids. BMP options (use singularly or in combination): (a) Store all turnings exposed to cutting fluids under some form of permanent or semi-permanent cover. Storm water discharges from these areas are permitted provided the runoff is first treated by an oil/water separator or its equivalent. Identify procedures to collect, handle and dispose/recycle residual fluids which may be present; (b) establish dedicated containment areas for all turnings that have been

exposed to cutting fluids. Storm water runoff from these areas can be discharged provided: The containment areas are constructed of either concrete, asphalt or other equivalent types of impermeable material; there is a barrier around the perimeter of the containment areas (*e.g.,* berms, curbing, elevated pads, etc.) to prevent contact with storm water run-on; there is a drainage collection system for runoff generated from containment areas; you have a schedule to maintain the oil/water separator (or its equivalent); and you identify procedures for properly disposing or recycling collected residual fluids.

6.N.4.2.4 *Scrap and Waste Material Stockpiles/Storage (Covered or Indoor Storage).* Minimize contact of residual liquids and particulate matter from materials stored indoors or under cover with surface runoff. BMP options: (a) Good housekeeping measures including the use of dry absorbent or wet vacuuming to contain or dispose/recycle residual liquids originating from recyclable containers; (b) not allowing washwater from tipping floors or other processing areas to discharge to the storm sewer system; (c) disconnect or seal off all floor drains connected to the storm sewer system.

6.N.4.2.5 *Scrap and Recyclable Waste Processing Areas.* Minimize surface runoff from coming in contact with scrap processing equipment. Pay attention to operations that generate visible amounts of particulate residue (*e.g.,* shredding) to minimize the contact of accumulated particulate matter and residual fluids with runoff (*i.e.,* through good housekeeping, preventive maintenance, *etc.*). BMP options: (a) Regularly inspect equipment for spills/leaks, and malfunctioning/worn/corroded parts or equipment; (b) a preventive maintenance program for processing equipment; (c) use of dry-absorbents or other cleanup practices to collect and dispose/recycle spilled/leaking fluids; (d) on unattended hydraulic reservoirs over 150 gallons in capacity, install such protection devices as low-level alarms or other equivalent devices, or, alternatively, secondary containment that can hold the entire volume of the reservoir; (e) containment or diversion structures such as dikes, berms, culverts, trenches, elevated concrete pads, grading to minimize contact of storm water runoff with outdoor processing equipment or stored materials; (f) oil/water separators or sumps; (g) permanent or semi-permanent covers in processing areas where there are residual fluids and grease; (h) retention/detention ponds or basins; sediment traps, vegetated swales or strips (for pollutant settling/filtration); (i) catch basin filters or sand filters.

6.N.4.2.6 *Scrap Lead-Acid Battery Program.* Properly handle, store and dispose of scrap lead-acid batteries. BMP options: (a) Segregate scrap lead-acid batteries from other scrap materials; (b) proper handling, storage and disposal of cracked or broken batteries; (c) collect and dispose leaking lead-acid battery fluid; (d) minimize/eliminate (if possible) exposure of scrap lead-acid batteries to precipitation or runoff; (e) employee training for the management of scrap batteries.

6.N.4.2.7 *Spill Prevention and Response Procedures.* (See also Part 4.2.7.2.1.4)

Minimize storm water contamination at loading/unloading areas, and from equipment or container failures. BMP options: (a) Prevention and response measures for areas that are potential sources of fluid leaks/spills; (b) immediate containment and clean up of spills/leaks. If malfunctioning equipment is responsible for the spill/leak, repairs should also be conducted as soon as possible; (c) cleanup measures including the use of dry absorbents. If this method is employed, there should be an adequate supply of dry absorbent materials kept onsite and used absorbent must be properly disposed of; (d) store drums containing liquids—especially oil and lubricants—either: Indoors, in a bermed area, in overpack containers or spill pallets, or in other containment devices; (e) install overfill prevention devices on fuel pumps or tanks; (f) place drip pans or equivalent measures under leaking stationary equipment until the leak is repaired. The drip pans should be inspected for leaks and potential overflow and all liquids must be properly disposed of (as per RCRA); (g) install alarms and/or pump shut off systems on outdoor equipment with hydraulic reservoirs exceeding 150 gallons in the event of a line break. Alternatively, a secondary containment system capable of holding the entire contents of the reservoir plus room for precipitation can be used.

6.N.4.2.8 *Quarterly Inspection Program.* (See also Part 4.2.7.2.1.5)

Inspect all designated areas of the facility and equipment identified in the plan quarterly.

6.N.4.2.9 *Supplier Notification Program.* As appropriate, notify major suppliers which scrap materials will not be accepted at the facility or are only accepted under certain conditions.

6.N.4.3 *Waste Recycling Facilities (Liquid Recyclable Materials).*

6.N.4.3.1 *Waste Material Storage (Indoor).* Minimize/eliminate contact between residual liquids from waste materials stored indoors and surface runoff. The plan may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR part 112. BMP options: (a) Procedures for material handling (including labeling and marking); (b) clean up spills/leaks with dry-absorbent materials or a wet vacuum system; (c) appropriate containment structures (trenching, curbing, gutters, etc.); (d) a drainage system, including appurtenances (*e.g.,* pumps or ejectors, manually operated valves), to handle discharges from diked or bermed areas. Drainage should be discharged to an appropriate treatment facility, sanitary sewer system, or otherwise disposed of properly. These discharges may require coverage under a separate NPDES wastewater permit or industrial user permit under the pretreatment program.

6.N.4.3.2 *Waste Material Storage (Outdoor).* Minimize contact between stored residual liquids and precipitation or runoff. The plan may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR part 112. Discharges of precipitation from containment areas containing used oil must also be in accordance with applicable sections of 40 CFR part 112. BMP options: (a) Appropriate containment structures (*e.g.,* dikes, berms, curbing, pits) to store the volume of the largest tank with sufficient extra capacity for precipitation; (b) drainage control and other diversionary structures; (c) for storage tanks, provide corrosion protection and/or leak detection systems; (d) use dry-absorbent materials or a wet vacuum system to collect spills.

6.N.4.3.3 *Trucks and Rail Car Waste Transfer Areas.* Minimize pollutants in discharges from truck and rail car loading / unloading areas. Include measures to clean up minor spills/leaks resulting from the transfer of liquid wastes. BMP options: (a) Containment and diversionary structures to minimize contact with precipitation or runoff; (b) use dry-clean up methods, wet vacuuming, roof coverings, or runoff controls.

6.N.4.3.4 *Quarterly Inspections.* (See also Part 4.2.7.2.1.5)

At a minimum, the inspections must also include all areas where waste is generated, received, stored, treated or disposed and that are exposed to either precipitation or storm water runoff.

6.N.4.4 *Recycling Facilities (Source Separated Materials).* The following identifies considerations for facilities that receive only source-separated

recyclables, primarily from non-industrial and residential sources.

6.N.4.4.1 *Inbound Recyclable Material Control.* Minimize the chance of accepting non-recyclables (*e.g.,* hazardous materials) which could be a significant source of pollutants by conducting inspections of inbound materials. BMP options: (a) Information/education measures to inform suppliers of recyclables which materials are acceptable and which are not; (b) training drivers responsible for pickup of recycled material; (c) clearly marking public drop-off containers regarding which materials can be accepted; (d) reject non-recyclable wastes or household hazardous wastes at the source; (e) procedures for handling and disposal of non-recyclable material.

6.N.4.4.2 *Outdoor Storage.* Minimize exposure of recyclables to precipitation and runoff. Use good housekeeping measures to prevent accumulation of particulate matter and fluids, particularly in high traffic areas. Other BMP options: (a) Provide totally-enclosed drop-off containers for the public; (b) install a sump/pump with each container pit and treat or discharge collected fluids to a sanitary sewer system; (c) provide dikes and curbs for secondary containment (*e.g.,* around bales of recyclable waste paper); (d) divert surface water runoff away from outside material storage areas; (e) provide covers over containment bins, dumpsters, roll-off boxes; (f) store the equivalent one days's volume of recyclable material indoors.

6.N.4.4.3 *Indoor Storage and Material Processing.* Minimize the release of pollutants from indoor storage and processing areas. BMP options: (a) Schedule routine good housekeeping measures for all storage and processing areas; (b) prohibit tipping floor washwater from draining to the storm sewer system; (c) provide employee training on pollution prevention practices.

6.N.4.4.4 *Vehicle and Equipment Maintenance.* BMP options for those areas where vehicle and equipment maintenance are occurring outdoors: (a) Prohibit vehicle and equipment washwater from discharging to the storm sewer system; (b) minimize or eliminate outdoor maintenance areas whenever possible; (c) establish spill prevention and clean-up procedures in fueling areas; (d) avoid topping off fuel tanks; (e) divert runoff from fueling areas; (f) store lubricants and hydraulic fluids indoors; (g) provide employee training on proper handling, storage of hydraulic fluids and lubricants.

6.N.5 Monitoring and Reporting Requirements

(See also Part 5)

TABLE N–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of Permit Affected/Supplemental Requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Scrap Recycling Facility (SIC 5093)	Chemical Oxygen Demand (COD).	120 mg/L.	
	Total Suspended Solids (TSS).	100 mg/L.	
	Total Recoverable Aluminum.	0.75 mg/L.	
	Total Recoverable Copper	0.0636 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Total Recoverable Lead	0.0816 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	

[1] Discharge may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.O Sector O—Steam Electric Generating Facilities

6.O.1 Covered Storm Water Discharges

The requirements in Part 6.O apply to storm water discharges associated with industrial activity from Steam Electric Power Generating Facilities as identified by the Activity Code specified under Sector O in Table 1–1 of Part 1.2.1.

6.O.2 Industrial Activities Covered by Sector O.

This permit authorizes storm water discharges from the following industrial activities at Sector O facilities:

6.O.2.1 Steam electric power generation using coal, natural gas, oil, nuclear energy, etc. to produce a steam source, including coal handling areas;

6.O.2.2 Coal pile runoff, including effluent limitations established by 40 CFR Part 423;

6.O.2.3 Dual fuel co-generation facilities.

6.O.3 Limitations on Coverage

6.O.3.1 *Prohibition of Non-Storm Water Discharges.* Not covered by this permit: Non-storm water discharges subject to effluent limitations guidelines.

6.O.3.2 *Prohibition of Storm Water Discharges.* Not covered by this permit: Storm water discharges from ancillary facilities (*e.g.,* fleet centers, gas turbine stations and substations) that are not contiguous to a stream electric power generating facility; and heat capture co-generation facilities.

6.O.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.O.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify the locations of any of the following activities or sources which may be exposed to precipitation/surface runoff: Storage tanks, scrap yards, general refuse areas; short and long term storage of general materials (including but not limited to: supplies, construction materials, paint equipment, oils, fuels, used and unused solvents, cleaning materials, paint, water treatment chemicals, fertilizer and pesticides); landfills, construction sites; stock piles areas (*e.g.,* coal or limestone piles).

6.O.4.2 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.O.4.2.1 *Fugitive Dust Emissions.* Describe and implement measures that prevent or minimize fugitive dust emissions from coal handling areas. Consider such procedures to minimize the tracking of coal dust offsite as installing specially designed tires, or washing vehicles in a designated area before they leave the site and controlling the wash water.

6.O.4.2.2 *Delivery Vehicles.* Describe and implement measures that prevent or minimize contamination of storm water

runoff from delivery vehicles arriving at the plant site. Consider the following: procedures to inspect delivery vehicles arriving at the plant site and ensure overall integrity of the body or container; and procedures to deal with leakage/spillage from vehicles or containers.

6.O.4.2.3 *Fuel Oil Unloading Areas.* Describe and implement measures that prevent or minimize contamination of precipitation/surface runoff from fuel oil unloading areas. Consider, at a minimum (or their equivalents): Using containment curbs in unloading areas; having personnel familiar with spill prevention and response procedures present during deliveries to ensure that any leaks/spills are immediately contained and cleaned up; using spill and overflow protection (*e.g.,* drip pans, drip diapers or other containment devices placed beneath fuel oil connectors to contain potential spillage during deliveries or from leaks at the connectors).

6.O.4.2.4 *Chemical Loading/ Unloading.* Describe and implement measures that prevent or minimize contamination of precipitation/surface runoff from chemical loading/unloading areas. Consider, at a minimum (or their equivalents): Using containment curbs at chemical loading/unloading areas to contain spill; having personnel familiar with spill prevention and response procedures present during deliveries to ensure that any leaks/spills are immediately contained and cleaned up; and load/unload in covered areas and store chemicals indoors.

6.O.4.2.5 *Miscellaneous Loading/ Unloading Areas.* Describe and implement measures that prevent or minimize contamination of precipitation/surface runoff from loading/unloading areas. Consider, at a minimum (or their equivalents): Covering the loading area; grading, berming, or curbing around the loading area to divert run-on; or locating the loading/unloading equipment and vehicles so leaks are contained in existing containment and flow diversion systems.

6.O.4.2.6 *Liquid Storage Tanks.* Describe and implement measures that prevent or minimize contamination of surface runoff from above ground liquid storage tanks. Consider using, at a minimum (or their equivalents): Protective guards around tank; containment curbs; spill and overflow protection; and dry cleanup methods.

6.O.4.2.7 *Large Bulk Fuel Storage Tanks.* Describe and implement measures that prevent or minimize contamination of surface runoff from large bulk fuel storage tanks. Consider, at a minimum, using containment berms (or its equivalent). You must also comply with applicable State and Federal laws, including Spill Prevention Control and Countermeasures (SPCC).

6.O.4.2.8 *Spill Reduction Measures.* Describe and implement measures to reduce the potential for an oil/chemical spill or reference the appropriate Part of your SPCC plan. At a minimum, visually inspect on a weekly basis, the structural integrity of all above ground tanks, pipelines, pumps and other related equipment, and effect any necessary repairs immediately.

6.O.4.2.9 *Oil Bearing Equipment in Switchyards.* Describe and implement measures that prevent or minimize contamination of surface runoff from oil bearing equipment in switchyard areas. Consider using level grades and gravel surfaces to retard flows and limit the spread of spills or collecting runoff in perimeter ditches.

6.O.4.2.10 *Residue Hauling Vehicles.* Inspect all residue hauling vehicles for proper covering over the load, adequate gate sealing and overall integrity of the container body. Repair as soon as practicable, vehicles without load covering or adequate gate sealing, or with leaking containers or beds.

6.O.4.2.11 *Ash Loading Areas.* Describe and implement procedures to reduce or control the tracking of ash/ residue from ash loading areas. Where practicable, clear the ash building floor and immediately adjacent roadways of spillage, debris and excess water before departure of each loaded vehicle.

6.O.4.2.12 *Areas Adjacent to Disposal Ponds or Landfills.* Describe and implement measures that prevent or minimize contamination of surface runoff from areas adjacent to disposal ponds or landfills. Develop procedures to reduce ash residue that may be tracked on to access roads traveled by residue handling vehicles, and reduce ash residue on exit roads leading into and out of residue handling areas.

6.O.4.2.13 *Landfills, Scrap yards, Surface Impoundments, Open Dumps, General Refuse Sites.* Address these areas in your SWPPP and include appropriate BMPs as referred to in Part 4.

6.O.4.2.14 *Vehicle Maintenance Activities.* For vehicle maintenance activities performed on the plant site, use the applicable BMPs outlined in Part 6.P.

6.O.4.2.15 *Material Storage Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff from material storage areas (including areas used for temporary storage of miscellaneous products and construction materials stored in lay-down areas). Consider using (or their equivalents): Flat yard grades; collecting runoff in graded swales or ditches; erosion protection measures at steep outfall sites (e.g., concrete chutes, riprap, stilling basins); covering lay-down areas; storing materials indoors; and covering materials temporarily with polyethylene, polyurethane, polypropylene or hypalon. Storm water run-on may be minimized by constructing an enclosure or building a berm around the area.

6.O.4.3 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9.3) As part of your evaluation, inspect the following areas on a monthly basis: Coal handling areas, loading / unloading areas, switchyards, fueling areas, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance areas, liquid storage tanks, and long term and short term material storage areas.

6.O.5 Monitoring and Reporting Requirements

(See also Part 5)

TABLE O–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of Permit Affected/Supplemental Requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Steam Electric Generating Facilities (Industrial Activity Code ''SE'').	Total recoverable iron	1.0 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.

[2] Monitor once/quarter for the year 2 and year 4 monitoring years.

6.P Sector P—Land Transportation and Warehousing

6.P.1 Covered Storm Water Discharges

The requirements in Part 6.P apply to storm water discharges associated with industrial activity from Land Transportation and Warehousing facilities as identified by the Activity Code specified under Sector P in Table 1–1 of Part 1.2.1.

6.P.2 Industrial Activities Covered by Sector P

The types of activities that permittees under Sector P are primarily engaged in are:

6.P.2.1 vehicle and equipment maintenance (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication);

6.P.2.2 equipment cleaning.

6.P.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.P.3.1 *Drainage Site Map.* (See also Part 4.2.2.3) Identify the locations of any of the following activities or sources: Fueling stations; vehicle/equipment maintenance or cleaning areas; storage areas for vehicle/equipment with actual or potential fluid leaks; loading/unloading areas; areas where treatment, storage or disposal of wastes occur; liquid storage tanks; processing areas; storage areas; and all monitoring areas.

6.P.3.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe and assess the potential for the following to contribute pollutants to storm water discharges: Onsite waste storage or disposal; dirt/gravel parking areas for vehicles awaiting maintenance; and fueling areas.

6.P.3.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.P.3.3.1 *Vehicle and Equipment Storage Areas.* Confine the storage of leaky or leak-prone vehicles/equipment awaiting maintenance to designated areas. Consider the following (or other equivalent measures): The use of drip pans under vehicles/equipment, indoor storage of vehicles and equipment, installation of berms or dikes, use of absorbents, roofing or covering storage areas, and cleaning pavement surfaces to remove oil and grease.

6.P.3.3.2 *Fueling Areas.* Implement and describe measures that prevent or minimize contamination of storm water runoff from fueling areas. Consider the following (or other equivalent measures): Covering the fueling area; using spill/overflow protection and cleanup equipment; minimizing storm water runon/runoff to the fueling area; using dry cleanup methods; and treating and/or recycling collected storm water runoff.

6.P.3.3.3 *Material Storage Areas.* Maintain all material storage vessels (e.g., for used oil/oil filters, spent solvents, paint wastes, hydraulic fluids) to prevent contamination of storm water and plainly label them (*e.g.,* ''Used Oil,'' ''Spent Solvents,'' *etc.*). Consider the following (or other equivalent measures): Storing the materials indoors; installing berms/dikes around the areas; minimizing runoff of storm water to the areas; using dry cleanup methods; and treating and/or recycling collected storm water runoff.

6.P.3.3.4. *Vehicle and Equipment Cleaning Areas.* Implement and describe measures that prevent or minimize contamination of storm water runoff from all areas used for vehicle/equipment cleaning. Consider the following (or other equivalent measures): Performing all cleaning operations indoors; covering the cleaning operation, ensuring that all washwater drains to a proper collection system (i.e., not the storm water drainage system unless NPDES permitted); treating and/or recycling collected storm water runoff, or other equivalent measures. Note: The discharge of vehicle/equipment washwater, including tank cleaning operations, are not authorized by this permit and must be covered under a separate NPDES permit or discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

6.P.3.3.5 *Vehicle and Equipment Maintenance Areas.* Implement and describe measures that prevent or minimize contamination of storm water runoff from all areas used for vehicle/equipment maintenance. Consider the following (or other equivalent measures): Performing maintenance activities indoors; using drip pans; keeping an organized inventory of materials used in the shop; draining all parts of fluid prior to disposal; prohibiting wet clean up practices if these practices would result in the discharge of pollutants to storm water drainage systems; using dry cleanup methods; treating and/or recycling collected storm water runoff, minimizing run on/runoff of storm water to maintenance areas.

6.P.3.3.6 *Locomotive Sanding (Loading Sand for Traction) Areas.* Consider the following (or other equivalent measures): Covering sanding areas; minimizing storm water run on/runoff; or appropriate sediment removal practices to minimize the offsite transport of sanding material by storm water.

6.P.3.4 *Inspections.* (See also Part 4.2.7.2.1.4) Inspect all the following areas/activities: Storage areas for vehicles/equipment awaiting maintenance, fueling areas, indoor and outdoor vehicle/equipment maintenance areas, material storage areas, vehicle/equipment cleaning areas and loading/unloading areas.

6.P.3.5 *Employee Training.* (See also Part 4.2.7.2.1.5) Train personnel at least once a year and address the following, as applicable: Used oil and spent solvent management; fueling procedures; general good housekeeping practices; proper painting procedures; and used battery management.

6.P.3.6 *Vehicle and Equipment Washwater Requirements.* (See also Part 4.4) Attach to or reference in your SWPPP, a copy of the NPDES permit issued for vehicle/equipment washwater or, if an NPDES permit has not been issued, a copy of the pending application. If an industrial user permit is issued under a pretreatment program, attach a copy to your SWPPP. In any case, address all non-storm water permit conditions or pretreatment conditions in your SWPPP. If washwater is handled in another manner (e.g., hauled offsite), describe the disposal method and attach all pertinent documentation/information (e.g., frequency, volume, destination, etc.) in the plan.

6.Q Sector Q—Water Transportation

6.Q.1 Covered Storm Water Discharges

The requirements in Part 6.Q apply to storm water discharges associated with industrial activity from Water Transportation facilities as identified by the Activity Code specified under Sector Q in Table 1–1 of Part 1.2.1.

6.Q.2 Industrial Activities Covered by Sector Q

The requirements listed under this part apply to storm water discharges associated with the following activities:

6.Q.2.1 water transportation facilities classified in SIC Code major group 44 that have vehicle (vessel) maintenance shops and/or equipment cleaning operations including:

6.Q.2.1.1 water transportation industry includes facilities engaged in foreign or domestic transport of freight or passengers in deep sea or inland waters;

6.Q.2.1.2 marine cargo handling operations;

6.Q.2.1.3 ferry operations;

6.Q.2.1.4 towing and tugboat services;

6.Q.2.1.5 marinas.

6.Q.3 Limitations on Coverage

6.Q.3.1 Prohibition of Non-Storm Water Discharges. (See also Part 1.2.3.1) Not covered by this permit: Bilge and ballast water, sanitary wastes, pressure wash water and cooling water originating from vessels.

6.Q.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.Q.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Fueling; engine maintenance/repair; vessel maintenance/repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; liquid storage areas (*e.g.,* paint, solvents, resins); and material storage areas (*e.g.,* blasting media, aluminum, steel, scrap iron).

6.Q.4.2 *Summary of Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them: Outdoor manufacturing or processing activities (*i.e.,* welding, metal fabricating); and significant dust or particulate generating processes (*e.g.,* abrasive blasting, sanding, painting)

6.Q.4.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.Q.4.3.1 *Pressure Washing Area.* If pressure washing is used to remove marine growth from vessels, the discharge water must be permitted by a separate NPDES permit. Describe in the SWPPP: The measures to collect or contain the discharges from the pressures washing area; the method for the removal of the visible solids; the methods of disposal of the collected solids; and where the discharge will be released.

6.Q.4.3.2 *Blasting and Painting Area.* Implement and describe measures to prevent spent abrasives, paint chips and over spray from discharging into the receiving water or the storm sewer systems. Consider containing all blasting/painting activities or use other measures to prevent or minimize the discharge the contaminants (*e.g.,* hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris). Where necessary, regularly clean storm water conveyances of deposits of abrasive blasting debris and paint chips. Detail in the SWPPP any standard operating practices relating to blasting/painting (*e.g.,* prohibiting uncontained blasting/painting over open water, or prohibiting blasting/painting during windy conditions which can render containment ineffective).

6.Q.4.3.3 *Material Storage Areas.* Store and plainly label all containerized materials (*e.g.,* fuels, paints, solvents, waste oil, antifreeze, batteries) in a protected, secure location away from drains. Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from the storage areas. Specify which materials are stored indoors and consider containment or enclosure for those stored outdoors. If abrasive blasting is performed, discuss the storage and disposal of spent abrasive materials generated at the facility. Consider implementing an inventory control plan to limit the presence of potentially hazardous materials onsite.

6.Q.4.3.4 *Engine Maintenance and Repair Areas.* Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from all areas used for engine maintenance and repair. Consider the following (or their equivalents): Performing all maintenance activities indoors; maintaining an organized inventory of materials used in the shop; draining all parts of fluid prior to disposal; prohibiting the practice of hosing down the shop floor; using dry cleanup methods; and treating and/or recycling storm water runoff collected from the maintenance area.

6.Q.4.3.5 *Material Handling Area.* Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from material handling operations and areas (*e.g.,* fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). Consider the following (or their equivalents): Covering fueling areas; using spill/overflow protection; mixing paints and solvents in a designated area (preferably indoors or under a shed); and minimize runoff of storm water to material handling areas.

6.Q.4.3.6 *Drydock Activities.* Describe your procedures for routinely maintaining/cleaning the drydock to prevent or minimize pollutants in storm water runoff. Address the cleaning of accessible areas of the drydock prior to flooding, and final cleanup following removal of the vessel and raising the dock. Include procedures for cleaning up oil, grease or fuel spills occurring on the drydock. Consider the following (or their equivalents): Sweeping rather than hosing off debris/spent blasting material from accessible areas of the drydock prior to flooding, and having absorbent materials and oil containment booms readily available to contain/cleanup any spills.

6.Q.4.3.7 *General Yard Area.* Implement and describe a schedule for routine yard maintenance and cleanup. Regularly remove from the general yard area: scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc.

6.Q.4.4 *Preventative Maintenance.* (See also Part 4.2.7.2.1.4)

As part of your preventive maintenance program, perform timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators and sediment traps to ensure that spent abrasives, paint chips and solids will be intercepted and retained prior to entering the storm drainage system) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

6.Q.4.5 *Inspections.* (See also Part 4.2.7.2.1.5)

Include the following areas in all monthly inspections: Pressure washing area; blasting, sanding and painting areas; material storage areas; engine maintenance/repair areas; material handling areas; drydock area; and general yard area.

6.Q.4.6 *Employee Training.* (See also Part 4.2.7.2.1.6)

As part of your employee training program, address, at a minimum, the following activities (as applicable): Used oil management; spent solvent management; disposal of spent abrasives; disposal of vessel wastewaters; spill prevention and control; fueling procedures; general good housekeeping practices; painting and blasting procedures; and used battery management.

6.Q.4.7 *Comprehensive Site Compliance Evaluation.*

(See also Part 4.9) Conduct regularly scheduled evaluations at least once a year and address those areas contributing to a storm water discharge associated with industrial activity (e.g., pressure washing area, blasting/sanding areas, painting areas, material storage areas, engine maintenance/repair areas, material handling areas, and drydock area). Inspect these sources for evidence of, or the potential for, pollutants entering the drainage system.

6.Q.5 Monitoring and Reporting Requirements

(See also Part 5)

TABLE Q–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of Permit Affected/Supplemental Requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Water Transportation Facilities (SIC 4412–4499)	Total recoverable aluminum.	0.75 mg/L.	
	Total recoverable iron	1.0 mg/L.	
	Total recoverable lead	0.0816 mg/L.	
	Total recoverable zinc	0.117 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 monitoring years.

6.R Sector R—Ship and Boat Building or Repair Yards

6.R.1 Covered Storm Water Discharges

The requirements in Part 6.R apply to storm water discharges associated with industrial activity from Ship and Boat Building or Repair Yards as identified by the Activity Codes specified under Sector R in Table 1–1 of Part 1.2.1.

6.R.2 Industrial Activities Covered by Sector R

The types of activities that permittees under Sector R are primarily engaged in are:

6.R.2.1 ship building and repairing and boat building and repairing.[12]

6.R.3 Limitations on Coverage

6.R.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not covered by this permit: discharges containing bilge and ballast water, sanitary wastes, pressure wash water and cooling water originating from vessels.

6.R.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.R.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Fueling; engine maintenance/repair; vessel maintenance/repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; liquid storage areas (*e.g.,* paint, solvents, resins); and material storage areas (*e.g.,* blasting media, aluminum, steel, scrap iron).

6.R.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them (if applicable): Outdoor manufacturing/processing activities (*e.g.,* welding, metal fabricating); and significant dust/particulate generating processes (*e.g.,* abrasive blasting , sanding, painting).

6.R.4.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.R.4.3.1 *Pressure Washing Area.* If pressure washing is used to remove marine growth from vessels, the discharge water must be permitted as a process wastewater by a separate NPDES permit.

6.R.4.3.2 *Blasting and Painting Area.* Implement and describe measures to prevent spent abrasives, paint chips and over spray from discharging into the receiving water or the storm sewer systems. Consider containing all blasting/painting activities or use other measures to prevent or minimize the discharge the contaminants (*e.g.,* hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris). Where necessary, regularly clean storm water conveyances of deposits of abrasive blasting debris and paint chips. Detail in the SWPPP any standard operating practices relating to blasting/painting (*e.g.,* prohibiting uncontained blasting/painting over open water, or prohibiting blasting/painting during windy conditions which can render containment ineffective).

6.R.4.3.3 *Material Storage Areas.* Store and plainly label all containerized materials (e.g., fuels, paints, solvents, waste oil, antifreeze, batteries) in a protected, secure location away from drains. Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from the storage areas. Specify which materials are stored indoors and consider containment or enclosure for those stored outdoors. If abrasive blasting is performed, discus the storage and disposal of spent abrasive materials generated at the facility. Consider implementing an inventory control plan to limit the presence of potentially hazardous materials onsite.

6.R.4.3.4 *Engine Maintenance and Repair Areas.* Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from all areas used for engine maintenance and repair. Consider the following (or their equivalents): Performing all maintenance activities indoors; maintaining an organized inventory of materials used in the shop; draining all parts of fluid prior to disposal; prohibiting the practice of hosing down the shop floor; using dry cleanup methods; and treating and/or recycling storm water runoff collected from the maintenance area.

6.R.4.3.5 *Material Handling Area.* Implement and describe measures to prevent or minimize the contamination of precipitation/surface runoff from material handling operations and areas (*e.g.,* fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). Consider the following (or their equivalents): Covering fueling areas; using spill/overflow protection; mixing paints and solvents in a designated area (preferably indoors or under a shed); and minimize runon of storm water to material handling areas.

6.R.4.3.6 *Drydock Activities.* Describe your procedures for routinely maintaining/cleaning the drydock to prevent or minimize pollutants in storm water runoff. Address the cleaning of accessible areas of the drydock prior to flooding, and final cleanup following removal of the vessel and raising the dock. Include procedures for cleaning up oil, grease or fuel spills occurring on the drydock. Consider the following (or their equivalents): sweeping rather than hosing off debris/spent blasting material from accessible areas of the drydock prior to flooding, and having absorbent materials and oil containment booms readily available to contain/cleanup any spills.

6.R.4.3.7 *General Yard Area.* Implement and describe a schedule for routine yard maintenance and cleanup. Regularly remove from the general yard area: Scrap metal, wood, plastic, miscellaneous trash, paper, glass,

[12] According to the U.S. Coast Guard, a vessel 65 feet or greater in length is referred to as a ship, and a vessel smaller than 65 feet is a boat.

industrial scrap, insulation, welding rods, packaging, etc.

6.R.4.4 *Preventative Maintenance.* (See also Part 4.2.7.2.1.4) As part of your preventive maintenance program, perform timely inspection and maintenance of storm water management devices (*e.g.,* cleaning oil/water separators and sediment traps to ensure that spent abrasives, paint chips and solids will be intercepted and retained prior to entering the storm drainage system) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

6.R.4.5 *Inspections.* (See also Part 4.2.7.2.1.5) Include the following areas in all monthly inspections: Pressure washing area; blasting, sanding and painting areas; material storage areas; engine maintenance/repair areas; material handling areas; drydock area; and general yard area.

6.R.4.6 *Employee Training.* (See also Part 4.2.7.2.1.6) As part of your employee training program, address, at a minimum, the following activities (as applicable): Used oil management; spent solvent management; disposal of spent abrasives; disposal of vessel wastewaters; spill prevention and control; fueling procedures; general good housekeeping practices; painting and blasting procedures; and used battery management.

6.R.4.7 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9) Conduct regularly scheduled evaluations at least once a year and address those areas contributing to a storm water discharge associated with industrial activity (*e.g.,* pressure washing area, blasting/sanding areas, painting areas, material storage areas, engine maintenance/repair areas, material handling areas, and drydock area). They must be visually inspected for evidence of, or the potential for, pollutants entering the drainage system.

6.S Sector S—Air Transportation

6.S.1 Covered Storm Water Discharges

The requirements in Part 6.S apply to storm water discharges associated with industrial activity from Air Transportation facilities as identified by the SIC Codes specified under Sector S in Table 1–1 of Part 1.2.1.

6.S.2 Industrial Activities Covered by Sector S

The types of activities that permittees under Sector S are primarily engaged in are:

6.S.2.1 air transportation, scheduled, and air courier;

6.S.2.2 air transportation, non scheduled;

6.S.2.3 airports; flying fields, except those maintained by aviation clubs; and airport terminal services including: Air traffic control, except government; aircraft storage at airports; aircraft upholstery repair; airfreight handling at airports; airport hangar rental; airport leasing, if operating airport; airport terminal services; and hangar operations.

6.S.2.4 airport and aircraft service and maintenance including: aircraft cleaning and janitorial service; aircraft servicing/repairing, except on a factory basis; vehicle maintenance shops; material handling facilities; equipment clearing operations; and airport and aircraft deicing/anti-icing.

Note: ''deicing'' will generally be used to imply both deicing (removing frost, snow or ice) and anti-icing (preventing accumulation of frost, snow or ice) activities, unless specific mention is made regarding anti-icing and/or deicing activities.

6.S.3 Limitations on Coverage

Only those portions of the facility that are involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations or deicing operations are addressed in Part 6.S.

6.S.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not covered by this permit: Aircraft, ground vehicle, runway and equipment washwaters; and dry weather discharges of deicing chemicals. These discharges must be covered by a separate NPDES permit.

6.S.4 Special Conditions

6.S.4.1 *Hazardous Substances or Oil.* (See also Part 3.1) Each individual permittee is required to report spills equal to or exceeding the reportable quantity (RQ) levels specified at 40 CFR, parts 110, 117 and 302 as described at Part 3.2. If an airport authority is the sole permittee, then the sum total of all spills at the airport must be assessed against the RQ. If the airport authority is a co-permittee with other deicing operators at the airport, such as numerous different airlines, the assessed amount must be the summation of spills by each co-permittee. If separate, distinct individual permittees exist at the airport, then the amount spilled by each separate permittee must be the assessed amount for the RQ determination.

6.S.5 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4 of the MSGP.

(See also Part 4.1) If an airport's tenant has a SWPPP for discharges from their own areas of the airport, that SWPPP must be integrated with the plan for the entire airport. Tenants of the airport facility include air passenger or cargo companies, fixed based operators and other parties who have contracts with the airport authority to conduct business operations on airport property and whose operations result in storm water discharges associated with industrial activity.

6.S.5.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Aircraft and runway deicing operations; fueling stations; aircraft, ground vehicle and equipment maintenance / cleaning areas; storage areas for aircraft, ground vehicles and equipment awaiting maintenance.

6.S.5.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Include in your inventory of exposed materials a description of the potential pollutant sources from the following activities: Aircraft, runway, ground vehicle and equipment maintenance and cleaning; aircraft and runway deicing operations (including apron and centralized aircraft deicing stations, runways, taxiways and ramps). If you conduct deicing operations, you must maintain a record of the types [including the Material Safety Data Sheets (MSDS)] and monthly quantities of deicing chemicals used. Tenants and fixed-based operations who conduct deicing operations must provide the above information to the airport authority for inclusion in the SWPPP for the entire facility.

6.S.5.3 *Good Housekeeping Measures.* (See also 4.2.7)

6.S.5.3.1 *Aircraft, Ground Vehicle and Equipment Maintenance Areas.* Describe and implement measures that prevent or minimize the contamination of storm water runoff from all areas used for aircraft, ground vehicle and equipment maintenance (including the maintenance conducted on the terminal apron and in dedicated hangers). Consider the following practices (or their equivalents): Performing maintenance activities indoors; maintaining an organized inventory of material used in the maintenance areas; draining all parts of fluids prior to disposal; preventing the practice of

hosing down the apron or hanger floor; using dry cleanup methods; and collecting the storm water runoff from the maintenance area and providing treatment or recycling.

6.S.5.3.2 *Aircraft, Ground Vehicle and Equipment Cleaning Areas.* Clean equipment only in the areas identified in the SWPPP and site map and clearly demarcate these areas on the ground. Describe and implement measures that prevent or minimize the contamination of storm water runoff from cleaning areas.

6.S.5.3.3 *Aircraft, Ground Vehicle and Equipment Storage Areas.* Store all aircraft, ground vehicles and equipment awaiting maintenance in designated areas only. Consider the following BMPs (or their equivalents): Storing aircraft and ground vehicles indoors; using drip pans for the collection of fluid leaks; and perimeter drains, dikes or berms surrounding the storage areas.

6.S.5.3.4 *Material Storage Areas.* Maintain the vessels of stored materials (*e.g.,* used oils, hydraulic fluids, spent solvents, and waste aircraft fuel) in good condition, to prevent or minimize contamination of storm water. Also plainly label the vessels (*e.g.,* ''used oil,'' ''Contaminated Jet A,'' *etc.*). Describe and implement measures that prevent or minimize contamination of precipitation/runoff from these areas. Consider the following BMPs (or their equivalents): Storing materials indoors; storing waste materials in a centralized location; and installing berms/dikes around storage areas.

6.S.5.3.5 *Airport Fuel System and Fueling Areas.* Describe and implement measures that prevent or minimize the discharge of fuel to the storm sewer/surface waters resulting from fuel servicing activities or other operations conducted in support of the airport fuel system. Consider the following BMPs (or their equivalents): Implementing spill and overflow practices (*e.g.,* placing absorptive materials beneath aircraft during fueling operations); using dry cleanup methods; and collecting storm water runoff.

6.S.5.3.6 *Source Reduction.* Consider alternatives to the use of urea and glycol-based deicing chemicals to reduce the aggregate amount of deicing chemicals used and/or lessen the environmental impact. Chemical options to replace ethylene glycol, propylene glycol and urea include: Potassium acetate; magnesium acetate; calcium acetate; anhydrous sodium acetate.

6.S.5.3.6.1 Runway Deicing Operation: Regarding runway deicing, evaluate, at a minimum: Whether over-application of deicing chemicals occurs by analyzing present application rates, and adjusting as necessary. Also consider these BMP options (or their equivalents): Metered application of chemicals; pre-wetting dry chemical constituents prior to application; installing a runway ice detection system; implementing anti-icing operations as a preventive measure against ice buildup.

6.S.5.3.6.2 Aircraft Deicing Operations: As in Part 6.S.5.4.6.1, determine if excessive application of deicing chemicals occurs and adjust as necessary. Also consider these BMP options (or their equivalents): Pretreating aircraft with hot water prior to the application of deicing chemical; infra-red treatment; hot air treatment; and sonic treatment. Other deicing options: Deicing aircraft in a dedicated area or pad, with a runoff collection/recovery system; and using a deicer gantry that delivers controlled amounts of chemical to specific areas of the aircraft.

6.S.5.3.7 *Management of Runoff.* Where deicing operations occur, describe and implement a program to control or manage contaminated runoff to reduce the amount of pollutants being discharged from the site. Consider these BMP options (or their equivalents): A dedicated deicing facility with a runoff collection/recovery system; using vacuum/collection trucks; storing contaminated storm water/deicing fluids in tanks and releasing controlled amounts to a publicly owned treatment works; collecting contaminated runoff in a wet pond for biochemical decomposition (be aware of attracting wildlife that may prove hazardous to flight operations); and directing runoff into vegetative swales or other infiltration measures. Also consider recovering deicing materials when these materials are applied during non-precipitation events (*e.g.,* covering storm sewer inlets, using booms, installing absorptive interceptors in the drains, *etc.*) to prevent these materials from later becoming a source of storm water contamination. Used deicing fluid should be recycled whenever possible.

6.S.5.4 *Inspections.* (See also 4.2.7.2.1.5) Specify the frequency of inspections in your SWPPP. At a minimum they must be conducted once per week during deicing application periods for areas where deicing operations are being conducted.

6.S.5.5 *Comprehensive Site Compliance Evaluation.* (See also 4.9) Using only qualified personnel, conduct your annual site compliance evaluations during periods of deicing operations.

6.S.6 Monitoring and Reporting Requirements.

(See also Part 5.)

TABLE S–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

[Sector of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Facilities at airports that use more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis: monitor ONLY those outfalls from the airport facility that collect runoff from areas where deicing/anti-icing activities occur (SIC 45XX).	Biochemical Oxygen Demand (BOD_5).	30 mg/L.	
	Chemical Oxygen Demand (COD).	120.0 mg/L.	
	Ammonia	19 mg/L.	
	pH.	6.0 to 9 s.u	

[1] Discharge may be subject to requriements for more than one sector/subsector.

[2] Monitor once/quarter for the year 2 and year 4 monitoring years.

6.T Sector T—Treatment Works

6.T.1 Covered Storm Water Discharges

The requirements in Part 6.T apply to storm water discharges associated with industrial activity from Treatment Works as identified by the Activity Code specified under Sector T in Table 1–1 of Part 1.2.1.

6.T.2 Industrial Activities Covered by Sector T

The requirements listed under this Part apply to all existing point source storm water discharges associated with the following activities:

6.T.2.1 treatment works treating domestic sewage;

6.T.2.2 any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling and reclamation of municipal or domestic sewage;

6.T.2.3 lands dedicated to the disposal of sewage sludge that are located within the confines of the facility with a design flow of 1.0 MGD or more;

6.T.2.4 facilities required to have an approved pretreatment program under 40

CFR Part 403.

6.T.3 Limitations on Coverage

Not covered by this permit: farm lands; domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located within the facility; or areas that are in compliance with Section 405 of the CWA.

6.T.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not authorized by this permit: Sanitary and industrial wastewater; and equipment/vehicle washwater.

6.T.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.T.4.1 *Site Map.* (See also Part 4.2.2.3.6) Identify where any of the following may be exposed to precipitation/surface runoff: Grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station; and storage areas for process chemicals, petroleum products, solvents, fertilizers, herbicides and pesticides.

6.T.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them, as applicable: Grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station; and access roads/rail lines.

6.T.4.3 *Best Management Practices (BMPs).* (See also Part 4.2.7.2) In addition to the other BMPs considered, consider the following: Routing storm water to the treatment works; or covering exposed materials (i.e., from the following areas: Grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station).

6.T.4.4 *Inspections.* (See also Part 4.2.7.2.1.5) Include the following areas in all inspections: Access roads/rail lines; grit, screenings and other solids handling, storage or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station areas.

6.T.4.5 *Employee Training.* (See also Part 4.2.7.2.1.6) At a minimum, must address the following areas when applicable to a facility: Petroleum product management; process chemical management; spill prevention and controls; fueling procedures; general good housekeeping practices; proper procedures for using fertilizer, herbicides and pesticides.

6.T.4.6 *Wastewater and Washwater Requirements.* (See also Part 4.4) Attach to your SWPPP a copy of all your current NPDES permits issued for wastewater, industrial, vehicle and equipment washwater discharges or, if an NPDES permit has not yet been issued, a copy of the pending applications. Address any requirements/conditions from the other permits, as appropriate, in the SWPPP. If the washwater is handled in another manner, the disposal method must be described and all pertinent documentation must be attached to the plan.

6.U Sector U—Food and Kindred Products

6.U.1 Covered Storm Water Discharges

The requirements in Part 6.U apply to storm water discharges associated with industrial activity from Food and Kindred Products facilities as identified by the SIC Codes specified in Table 1–1 of Part 1.2.1.

6.U.2 Industrial Activities Covered by Sector U

The types of activities that permittees under Sector U are primarily engaged in are:

6.U.2.1 meat products;

6.U.2.2 dairy products;

6.U.2.3 canned, frozen and preserved fruits, vegetables, and food specialties;

6.U.2.4 grain mill products;

6.U.2.5 bakery products;

6.U.2.6 sugar and confectionery products;

6.U.2.7 fats and oils;

6.U.2.8 beverages;

6.U.2.9 miscellaneous food preparations and kindred products and tobacco products manufacturing.

6.U.3 Limitations on Coverage

Not covered by this permit: Storm water discharges identified under Part 1.2.3 from industrial plant yards, material handling sites; refuse sites; sites used for application or disposal of process wastewaters; sites used for storage and maintenance of material handling equipment; sites used for residential wastewater treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; and storage areas for raw material and intermediate and finished products. This includes areas where industrial activity has taken place in the past and significant materials remain. ''Material handling activities'' include the storage, loading/unloading, transportation or conveyance of any raw material, intermediate product, finished product, by-product or waste product.

6.U.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.2.2) Not authorized by this permit: discharges subject to Part 1.2.2.2 include discharges containing: boiler blowdown, cooling tower overflow and blowdown, ammonia refrigeration purging and vehicle washing/clean-out operations.

6.U.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.U.4.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify the locations of the following activities if they are exposed to precipitation/runoff: Vents/stacks from cooking, drying and similar operations; dry product vacuum transfer lines; animal holding pens; spoiled product; and broken product container storage areas.

6.U.4.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe, in addition to food and kindred products processing-related industrial activities, application and storage of pest control chemicals (*e.g.,* rodenticides, insecticides, fungicides, etc.) used on plant grounds.

6.U.4.3 *Inspections.* (See also Part 4.2.7.2.1.5) Inspect on a regular basis, at

a minimum, the following areas where the potential for exposure to storm water exists: Loading and unloading areas for all significant materials; storage areas including associated containment areas; waste management units; vents and stacks emanating from industrial activities; spoiled product and broken product container holding areas; animal holding pens; staging areas; and air pollution control equipment.

6.U.4.4 *Employee Training.* (See also Part 4.2.7.2.1.6) Address pest control in the training program.

6.U.5 Monitoring and Reporting Requirements

(See also Part 5)

TABLE U–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Grain Mill Products (SIC 2041–2048)	Total Suspended Solids (TSS).	100 mg/L.	
Fats and Oils Products (SIC 2074–2079)	Biochemical Oxygen Demand (BOD_5).	30 mg/L.	
	Chemical Oxygen Demand (COD).	120 mg/L.	
	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
	Total Suspended Solids (TSS).	100 mg/L.	

[1] Discharges may be subject to requirements for more than one Sector/Subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.V Sector V—Textile Mills, Apparel and Other Fabric Products

6.V.1 Covered Storm Water Discharges

The requirements in Part 6.V apply to storm water discharges associated with industrial activity from Textile Mills, Apparel, and Other Fabric Product Manufacturing as identified by the Activity Code specified under Sector V in Table 1–1 of Part 1.2.1.

6.V.2 Industrial Activities Covered by Sector V

The types of activities that permittees under Sector V are primarily engaged in are:

6.V.2.1 textile mill products, of and regarding facilities and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broadwoven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yarn;

6.V.2.2 processes involved in the dyeing and finishing of fibers, yarn fabrics, and knit apparel;

6.V.2.3 the integrated manufacturing of knit apparel and other finished articles of yarn;

6.V.2.4 the manufacturing of felt goods (wool), lace goods, non-woven fabrics, miscellaneous textiles, and other apparel products.

6.V.3 Limitations on Coverage

6.V.3.1 *Prohibition of Non-Storm Water Discharges.* (See also Part 1.2.3.1) Not authorized by this permit: Discharges of wastewater (*e.g.,* wastewater resulting from wet processing or from any processes relating to the production process); reused/recycled water; and waters used in cooling towers. If you have these types of discharges from your facility, you must cover them under a separate NPDES permit.

6.V.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.V.4.1 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them: Industrial-specific significant materials and industrial activities (*e.g.,* backwinding, beaming, bleaching, backing bonding, carbonizing, carding, cut and sew operations, desizing, drawing, dyeing locking, fulling, knitting, mercerizing, opening, packing, plying, scouring, slashing, spinning, synthetic-felt processing, textile waste processing, tufting, turning, weaving, web forming, winging, yarn spinning, and yarn texturing).

6.V.4.2 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.V.4.2.1 *Material Storage Area.* Plainly label and store all containerized materials (*e.g.,* fuels, petroleum products, solvents, dyes, *etc.*) in a protected area, away from drains. Describe and implement measures that prevent or minimize contamination of the storm water runoff from such storage areas, including a description of the containment area or enclosure for those materials stored outdoors. Also consider an inventory control plan to prevent excessive purchasing of potentially hazardous substances. For storing empty chemical drums/containers, ensure the drums/containers are clean (consider triple-rinsing) and there is no contact of residuals with precipitation/runoff. Collect and dispose of washwater from these cleanings properly.

6.V.4.2.2 *Material Handling Area.* Describe and implement measures that prevent or minimize contamination of storm water runoff from material handling operations and areas. Consider the following (or their equivalents): Use of spill/overflow protection; covering fueling areas; and covering/enclosing areas where the transfer of material may occur. Where applicable address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, dyes or wastewater.

6.V.4.2.3 *Fueling Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff from fueling areas. Consider the following (or their equivalents): Covering the fueling area, using spill and overflow protection, minimizing runon of storm water to the fueling areas, using dry cleanup methods, and treating and/or recycling storm water runoff collected from the fueling area.

6.V.4.2.4 *Above Ground Storage Tank Area.* Describe and implement measures that prevent or minimize contamination of the storm water runoff from above ground storage tank areas, including the associated piping and valves. Consider the following (or their equivalents): Regular cleanup of these areas; preparation of the spill prevention control and countermeasure

program, provide spill and overflow protection; minimizing runoff of storm water from adjacent areas; restricting access to the area; insertion of filters in adjacent catch basins; providing absorbent booms in unbermed fueling areas; using dry cleanup methods; and permanently sealing drains within critical areas that may discharge to a storm drain.

6.V.4.3 *Inspections.* (See also Part 4.2.7.2.1.5) Inspect, at least on a monthly basis, the following activities and areas (at a minimum): Transfer and transmission lines; spill prevention; good housekeeping practices; management of process waste products; all structural and non structural management practices.

6.V.4.4 *Employee Training.* (See also Part 4.2.7.2.1.6) As part of your employee training program, address, at a minimum, the following activities (as applicable): use of reused/recycling waters; solvents management; proper disposal of dyes; proper disposal of petroleum products and spent lubricants; spill prevention and control; fueling procedures; and general good housekeeping practices.

6.V.4.5 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9) Conduct regularly scheduled evaluations at least once a year and address those areas contributing to a storm water discharge associated with industrial activity for evidence of, or the potential for, pollutants entering the drainage system. Inspect, at a minimum, as appropriate: Storage tank areas; waste disposal and storage areas; dumpsters and open containers stored outside; materials storage areas; engine maintenance and repair areas; material handing areas and loading dock areas.

6.W Sector W—Furniture and Fixtures

6.W.1 Covered Storm Water Discharges

The requirements in Part 6.W apply to storm water discharges associated with industrial activity from Furniture and Fixtures facilities as identified by the Activity Code specified under Sector W in Table 1–1 of Part 1.2.1.

6.W.2 Industrial Activities Covered by Sector W

The types of activities that permittees under Sector W are primarily engaged in the manufacturing of:

6.W.2.1 wood kitchen cabinets;
6.W.2.2 household furniture;
6.W.2.3 office furniture;
6.W.2.4 public buildings and related furniture;
6.W.2.5 partitions, shelving, lockers, and office and store fixtures;
6.W.2.6 miscellaneous furniture and fixtures.

6.W.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.W.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Material storage (including tanks or other vessels used for liquid or waste storage) areas; outdoor material processing areas; areas where wastes are treated, stored or disposed; access roads; and rail spurs.

6.X Sector X—Printing and Publishing

6.X.1 Covered Storm Water Discharges

The requirements in Part 6.X apply to storm water discharges associated with industrial activity from Printing and Publishing facilities as identified by the Activity Code specified under Sector X in Table 1.1 of Part 1.2.1.

6.X.2 Industrial Activities Covered by Sector X

The types of activities that permittees under Sector X are primarily engaged in are:

6.X.2.1 book printing;
6.X.2.2 commercial printing and lithographics;
6.X.2.3 plate making and related services;
6.X.2.4 commercial printing, gravure;
6.X.2.5 commercial printing not elsewhere classified.

6.X.3 Storm Water Pollution Prevention Plan Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.X.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Above ground storage tanks, drums and barrel permanently stored outside.

6.X.3.2 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them, as applicable: Loading and unloading operations; outdoor storage activities; significant dust or particulate generating processes; and onsite waste disposal practices (*e.g.,* blanket wash). Also identify the pollutant or pollutant parameter (*e.g.,* oil and grease, scrap metal, *etc.*) associated with each pollutant source.

6.X.3.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.X.3.3.1 *Material Storage Areas.* Plainly label and store all containerized materials (*e.g.,* skids, pallets, solvents, bulk inks, and hazardous waste, empty drums, portable/mobile containers of plant debris, wood crates, steel racks, fuel oil, *etc.*) in a protected area, away from drains. Describe and implement measures that prevent or minimize contamination of the storm water runoff from such storage areas, including a description of the containment area or enclosure for those materials stored outdoors. Also consider an inventory control plan to prevent excessive purchasing of potentially hazardous substances.

6.X.3.3.2 *Material Handling Area.* Describe and implement measures that prevent or minimize contamination of storm water runoff from material handling operations and areas (*e.g.,* blanket wash, mixing solvents, loading/unloading materials). Consider the following (or their equivalents): Use of spill/overflow protection; covering fueling areas; and covering/enclosing areas where the transfer of materials may occur. Where applicable address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals or wastewater.

6.X.3.3.3 *Fueling Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff from fueling areas. Consider the following (or their equivalents): Covering the fueling area, using spill and overflow protection, minimizing runoff of storm water to the fueling areas, using dry cleanup methods, and treating and/or recycling storm water runoff collected from the fueling area.

6.X.3.3.4 *Above Ground Storage Tank Area.* Describe and implement measures that prevent or minimize contamination of the storm water runoff from above ground storage tank areas, including the associated piping and valves. Consider the following (or their equivalents): Regular cleanup of these areas; preparation of the spill prevention control and countermeasure program, provide spill and overflow protection; minimizing runoff of storm water from adjacent areas; restricting access to the area; insertion of filters in adjacent catch basins; providing absorbent booms in unbermed fueling areas; using dry cleanup methods; and permanently sealing drains within critical areas that may discharge to a storm drain.

6.X.3.4 *Employee Training.* (See also Part 4.2.7.2.1.6) As part of your employee training program, address, at a minimum, the following activities (as applicable): Spent solvent management; spill prevention and control; used oil management; fueling procedures; and general good housekeeping practices.

6.Y Sector Y—Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Industries

6.Y.1 Covered Storm Water Discharges

The requirements in Part 6.Y apply to storm water discharges associated with industrial activity from Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Industries facilities as identified by the Activity Code specified under Sector Y in Table 1–1 of Part 1.2.1.

6.Y.2 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.Y.2.1 *Potential Pollutant Sources.* (See also Part 4.2.4) Review the use of zinc at your facility and the possible pathways through which zinc may be discharged in storm water runoff.

6.Y.2.2 *Controls for Rubber Manufacturers.* (See also Part 4.2.7) Describe and implement specific controls to minimize the discharge of zinc in your storm water discharges. Parts 6.Y.2.2.1 to 6.Y.2.2.5 give possible sources of zinc to be reviewed and list some specific BMPs to be considered for implementation (or their equivalents). Some general BMP options to consider: Using chemicals which are purchased in pre-weighed, sealed polyethylene bags; storing materials which are in use in sealable containers; ensuring an airspace between the container and the cover to minimize ''puffing'' losses when the container is opened; and using automatic dispensing and weighing equipment.

6.Y.2.2.1 *Inadequate Housekeeping.* Review the handling and storage of zinc bags at your facility. BMP options: Employee training on the handling/storage of zinc bags; indoor storage of zinc bags; cleanup zinc spills without washing the zinc into the storm drain, and the use of 2,500-pound sacks of zinc rather than 50- to 100-pound sacks;

6.Y.2.2.2 *Dumpsters.* Reduce discharges of zinc from dumpsters. BMP options: Covering the dumpster; moving the dumpster indoors; or provide a lining for the dumpster.

6.Y.2.2.3 *Malfunctioning Dust Collectors or Baghouses.* Review dust collectors/baghouses as possible sources in zinc in storm water runoff. Replace or repair, as appropriate, improperly operating dust collectors/baghouses.

6.Y.2.2.4 *Grinding Operations.* Review dust generation from rubber grinding operations and, as appropriate, install a dust collection system.

6.Y.2.2.5 *Zinc Stearate Coating Operations.* Detail appropriate measures to prevent or clean up drips/spills of zinc stearate slurry that may be released to the storm drain. BMP option: using alternate compounds to zinc stearate.

6.Y.2.3 *Controls for Plastic Products Manufacturers.* Describe and implement specific controls to minimize the discharge of plastic resin pellets in your storm water discharges. BMPs to be considered for implementation (or their equivalents): Minimizing spills; cleaning up of spills promptly and thoroughly; sweeping thoroughly; pellet capturing; employee education and disposal precautions.

6.Y.3 Monitoring and Reporting Requirements

(See also Part 5)

TABLE Y–1.—SECTOR-SPECIFIC NUMERIC EFFLUENT LIMITATIONS AND BENCHMARK MONITORING

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Tires and Inner Tubes; Rubber Footwear; Gaskets, Packing and Sealing Devices; Rubber Hose and Belting; and Fabricated Rubber Products, Not Elsewhere Classified (SIC 3011–3069, rubber manufacturing only).	Total Recoverable Zinc	0.117 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.Z Sector Z—Leather Tanning and Finishing

6.Z.1 Covered Storm Water Discharges

The requirements in Part 6.Z apply to storm water discharges associated with industrial activity from Leather Tanning and Finishing facilities as identified by the Activity Code specified under Sector Z in Table 1–1 of Part 1.2.1.

6.Z.2 Industrial Activities Covered by Sector Z

The types of activities that permittees under Sector Z are primarily engaged are leather tanning, curry and finishing;

6.Z.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.Z.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3)

Identify where any of the following may be exposed to precipitation/surface runoff: Processing and storage areas of the beamhouse, tanyard, and re-tan wet finishing and dry finishing operations; and haul roads, access roads and rail spurs.

6.Z.3.2 *Potential Pollutant Sources.* (See also Part 4.2.4)

At a minimum, describe the following additional sources and activities that have potential pollutants associated with them (as appropriate): Temporary or permanent storage of fresh and brine cured hides; extraneous hide substances and hair; leather dust, scraps, trimmings and shavings; chemical drums, bags, containers and above ground tanks; empty chemical containers and bags; spent solvents; floor sweepings/washings; refuse, waste piles and sludge; and significant dust/particulate generating processes (e.g., buffing).

6.Z.3.3 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.Z.3.3.1 *Storage Areas for Raw, Semiprocessed or Finished Tannery Byproducts.* Pallets/bales of raw, semiprocessed or finished tannery byproducts (*e.g.,* splits, trimmings, shavings, *etc.*) should be stored indoors or protected by polyethylene wrapping, tarpaulins, roofed storage, etc. Consider placing materials on an impermeable surface, and enclosing or putting berms (or equivalent measures) around the area to prevent storm water runon/runoff.

6.Z.3.3.2 *Material Storage Areas.* Label storage containers of all materials (*e.g.,* specific chemicals, hazardous materials, spent solvents, waste materials). Describe and implement measures that prevent/minimize contact with storm water.

6.Z.3.3.3 *Buffing and Shaving Areas.* Describe and implement measures that

prevent or minimize contamination of storm water runoff with leather dust from buffing/shaving areas. Consider dust collection enclosures, preventive inspection/maintenance programs or other appropriate preventive measures.

6.Z.3.3.4 *Receiving, Unloading, and Storage Areas.* Describe and implement measures that prevent or minimize contamination of storm water runoff from receiving, unloading, and storage areas. If these areas are exposed, consider (or their equivalent): Covering all hides and chemical supplies; diverting drainage to the process sewer; or grade berming/curbing area to prevent runoff of storm water.

6.Z.3.3.5 *Outdoor Storage of Contaminated Equipment.* Describe and implement measures that prevent or minimize contact of storm water with contaminated equipment. Consider (or their equivalent): Covering equipment; diverting drainage to the process sewer; and cleaning thoroughly prior to storage.

6.Z.3.3.6 *Waste Management.* Describe and implement measures that prevent or minimize contamination of storm water runoff from waste storage areas. Consider (or their equivalent): Inspection/maintenance programs for leaking containers or spills; covering dumpsters; moving waste management activities indoors; covering waste piles with temporary covering material such as tarpaulins or polyethylene; and minimizing storm water runoff by enclosing the area or building berms around the area.

6.AA Sector AA—Fabricated Metal Products

6.AA.1 Covered Storm Water Discharges

The requirements in Part 6.AA apply to storm water discharges associated with industrial activity from Fabricated Metal Products facilities as identified by the Activity Code specified under Sector AA in Table 1–1 of Part 1.2.1.

6.AA.2 Industrial Activities Covered by Sector AA

The types of activities that permittees under Sector AA are primarily engaged in are:

6.AA.2.1 fabricated metal products; except for electrical related industries;

6.AA.2.2 fabricated metal products; except machinery and transportation equipment;

6.AA.2.3 jewelry, silverware, and plated ware.

6.AA.3 Storm Water Pollution Prevention Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.AA.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Raw metal storage areas; finished metal storage areas; scrap disposal collection sites; equipment storage areas; retention and detention basins; temporary/permanent diversion dikes or berms; right-of-way or perimeter diversion devices; sediment traps/barriers; processing areas including outside painting areas; wood preparation; recycling; and raw material storage.

6.AA.3.2 *Spills and Leaks.* (See also Part 4.2.5) When listing significant spills/leaks, pay attention to the following materials at a minimum: Chromium, toluene, pickle liquor, sulfuric acid, zinc and other water priority chemicals and hazardous chemicals and wastes.

6.AA.3.3 *Potential Pollutant Sources.* (See also Part 4.2.4) Describe the following additional sources and activities that have potential pollutants associated with them: Loading and unloading operations for paints, chemicals and raw materials; outdoor storage activities for raw materials, paints, empty containers, corn cob, chemicals, and scrap metals; outdoor manufacturing or processing activities such as grinding, cutting, degreasing, buffing, brazing, etc; onsite waste disposal practices for spent solvents, sludge, pickling baths, shavings, ingots pieces, refuse and waste piles.

6.AA.3.4 *Good Housekeeping Measures.* (See also Part 4.2.7.2.1.1)

6.AA.3.4.1 *Raw Steel Handling Storage.* Describe and implement measures controlling or recovering scrap metals, fines and iron dust. Include measures for containing materials within storage handling areas.

6.AA.3.4.2 *Paints and Painting Equipment.* Describe and implement measures to prevent or minimize exposure of paint and painting equipment to storm water.

6.AA.3.5 *Spill Prevention and Response Procedures.* (See also Part 4.2.7.2.1.4) Ensure the necessary equipment to implement a clean up is available to personnel. The following areas should be addressed:

6.AA.3.5.1 *Metal Fabricating Areas.* Describe and implement measures for maintaining clean, dry, orderly conditions in these areas. Consider the use of dry clean-up techniques.

6.AA.3.5.2 *Storage Areas for Raw Metal.* Describe and implement measures to keep these areas free of condition that could cause spills or leakage of materials. Consider the following (or their equivalents): Maintaining storage areas such that there is easy access in the event of a spill; and labeling stored materials to aid in identifying spill contents.

6.AA.3.5.3 *Receiving, Unloading, and Storage Areas.* Describe and implement measures to prevent spills and leaks; plan for quick remedial clean up; and instruct employees on clean-up techniques and procedures.

6.AA.3.5.4 *Storage of Equipment.* Describe and implement measures for preparing equipment for storage and the proper storage of equipment. Consider the following (or their equivalents): Protecting with covers; storing indoors; and cleaning potential pollutants from equipment to be stored outdoors.

6.AA.3.5.5 *Metal Working Fluid Storage Areas.* Describe and implement measures for storage of metal working fluids.

6.AA.3.5.6 *Cleaners and Rinse Water.* Describe and implement measures: To control/cleanup spills of solvents and other liquid cleaners; control sand buildup and disbursement from sand-blasting operations; and prevent exposure of recyclable wastes. Substitute environmentally-benign cleaners when possible.

6.AA.3.5.7 *Lubricating Oil and Hydraulic Fluid Operations.* Consider using monitoring equipment or other devices to detect and control leaks/overflows. Consider installing perimeter controls such as dikes, curbs, grass filter strips or other equivalent measures.

6.AA.3.5.8 *Chemical Storage Areas.* Describe and implement proper storage methods that prevent storm water contamination and accidental spillage. Include a program to inspect containers and identify proper disposal methods.

6.AA.3.6 *Inspections.* (See also Part 4.2.7.2.1.5) Include, at a minimum, the following areas in all inspections: Raw metal storage areas; finished product storage areas; material and chemical storage areas; recycling areas; loading and unloading areas; equipment storage areas; paint areas; vehicle fueling and maintenance areas.

6.AA.3.7 *Comprehensive Site Compliance Evaluation.* (See also Part 4.9.2) As part of your evaluation, also inspect: Areas associated with the storage of raw metals; storage of spent solvents and chemicals; outdoor paint areas; and drainage from roof. Potential pollutants include chromium, zinc, lubricating oil, solvents, aluminum, oil and grease, methyl ethyl ketone, steel and other related materials.

6.AA.4 Monitoring and Reporting Requirements

(See also Part 5)

TABLE AA–1.—SECTOR-SPECIFIC NUMERIC LIMITATIONS AND BENCHMARK MONITORING

[Part of permit affected/supplemental requirements]

Subsector [1]	Parameter	Benchmark monitoring cut-off concentration [2]	Numeric limitation
Fabricated Metal Products Except Coating (SIC 3411–3471, 3482–3499, 3911–3915).	Total Recoverable Aluminum.	0.75 mg/L.	
	Total Recoverable Iron	1.0 mg/L.	
	Total Recoverable Zinc	0.117 mg/L.	
	Nitrate plus Nitrite Nitrogen	0.68 mg/L.	
Fabricated Metal Coating and Engraving (SIC 3479)	Total Recoverable Zinc	0.117 mg/L.	
	Nitrate plus Nitrite Nitrogen	0.068 mg/L.	

[1] Discharges may be subject to requirements for more than one sector/subsector.
[2] Monitor once/quarter for the year 2 and year 4 Monitoring Years.

6.AB Sector AB—Transportation Equipment, Industrial or Commercial Machinery

6.AB.1 Covered Storm Water Discharges

The requirements in Part 6.AB apply to storm water discharges associated with industrial activity from Transportation Equipment, Industrial or Commercial Machinery facilities as identified by the Activity Code specified under Sector AB in Table 1–1 of Part 1.2.1.

6.AB.2 Industrial Activities Covered by Sector AB

The types of activities that permittees under Sector AB are primarily engaged in are:

6.AB.2.1 industrial plant yards;
6.AB.2.2 material handling sites;
6.AB.2.3 refuse sites;
6.AB.2.4 sites used for application or disposal of process wastewaters;
6.AB.2.5 sites used for storage and maintenance of material handling equipment;
6.AB.2.6 sites used for residual treatment, storage, or disposal;
6.AB.2.7 shipping and receiving areas;
6.AB.2.8 manufacturing buildings;
6.AB.2.9 storage areas for raw material and intermediate and finished products;
6.AB.2.1 areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

6.AB.3 Storm Water Pollution Plan (SWPPP) Requirements

In addition to the following requirements, you must also comply with the requirements listed in Part 4.

6.AB.3.1 *Drainage Area Site Map.* (See also Part 4.2.2.3) Identify where any of the following may be exposed to precipitation/surface runoff: Vents and stacks from metal processing and similar operations.

6.AB.3.2 *Non-Storm Water Discharges.* (See also Part 4.4) If your facility has a separate NPDES permit (or has applied for a permit) authorizing discharges of wastewater, attach a copy of the permit (or the application) to your SWPPP. Any new wastewater permits issued/reissued to you must then replace the old one in your SWPPP. If you discharge wastewater, other than solely domestic wastewater, to a Publicly Owned Treatment Works (POTW), you must notify the POTW of the discharge (identify the types of wastewater discharged, including any storm water). As proof of this notification, attach to your SWPPP a copy of the permit issued to your facility by the POTW or a copy of your notification to the POTW.

6.AC Sector AC—Electronic, Electrical Equipment and Components, Photographic and Optical Goods

6.AC.1 Covered Storm Water Discharges

The requirements in Part 6.AC apply to storm water discharges associated with industrial activity from facilities that manufacture Electronic, Electrical Equipment and Components, Photographic and Optical Goods as identified by the SIC Codes specified in Table 1–1 of Part 1.2.1.

6.AC.2 Industrial Activities Covered by Sector AC

The types of manufacturing activities that permittees under Sector AC are primarily engaged in are:

6.AC.2.1 measuring, analyzing, and controlling instruments;
6.AC.2.2 photographic, medical and optical goods;
6.AC.2.3 watches and clocks; and
6.AC.2.4 computer and office equipment.

6.AC.3 Additional Requirements

No additional sector-specific requirements apply to this sector.

6.AD Storm Water Discharges Designated By the Director As Requiring Permits

6.AD.1 Covered Storm Water Discharges

Sector AD is used to provide permit coverage for facilities designated by the Director as needing a storm water permit, or any discharges of industrial activity that do not meet the description of an industrial activity covered by Sectors A–AC. Therefore, almost any type of storm water discharge could be covered under this sector. You must be assigned to Sector AD by the Director and may NOT choose sector AD as the sector describing your activities on your own.

6.AD.1.1 *Eligibility for Permit Coverage.* Because this Sector only covers discharges designated by the Director as needing a storm water permit (which is an atypical circumstance) or your facility's industrial activities were inadvertently left out of Sectors A–AC, and your facility may or may not normally be discharging storm water associated with industrial activity, you must obtain the Director's written permission to use this permit prior to submitting a Notice of Intent. If you are authorized to use this permit, you will be required to ensure your discharges meet the basic eligibility provisions of this permit at Part 1.2.

6.AD.4 Storm Water Pollution Prevention Plan (SWPPP) Requirements

The Director will establish any additional storm water pollution prevention plan requirements for your facility at the time of accepting your Notice of Intent to be covered by this

permit. Additional requirements would be based on the nature of activities at your facility and your storm water discharges.

6.AD.5 Monitoring and Reporting Requirements

The Director will establish any additional monitoring and reporting requirements for your facility at the time of accepting your Notice of Intent to be covered by this permit. Additional requirements would be based on the nature of activities at your facility and your storm water discharges.

7. Reporting

7.1 Reporting Results of Monitoring

Depending on the types of monitoring required for your facility, you may have to submit the results of your monitoring or you may only have to keep the results with your pollution prevention plan. You must follow the reporting requirements and deadlines in Table 7–1 that apply to the types of monitoring that apply to your facility.

If required, you must submit analytical monitoring results obtained from each outfall associated with industrial activity (or a certification as per 5.3.1) on a Discharge Monitoring Report (DMR) form (one form must be submitted for each storm event sampled). An example of a form is found in the *Guidance Manual for the Monitoring and Reporting Requirements of the NPDES Storm Water Multi-Sector General Permit.* A copy of the DMR is also available on the Internet at *www.epa.gov/owm/sw/permits-and-forms/index.htm* The signed DMR must be sent to: MSGP DMR (4203), US EPA, 401 M Street, SW, Washington, DC 20460.

Note: If EPA notifies dischargers (either directly, by public notice or by making information available on the Internet) of other DMR form options that become available at a later date (e.g., electronic submission of forms), you may take advantage of those options to satisfy the DMR use and submission requirements of Part 7.

TABLE 7–1.—DMR/ALTERNATIVE CERTIFICATION SUBMISSION DEADLINES

Type of monitoring	Reporting deadline (postmark)
Monitoring for numeric limitations	Submit results by the 28th day of the month following the monitoring period.
Benchmark monitoring:.	
Monitoring year 2001–2002	Save and submit all results for year in one package by January 28, 2003.
Monitoring year 2003–2004	Save and submit all results for year in one package by January 28, 2005.
Biannual monitoring for metal mining facilities (see Part 6.G)	Save and submit all results for year in one package by January 28 of the year following the monitoring year.
Visual monitoring	Retain results with SWPPP—do not submit unless requested to do so by permitting authority.
State/Tribal/Territory-specific monitoring	See Part 13 (conditions for specific States, indian country, and territories).

7.2 Additional Reporting for Dischargers to a Large or Medium Municipal Separate Storm Sewer System

If you discharge storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more), you must also submit signed copies of your discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in Table 7–1.

7.3 Miscellaneous Reports

You must submit any other reports required by this permit to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part 8.3.

8. Retention of Records

8.1 Documents

You must retain copies of storm water pollution prevention plans and all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the facility's coverage under this permit expires or is terminated. This period may be extended by request of the Director at any time.

8.2 Accessibility

You must retain a copy of the storm water pollution prevention plan required by this permit (including a copy of the permit language) at the facility (or other local location accessible to the Director, a State, Tribal or Territorial agency with jurisdiction over water quality protection; local government officials; or the operator of a municipal separate storm sewer receiving discharges from the site) from the date of permit coverage to the date of permit coverage ceases.

8.3 Addresses

Except for the submittal of NOIs and NOTs (see Parts 2.1 and 11.2, respectively), all written correspondence concerning discharges in any State, Indian Country land, Territory, or from any Federal facility covered under this permit and directed to the EPA, including the submittal of individual permit applications, must be sent to the address of the appropriate EPA Regional Office listed below:

8.3.1 Region 1: CT, MA, ME, NH, RI, VT

EPA Region 1, Office of Ecosystem Protection, One Congress Street—CMU, Boston, MA 02114.

8.3.2 Region 2: NJ, NY, PR, VI

United States EPA, Region 2, Caribbean Environmental Protection Division, Environmental Management Branch, Centro Europa Building, 1492 Ponce de Leon Ave., Suite 417, San Juan, PR 00907–4127.

8.3.3 Region 3: DE, DC, MD, PA, VA, WV

EPA Region 3, Water Protection Division (3WP13), Storm Water Coordinator, 1650 Arch Street, Philadelphia, PA 19103.

8.3.4 Region 4: AL, FL, GA, KY, MS, NC, SC, TN

Environmental Protection Agency, Region 4, Clean Water Act Enforcement Section, Water Programs Enforcement Branch, Water Management Division,

Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303.

8.3.5 Region 5: IL, IN, MI, MN, OH, WI (Coverage Not Available Under this Permit)

8.3.6 Region 6: AR, LA, OK, TX, NM (except see Region 9 for Navajo lands, and see Region 8 for Ute Mountain Reservation lands)

United States EPA, Region 6, Storm Water Staff, Enforcement and Compliance Assurance Division (GEN–WC), EPA SW Construction GP, P.O. Box 50625, Dallas, TX 75205.

8.3.7 Region 7: (Coverage Not Available Under this Permit)

8.3.8 Region 8: CO, MT, ND, SD, WY, UT (except see Region 9 for Goshute Reservation and Navajo Reservation lands), the Ute Mountain Reservation in NM, and the Pine Ridge Reservation in NE

United States EPA, Region 8, Ecosystems Protection Program (8EPR–EP), Storm Water Staff, 999 18th Street, Suite 500, Denver, CO 80202–2466.

8.3.9 Region 9: AZ, CA, HI, NV, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Duck Valley Reservation in ID, Fort McDermitt Reservation in OR

United States EPA, Region 9, Water Management Division, WTR–5, Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105.

8.3.10 Region 10: AK, WA, ID (except see Region 9 for Duck Valley Reservation lands), OR (except see Region 9 for Fort McDermitt Reservation)

United States EPA, Region 10, Office of Water OW–130, Storm Water Staff, 1200 6th Avenue, Seattle, WA 98101.

8.4 State, Tribal, and Other Agencies

The following addresses are provided for convenience and to accommodate any special reporting requirements under Part 13 of the Permit. Reserved

9. Standard Permit Conditions

9.1 Duty To Comply

9.1.1 You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

9.1.2 Penalties for Violations of Permit Conditions: The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (**Federal Register:** December 31, 1996, Volume 61, Number 252, pages 69359–69366, as corrected, March 20, 1997, Volume 62, Number 54, pages 13514–13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every four years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties listed below were adjusted for inflation starting in 1996.

9.1.2.1 Criminal Penalties

9.1.2.1.1 *Negligent Violations.*

The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

9.1.2.1.2 *Knowing Violations.*

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

9.1.2.1.3 *Knowing Endangerment.*

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

9.1.2.1.4 *False Statement.*

The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309(c)(4) of the Clean Water Act).

9.1.2.2 Civil Penalties

The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation.

9.1.2.3 Administrative Penalties

The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

9.1.2.3.1 *Class I Penalty.*

Not to exceed $11,000 per violation nor shall the maximum amount exceed $27,500.

9.1.2.3.2 *Class II Penalty.*

Not to exceed $11,000 per day for each day during which the violation continues nor shall the maximum amount exceed $137,500.

9.2 Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

9.2.1 Reissuance or replacement of this permit, at which time you must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or

9.2.2 your submittal of a Notice of Termination; or

9.2.3 issuance of an individual permit for your discharges; or

9.2.4 a formal permit decision by the Director not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

9.3 Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

9.4 Duty To Mitigate

You must take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

9.5 Duty To Provide Information

You must furnish to the Director or an authorized representative of the Director any information which is requested to determine compliance with this permit or other information.

9.6 Other Information

When you becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she must promptly submit such facts or information.

9.7 Signatory Requirements

All Notices of Intent, Notices of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by you, must be signed as follows:

9.7.1 All Notices of Intent and Notices of Termination must be signed as follows:

9.7.1.1 for a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

9.7.1.2 for a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

9.7.1.3 for a municipality, State, Federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

9.7.2 All reports required by this permit and other information must be signed as follows:

9.7.2.1 all reports required by this permit and other information requested by the Director or authorized representative of the Director must be signed by a person described in Part 9.7.1 or by a duly authorized representative of that person.

9.7.2.2 A person is a duly authorized representative only if the authorization is made in writing by a person described Part 9.7.1 and submitted to the Director.

9.7.2.3 The authorization must specify either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

9.7.3 Changes to Authorization

If the information on the NOI filed for permit coverage is no longer accurate because a different operator has responsibility for the overall operation of the facility, a new Notice of Intent satisfying the requirements of Part 2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative. The change in authorization must be submitted within the time frame specified in Part 2.1, and sent to the address specified in Part 2.4.

9.7.4 Certification

Any person signing documents under Part 9.7 must make the following certification:

''I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.''

9.8 Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or by both.

9.9 Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve you from any responsibilities, liabilities, or penalties to which you are or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

9.10 Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

9.11 Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

9.12 Requiring Coverage Under an Individual Permit or an Alternative General Permit

9.12.1 Eligibility for this permit does not confer a vested right to coverage under the permit. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a permittee authorized to discharge under this permit to apply for an individual NPDES permit, the Director will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for you to file the application, and a statement that on the effective date of

issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit will automatically terminate. Applications must be submitted to the appropriate Regional Office indicated in Part 8.3 of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a permittee fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.

9.12.2 Any permittee authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, you must submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the appropriate Regional Office indicated in Part 8.3 of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by you are adequate to support the request.

9.12.3 When an individual NPDES permit is issued to a permittee otherwise subject to this permit, or the permittee is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

9.12.4 The Director's notification that coverage under an alternative permit is required does not imply that any discharge that did not or does not meet the eligibility requirements of Part 1.2 is or has been covered by this permit.

9.13 State/Tribal Environmental Laws

9.13.1 Nothing in this permit will be construed to preclude the institution of any legal action or relieve you from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by section 510 of the Act.

9.13.2 No condition of this permit releases you from any responsibility or requirements under other environmental statutes or regulations.

9.14 Proper Operation and Maintenance

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by you to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of this permit.

9.15 Inspection and Entry

You must allow the Director or an authorized representative of EPA, the State/Tribe, or, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the municipal owner/operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

9.15.1 Enter upon the your premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

9.15.2 Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and

9.15.3 Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

9.16 Monitoring and Records

9.16.1 Representative Samples/ Measurements

Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

9.16.2 Retention of Records

9.16.2.1 You must retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the application of this permit for a period of at least three (3) years from the date of sample, measurement, evaluation or inspection, report, or application. This period may be extended by request of the Director at any time. Permittees must submit any such records to the Director upon request.

9.16.2.2 You must retain the pollution prevention plan developed in accordance with Part 4 of this permit until a date 3 years after the last modification or amendment is made to the plan, and at least 1 year after coverage under this permit terminates.

9.16.3 *Records Contents.* Records of monitoring information must include:

9.16.3.1 The date, exact place, and time of sampling or measurements;

9.16.3.2 The initials or name(s) of the individual(s) who performed the sampling or measurements;

9.16.3.3 The date(s) analyses were performed;

9.16.3.4 The time(s) analyses were initiated;

9.16.3.5 The initials or name(s) of the individual(s) who performed the analyses;

9.16.3.6 References and written procedures, when available, for the analytical techniques or methods used; and

9.16.3.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

9.16.4 Approved Monitoring Methods

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

9.17 Permit Actions

This permit may be modified; revoked and reissued; or terminated for cause. Your filing of a request for a permit modification; revocation and reissuance; or your submittal of a notification of planned changes or anticipated non-compliance also does not stay any permit condition

10. Reopener Clause

10.1 Water Quality Protection

If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause, or contribute to a violation of a water quality standard, you may be required to obtain an individual permit or an alternative general permit in accordance with Part 3.3 of this permit, or the permit may be modified to include different limitations and/or requirements.

10.2 Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

11. Transfer or Termination of Coverage

11.1 Transfer of Permit Coverage

Automatic transfers of permit coverage under 40 CFR 122.61(b) are not allowed for this general permit.

11.1.1 Transfer of coverage from one operator to a different operator (*e.g.,* facility sold to a new company): The new owner/operator must complete and file an NOI in accordance with Part 1.3 at least 2 days prior to taking over operational control of the facility. The old owner/operator may file an NOT (Notice of Termination) following acceptance of operational control by the new owner/operator.

11.1.2 Simple name changes of the permittee (*e.g.,* Company ''A'' changes name to ''ABC, Inc.'' or Company ''B'' buys out Company ''A'') may be done by filing an amended NOI referencing the facility's assigned permit number and requesting a simple name change.

11.2 Notice of Termination (NOT)

You must submit a completed Notice of Termination (NOT) that is signed in accordance with Part 9.7 when one or more of the conditions contained in Part 1.4 (Terminating Coverage) have been met. The NOT form found in Addendum E will be used unless it has been replaced by a revised version by the Director. The Notice of Termination must include the following information:

11.2.1 The NPDES permit number for the storm water discharge identified by the Notice of Termination;

11.2.2 An indication of whether the storm water discharges associated with industrial activity have been eliminated (*i.e.,* regulated discharges of storm water are being terminated); you are no longer an operator of the facility; or you have obtained coverage under an alternative permit;

11.2.3 The name, address and telephone number of the permittee submitting the Notice of Termination;

11.2.4 The name and the street address (or a description of location if no street address is available) of the facility for which the notification is submitted;

11.2.5 The latitude and longitude of the facility; and

11.2.6 The following certification, signed in accordance with Part 9.7 (signatory requirements) of this permit. For facilities with more than one permittee and/or operator, you need only make this certification for those portions of the facility where the you were authorized under this permit and not for areas where the you were not an operator:

''I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that authorized by a general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.''

11.3 Addresses

All Notices of Termination must be submitted using the form provided by the Director (or a photocopy thereof) to the address specified on the NOT form.

11.4 Facilities Eligible for ''No Exposure'' Exemption for Storm Water Permitting

By filing a certification of ''No Exposure'' under 40 CFR 122.26(g), you are automatically removed from permit coverage and a NOT to terminate permit coverage is not required.

12. Definitions

''Best Management Practices'' (''BMPs'') means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

''Control Measure'' as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

''Commencement of Construction'' the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

''CWA'' means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*

''Director'' means the Regional Administrator of the Environmental Protection Agency or an authorized representative.

''Discharge'' when used without qualification means the ''discharge of a pollutant.''

''Discharge of Storm Water Associated with Construction Activity'' as used in this permit, refers to a discharge of pollutants in storm water runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow areas, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located. (See 40 CFR 122.26(b)(14)(x) and 40 CFR 122.26(b)(15) for the two regulatory definitions on regulated storm water associated with construction sites)

''Discharge of Storm Water Associated with Industrial Activity'' is defined at 40 CFR 122.26(b)(14).

''Facility or Activity'' means any NPDES ''point source'' or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

''Flow-Weighted Composite Sample'' means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

''Industrial Activity'' as used in this permit refers to the eleven categories of industrial activities included in the definition of ''discharges of storm water associated with industrial activity''.

''Industrial Storm Water'' as used in this permit refers to storm water runoff associated with the definition of ''discharges of storm water associated with industrial activity''.

''Large and Medium Municipal Separate Storm Sewer System''—means all municipal separate storm sewers that are either:

1. Located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR part 122); or

2. Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR part 122); or

3. Owned or operated by a municipality other than those described

in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

''Municipal Separate Storm Sewer'' is defined at 40 CFR 122.26.

''No exposure'' means that all industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff.

''NOI'' means Notice of Intent to be covered by this permit (see Part 2 of this permit.)

''NOT'' means Notice of Termination (see Part 11.2 of this permit).

''Owner or operator'' means the owner or operator of any ''facility or activity'' subject to regulation under the NPDES program.

''Point source'' means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

''Pollutant'' is defined at 40 CFR 122.2. A partial listing from this definition includes: Dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

''Runoff coefficient'' means the fraction of total rainfall that will appear at the conveyance as runoff.

''Special Aquatic Sites,'' as defined at 40 CFR 230.3(q–1), means those sites identified in 40 CFR part 230 Subpart E. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region. (See 40 CFR 230.10(a)(3)).

''Storm Water'' means storm water runoff, snow melt runoff, and surface runoff and drainage.

''Storm Water Associated with Industrial Activity'' refers to storm water, that if allowed to discharge, would constitute a ''discharge of storm water associated with industrial activity'' as defined at 40 CFR 122.26(b)(14) and incorporated here by reference. Most relevant to this permit is 40 CFR 122.26(b)(14)(x), which relates to construction activity including clearing, grading and excavation activities that result in the disturbance of five (5) or more acres of total land area, or are part of a larger common plan of development or sale.

''Waters of the United States''—means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

2. All interstate waters, including interstate ''wetlands'';

3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;

b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

c. Which are used or could be used for industrial purposes by industries in interstate commerce;

4. All impoundments of waters otherwise defined as waters of the United States under this definition;

5. Tributaries of waters identified in paragraphs (1) through (4) of this definition;

6. The territorial sea; and

7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1. through 6. of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds for steam electric generation stations per 40 CFR 423) which also meet the criteria of this definition) are not waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

''You'' and ''Your'' as used in this permit is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party's facility or responsibilities. The use of ''you'' and ''your'' refers to a particular facility and not to all facilities operated by a particular entity. For example, ''you must submit'' means the permittee must submit something for that particular facility. Likewise, ''all your discharges'' would refer only to discharges at that one facility.

13. Permit Conditions Applicable to Specific States, Indian Country Lands, or Territories

The provisions of Part 13 provide modifications or additions to the applicable conditions of Parts 1 through 12 of this permit to reflect specific additional conditions required as part of the State or Tribal CWA Section 401 certification process, or Coastal Zone Management Act certification process, or as otherwise established by the permitting authority. The additional revisions and requirements listed below are set forth in connection with, and only apply to, the following States, Indian Country lands and Federal facilities.

[Reserved for Final Permit Decision Pending Completion of Required Consultations and State/Tribal Certification Processes]

Addendum A—Endangered Species Guidance

Note: The following is a model of what the Endangered Species Guidance may look like. Final guidance will be prepared to reflect any requirements resulting from any required consultations under the Endangered Species Act on issuance of this permit. This example is based on the general process used in the 1995 MSGP and the 1998 Construction General Permits issued by EPA.

I. Assessing Permit Eligibility Regarding Endangered Species

A. Background

To meet its obligations under the Clean Water Act and the Endangered Species Act (ESA) and to promote those Acts' goals, the Environmental Protection Agency (EPA) is seeking to ensure the activities regulated by this Multi-sector General Permit (MSGP) avoid unacceptable effects on endangered and threatened species and critical habitat. To ensure that those goals are met, applicants for MSGP coverage are required under Part 1.2.3.6 to assess the impacts of their storm water discharges, allowable non-storm water discharges, and discharge-related activities on Federally listed endangered and threatened species (''listed species'') and designated critical habitat (''critical habitat'') by following the process listed below. EPA strongly recommends that you follow these steps at the earliest possible stage to ensure that measures to protect listed species and critical habitat are incorporated early in your planning process.

You also have an independent ESA obligation to ensure that your activities do not result in any prohibited ''takes'' of listed species.[13] Many of the measures required in the MSGP and in these instructions to protect species may also assist you in ensuring that your activities do not result in a prohibited take of species in violation of section 9 of the ESA. If you have or plan activities in areas that harbor endangered and threatened species, you may wish to ensure that you are protected from potential takings liability under ESA section 9 by obtaining an ESA section 10 permit or, if there is a separate federal action regarding the facility, by requesting formal consultation under ESA section 7 regarding that action. If you are not sure whether to pursue a section 10 permit or a section 7 consultation for takings protection, you should confer with the appropriate Fish and Wildlife Service (FWS) and/or National Marine Fisheries Service (NMFS) (collectively the ''Services'') office.

B. How Does The Basic Eligibility Assessment Process Work?

In order to determine if you are eligible to use the permit, you need to go through a series of steps to determine:

1. Are there any listed endangered or threatened species or critical habitat in proximity to your facility or the point where your discharges reach a receiving water?
2. If there are listed species in proximity, are your discharges or discharge-related activities going to adversely affect them?
3. If adverse effects on listed species or critical habitat are likely, what can you do to eliminate or reduce these effects?
4. Have any adverse effects already been addressed under the Endangered Species Act?
5. Which, if any, of the eligibility criteria make you eligible for permit coverage?

C. What Are the Eligibility Criteria?

The Part 1.2.3.6 eligibility requirement may be satisfied by documenting that one or more of the following criteria has been met:

Criteria A. *No Listed Species or Critical Habitat are in Proximity to Your Facility or the Point Where Authorized Discharges Reach a Water of the United States (See Part 1.2.3.6.3.1)*

Using the latest County Species List available from EPA and any other relevant information sources, you have determined that no listed species or critical habitat are in proximity to your facility. Listed species and critical habitat are in proximity to a facility when they are:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from industrial activities to the point of discharge into the receiving water. This may also include areas where storm water from your facility enters groundwater that has a direct hydrological connection to a receiving water (e.g., groundwater infiltrates at your facility and re-emerges to enter a surface waterbody within a short period of time.)
- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.
- Located in the area of a facility where storm water BMPs are planned or are to be constructed.

Please be aware that no protection from incidental takings liability is provided under this criteria.

Criteria B. *An ESA Section 7 Consultation has Been Performed for a Separate Federal Action Regarding Your Facility (See Part 1.2.3.6.3.2)*

A formal or informal ESA section 7 consultation on a separate federal action (e.g., New Source review under NEPA, application for a dredge and fill permit under CWA section 404, application for an individual NPDES permit, etc.) addressed the effects of your discharges and discharge-related activities on listed species and critical habitat. If your facility was the subject of a formal consultation, it must have resulted in either a ''no jeopardy opinion'' or a ''jeopardy opinion'' and you agree to implement any reasonable and prudent alternatives or other conditions upon which the consultation was based. If your facility was the subject of an informal consultation, it must have resulted in a written concurrence by the Service(s) on a finding that the applicant's activities are not likely to adversely affect listed species or critical habitat (for informal consultation, see 50 CFR 402.13).

Criteria C. *An Incidental Taking Permit Under Section 10 of the ESA was Issued for Your Facility (See Part 1.2.3.6.3.3)*

You have a permit under section 10 of the ESA and that authorization addresses the effects of your wastewater and storm water discharges and discharge-related activities on listed species and critical habitat. Note: You must follow FWS/NMFS procedures when applying for an ESA section 10 permit (see 50 CFR 17.22(b)(1)).

Criteria D. *You have Determined Adverse Effects are Not Likely (See Part 1.2.3.6.3.4)*

Using due diligence, you have investigated potential effects your discharges and discharges-related activities may have on listed species and critical habitat and have no reason to believe there would be adverse effects. Any terms and/or conditions to protect listed species and critical habitat you relied on in order to determine adverse effects would be unlikely must be incorporated into your Pollution Prevention Plan (required by the permit) and implemented in order to maintain permit eligibility.

Please be aware that no protection from incidental takings liability is provided under this criteria.

Criteria E. *Your Facility Was Covered Under the Eligibility Certification of Another Operator for the Facility Area (See Part 1.2.3.6.3.5)*

Your storm water discharges, allowable non-storm water discharges, and discharge-related activities were already addressed in another operator's certification of eligibility under Part 1.2.3.6.3 which covered your facility. By certifying eligibility under Part 1.2.3.6.3.4, you agree to comply with any measures or controls upon which the other operator's certification under Part 1.2.3.6.3 was based.

Please be aware that in order to meet the permit eligibility requirements by relying on another operator's certification of eligibility, the other operator's certification must apply to the location of your facility and must address the effects from your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat. This situation will typically occur where an ownership of a facility covered by this permit changes or when there are multiple operators within an industrial park or an airport. However, before you rely on another operator's certification, you should carefully review that certification along with any supporting information. You also need to confirm that no additional species have been listed or critical habitat designated in the area of your facility since the other operator's endangered species assessment was done. If you do not believe that the other operator's certification provides adequate coverage for your facility, you should provide

[13] Section 9 of the ESA prohibits any person from ''taking'' a listed species (*e.g.,* harassing or harming it) unless: (1) The taking is authorized through a ''incidental take statement'' as part of undergoing ESA section 7 formal consultation; (2) where an incidental take permit it obtained under ESA section 10 (which requires the development of a habitat conservation plan); or (3) where otherwise authorized or exempted under the ESA. This prohibition applies to all entities including private individuals, businesses, and governments.

your own independent endangered species assessment and certification.

Please be aware that no protection from incidental takings liability is provided under this criteria.

D. What Procedures Do I Use To Determine if an Eligibility Criteria Can Be Satisfied?

CAUTION: Additional endangered and threatened species have been listed and critical habit designated since the 1995 MSGP was issued and will continue to be added after the effective date of this permit. You must verify any earlier determination of eligibility is still valid before relying on that assessment to certify eligibility for this permit. Where applicable, you may incorporate information from your previous endangered species analysis in your documentation of eligibility for this permit.

To determine eligibility, you must assess (or have previously assessed) the potential effects of your storm water discharges, allowable non-storm water discharges and discharge-related activities on listed species and critical habitat. PRIOR to completing and submitting Notice of Intent (NOI) form, you must follow the steps outlined below and document the results of your eligibility determination.

Step One: Are there any endangered species or critical habitat in your county (or other area) and if so, are they in proximity to your facility or discharge locations?

1–A. *Check for Listed Species.* Look in the latest county species list to see if any listed species are found where your facility and discharge point(s) are located. If you are located in close to the border of a county or your facility is located in one county and your discharge points are located in another, you must look under both counties. Since species are listed and de-listed periodically, you will need the most current list at the time you are doing your endangered species assessment. EPA's most current county-species list is on the Internet at *www.epa.gov/owm/esalst2.htm.*

=>*Proceed to 1–B*

1–B. *Check for Critical Habitat.* Some (but not all) listed species have designated critical habitat. Exact locations of such habitat is provided in the endangered species regulations at 50 CFR part 17 and part 226. To determine if facility or discharge locations are within designated critical habitat, you should either:

- Review those regulations (which can be found in many larger libraries); or
- Contact the nearest Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) Office. A list of FWS and NMFS offices is found at section II of this Addendum, or
- Contact the State Natural Heritage centers. These centers compile and disseminate information on Federally listed and other protected species. They frequently have the most current information on listed species and critical habitat. A list of these centers is provided in section III of the Addendum.

=>*Proceed to 1–C.*

1–C. *Check for Proximity.* If there are listed species in your county, are they in proximity to your facility or discharge locations? You will need to use the proximity criteria in Eligibility Criteria A to determine if the listed species are in your part of the county. The area in proximity to be searched/surveyed for listed species will vary with the size of the facility, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of facilities potentially covered by the MSGP, no specific method to determine whether species are in proximity is required for permit coverage under the MSGP. Instead, you should use the method or methods which best allow you to determine to the best of their knowledge whether species are in proximity to your particular facility. These methods may include:

- *Conducting visual inspections.* This method may be particularly suitable for facilities that are smaller in size, facilities located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no nature habitat; and facilities that discharge directly into municipal storm water collection systems. For other facilities, a visual survey of the facility site and storm water drainage areas may be insufficient to determine whether species are likely to be located in proximity to the discharge.
- *Contacting the nearest State Wildlife Agency or U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) offices.* Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to state or federal wildlife agencies. FWS has offices in every state. NMFS has regional offices in: Gloucester, Massachusetts; St. Petersburg, Florida; Long Beach, California; Portland, Oregon; and Juneau, Alaska.
- *Contacting local/regional conservation groups.* These groups inventory species and their locations and maintain lists of sightings and habitats.
- *Conducting a formal biological survey.* Larger facilities with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.

If neither your facility nor discharge locations are located in designated critical habitat, then you need not consider impacts to critical habitat when following Steps Two through Five below. If your facility or discharge locations are located within critical habitat, then you must look at impacts to critical habitat when following Steps Two through Five. EPA notes that many measures imposed to protect listed species under these steps will also protect critical habitat. However, obligations to protect habitat under this permit are separate from those of protecting listed species. Thus, meeting the eligibility requirements of this permit may require measures to protect critical habitat that are separate from those to protect listed species.

=>*Proceed to 1–D*

1–D. *Check for Criteria ''A'' Eligibility.* IF NO SPECIES WERE LISTED FOR YOUR COUNTY OR THE SPECIES THAT WERE LISTED WERE NOT IN PROXIMITY TO YOUR DISCHARGE *AND* YOUR FACILITY AND DISCHARGE LOCATIONS WERE NOT IN PROXIMITY TO CRITICAL HABITAT, YOU ARE ELIGIBLE UNDER CRITERIA ''A''. Document your endangered species assessment and certify eligibility under Part 1.2.3.6.3.1 of the permit. Congratulations, go to Step Five!

=> *If There Were Listed Species or Critical Habitat, Proceed to Step Two*

Step Two: Can You Meet Eligibility Criteria ''B'', ''C'', or ''E''?

2–A *Check for Criteria ''B'', ''C'', or ''E''* Basis Do one of the following apply:

- There was a competed consultation under ESA section 7 for your facility (Criteria B) => proceed to 2–B
- There is a previously issued ESA section 10 permit for your facility (Criteria C) => proceed to 2–C
- Another operator previously certified eligibility for the area where your facility is located (Criteria E) => proceed to 2–D

=> *If no, Proceed to Step Three*

2–B *Check for Criteria ''B'' Eligibility* Did the previously completed ESA section 7 consultation consider all currently listed species and critical

habitat and address your storm water, allowable non-storm water, and discharge related activities?

=> If no, Proceed to Step Three

2–B–1 Did the ESA section 7 consultation result in a either a ''no jeopardy'' opinion by the Service (for formal consultations) or a concurrence by the service that your activities would be ''unlikely to adversely affect'' listed species or critical habitat?

=> If no, Proceed to Step Three

2–B–2 IF YOU AGREE TO IMPLEMENT ANY MEASURES UPON WHICH THE CONSULTATION WAS CONDITIONED, YOU ARE ELIGIBLE UNDER CRITERIA ''B''. Incorporate any necessary measures into your Storm Water Pollution Prevention Plan, document your endangered species assessment, and certify eligibility under Part 1.2.3.6.3.2. Congratulations, go to Step Five!

=> If You Do Not Agree to Implement Conditions Upon Which the Consultation was Based, Proceed to Step Three

2–C *Check for Criteria ''C'' Eligibility* IF YOUR ESA SECTION 10 PERMIT CONSIDERED ALL CURRENTLY LISTED SPECIES AND CRITICAL HABITAT AND ADDRESSES YOUR STORM WATER, ALLOWABLE NON-STORM WATER, AND DISCHARGE RELATED ACTIVITIES, YOU ARE ELIGIBLE UNDER CRITERIA ''C''. Incorporate any necessary measures into your Storm Water Pollution Prevention Plan, document your endangered species assessment, and certify eligibility under Part 1.2.3.6.3.3 of the permit. Congratulations, go to Step Five!

=> If Your ESA Section 10 Permit Did Not Meet These Criteria, Proceed to Step Three

2–D *Check for Criteria ''E'' Eligibility* Did the other operator's certification of eligibility consider all currently listed species and critical habitat and address your storm water, allowable non-storm water, and discharge related activities?

=> If no, Proceed to Step Three

2–D–1 IF YOU AGREE TO IMPLEMENT ANY MEASURES UPON WHICH THE OTHER OPERATOR'S CERTIFICATION WAS BASED, YOU ARE ELIGIBLE UNDER CRITERIA ''E''. Incorporate any necessary measures into your Storm Water Pollution Prevention Plan, document your endangered species assessment, and certify eligibility under Part 1.2.3.6.3.5 of the Permit. Congratulations, go to Step Five!

=> If You Do Not Agree to Implement Conditions Upon Which Other Operator's Certification Was Based, Proceed to Step Three

Step Three: Are Listed Species or Critical Habitat Likely to be Adversely Affected by Your Facility's Storm Water Discharges, Allowable Non-storm Water Discharges, or Discharge-related Activities?

If you unable to certify eligibility under Criteria A, B, C, or E, you must assess whether their storm water discharges, allowable non-storm water discharges, and discharge-related activities are likely to adversely affect listed species or critical habitat. ''Storm water discharge-related activities'' include:

- Activities which cause, contribute to, or result in point source storm water pollutant discharges; and
- Measures to control storm water discharges and allowable non-storm water discharges including the siting, construction, operation of best management practices (BMPs) to control, reduce or prevent water pollution.

Potential adverse effects from storm water discharges, allowable non-storm water discharges, and discharge-related activities include:

- *Hydrological.* Wastewater or storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of wastewater or storm water discharged and the volume and condition of the receiving water. Where a discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.
- *Habitat.* Excavation, site development, grading, and other surface disturbance activities, including the installation or placement of wastewater or storm water ponds or BMPs, may adversely affect listed species or their habitat. Wastewater or storm water associated with facility operation may drain or inundate listed species habitat.
- *Toxicity.* In some cases, pollutants in wastewater or storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each facility. If you are having difficulty in determining whether your facility is likely to adversely effect a listed specie or critical habitat, then the appropriate office of the FWS, NMFS, or Natural Heritage Center listed in Sections II and III of this Addendum should be contacted for assistance.

Document the results of your assessment and make a preliminary determination on whether or not there would likely be adverse effects on listed species or critical habitat. You will need to determine that your activities are either ''unlikely to adversely affect'' or ''may adversely affect''. Your determination may be based on measures that you implement to avoid, eliminate, or minimize adverse affects.

=> Proceed to Step Four

Step Four: Can You Meet Eligibility Criteria ''D''?

Using due diligence, can you determine your facility's storm water discharges, allowable non-storm water discharges, and discharge-related activities are unlikely to have adverse affects on listed species or critical habitat?

4–A IF STEP THREE DETERMINATION IS ''UNLIKELY TO ADVERSELY AFFECT'', YOU ARE ELIGIBLE UNDER CRITERIA ''D''. Incorporate appropriate measures upon which your eligibility was based into your Storm Water Pollution Prevention Plan and certify eligibility under Part 1.2.3.6.3.4 of the permit. Congratulations, go to Step Five.

=> If There May Be Adverse Effects, Proceed to Step 4–B

4–B *Step Three (or Step 4-A–1) Determination is ''May Adversely Affect''* You must contact the Service(s) to discuss your findings and measures you could implement to avoid, eliminate, or minimize adverse affects.

4–B–1 IF YOU AND THE SERVICE(S) REACH AGREEMENT ON MEASURES TO AVOID ADVERSE EFFECTS, YOU ARE ELIGIBLE UNDER CRITERIA ''D''. Incorporate appropriate measures upon which your eligibility was based into your Storm Water Pollution Prevention Plan and certify eligibility under Part 1.2.3.6.3.4 of the permit. Congratulations, go to Step Five.

4–C *Endangered Species Issues Cannot be Resolved* If you cannot reach agreement with the Service(s) on measures to avoid, eliminate, or reduce adverse effects to an acceptable level; and if any likely adverse effects cannot otherwise be addressed through meeting the other criteria of Part 1.2.3.6; then you are not eligible for coverage under the MSGP at this time and must seek coverage under an individual permit. Proceed to 40 CFR 122.26(c) for individual permit application requirements.

Step Five: Submit Notice of Intent and Document Results of the Eligibility Determination.

Once all other Part 1.2 eligibility requirements have been met, you may submit the Notice of Intent (NOI).

Signature and submittal of the NOI is also deemed to constitute your certification, under penalty of law, of your eligibility for permit coverage.

You must include documentation of Part 1.2.3.6 eligibility in the pollution prevention plan required for the facility. Documentation required for the various eligibility criteria are as follows:

Criteria A—A copy of the County-Species List pages with the county(ies) where your facility and discharges are located and a statement on how you determine no listed species or critical habitat was in proximity to your discharge.

Criteria B—A copy of the Service(s)'s Biological Opinion or concurrence on a finding of ''unlikely to adversely effect'' regarding the ESA section 7 consultation.

Criteria C—A copy of the Service(s)'s letter transmitting the ESA section 10 authorization.

Criteria D—Documentation on how you determined adverse effects on listed species and critical habitat were unlikely.

Criteria E—A copy of the documents originally used by the other operator of your facility (or area including your facility) to satisfy the documentation requirement of Criteria A, B, C or D.

E. Duty To Implement Terms and Conditions Upon Which Eligibility Was Determined

You must comply with any terms and conditions imposed under the eligibility requirements of Part 1.2.3.6.3 to ensure that your storm water discharges, allowable non-storm water discharges, and discharge-related activities avoid unacceptable effects on listed species and/or critical habitat. You must incorporate such terms and conditions in the your facility's pollution prevention plan as required by the permit. If the eligibility requirements of Part 1.2.3.6 cannot be met, then you may not receive coverage under this permit. You should then consider applying to the permitting authority for an individual permit.

II. U.S. Fish and Wildlife Service Offices

National Website for Endangered Species Information

Endangered Species Home page: http://www.fws.gov/~r9endspp/endspp.html

Regional, State, Field and Project Offices

<<<RESERVED FOR ADDRESSES>>>

III. National Marine Fisheries Service Offices

<RESERVED FOR ADDRESSES>

IV. Natural Heritage Centers

The Natural Heritage Network comprises 85 biodiversity data centers throughout the Western Hemisphere. These centers collect, organize, and share data relating to endangered and threatened species and habitat. The network was developed to inform land-use decisions for developers, corporations, conservationists, and government agencies and is also consulted for research and educational purposes. The centers maintain a Natural Heritage Network Control Server Website (http://www.heritage.tnc.org) which provides website and other access to a large number of specific biodiversity centers. Some of these centers are listed below:

<<<RESERVED FOR ADDRESSES>>>

Addendum B—Historic Properties Guidance

Note: The following is a model of what the Historic Properties Guidance may look like. Final guidance will be prepared to reflect any requirements resulting from any required consultations under the National Historic Preservation Act on issuance of this permit. This example is based on the general process initially proposed, but not finalized (section reserved in final permit), for use in the 1998 Construction general Permits issued by EPA.

In order to do this, applicants must determine whether their facility's storm water discharges, allowable non-storm water discharges, or construction of best management practices (BMPs) to control such discharges, has potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

For existing dischargers who do not need to construct BMPs for permit coverage, a simple visual inspection may be sufficient to determine whether historic properties are affected. However, for facilities which are new industrial storm water dischargers and for existing facilities which are planning to construct BMPs for permit eligibility, applicants should conduct further inquiry to determine whether historic properties may be affected by the storm water discharge or BMPs to control the discharge. In such instances, applicants should first determine whether there are any historic properties or places listed on the National Register or if any are eligible for listing on the register (*e.g.,* they are ''eligible for listing'').

Due to the large number of entities seeking coverage under this permit and the limited number of personnel available to State and Tribal Historic Preservation Officers nationwide to respond to inquiries concerning the location of historic properties, EPA suggests that applicants to first access the ''National Register of Historic Places'' information listed on the National Park Service's web page (see Part I of this addendum). Addresses for State Historic Preservation Officers and Tribal Historic Preservation Officers are listed in Parts II and III of this addendum, respectively. In instances where a Tribe does not have a Tribal Historic Preservation Officer, applicants should contact the appropriate Tribal government office when responding to this permit eligibility condition. Applicants may also contact city, county or other local historical societies for assistance, especially when determining if a place or property is eligible for listing on the register.

The following three scenarios describe how applicants can meet the permit eligibility criteria for protection of historic properties under this permit:

(1) If historic properties are not identified in the path of a facility's storm water and allowable non-storm water discharges or where construction activities are planned to install BMPs to control such discharges (*e.g.,* diversion channels or retention ponds), then the applicant has met the permit eligibility criteria under Part 1.2.3.7.1.

(2) If historic properties are identified but it is determined that they will not be affected by the discharges or construction of BMPs to control the discharge, the applicant has met the permit eligibility criteria under Part 1.2.3.7.1.

(3) If historic properties are identified in the path of a facility's storm water and allowable non-storm water discharges or where construction activities are planned to install BMPs to control such discharges, and it is determined that there is the potential to adversely affect the property, the applicant can still meet the permit eligibility criteria under Part 1.2.3.7.2 if he/she obtains and complies with a written agreement with the appropriate State or Tribal Historic Preservation Officer which outlines measures the applicant will follow to mitigate or prevent those adverse effects. The contents of such a written agreement must be included in the facility's storm water pollution prevention plan.

In situations where an agreement cannot be reached between an applicant and the State or Tribal Historic Preservation Officer, applicants should contact the Advisory Council on Historic Preservation listed in Part IV of this addendum for assistance.

The term ''adverse effects'' includes but is not limited to damage, deterioration, alteration or destruction of the historic property or place. EPA encourages applicants to contact the appropriate State or Tribal Historic Preservation Officer as soon as possible in the event of a potential adverse effect to a historic property.

Applicants are reminded that they must comply with applicable State, Tribal and local laws concerning the protection of historic properties and places.

I. Internet Information on the National Register of Historic Places

An electronic listing of the ''National Register of Historic Places,'' as maintained by the National Park Service on its National Register Information System (NRIS), can be accessed on the Internet at ''http://www.nr.nps.gov/nrishome.htm''. Remember to use small case letters when accessing Internet addresses.

II. State Historic Preservation Officers (SHPO)

(....RESERVED FOR CONTACT INFORMATION....)

III. Tribal Historic Preservation Officers (THPO)

In instances where a Tribe does not have a Tribal Historic Preservation Officer, please contact the appropriate Tribal government office when responding to this permit eligibility condition.

(....RESERVED FOR CONTACT INFORMATION....)

IV. Advisory Council on Historic Preservation

Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004, Telephone: (202) 606–8503/8505, Fax: (202) 606–8647/8672, E-mail: achp@achp.gov

Addendum C—New Source Environmental Assessments

Basic Format for Environmental Assessment

This is the basic format for the Environmental Assessment prepared by EPA from the review of the applicant's Environmental Information Document (EID) required for new source NPDES permits. Comprehensive information should be provided for those items or issues that are affected; the greater the impact, the more detailed information needed. The EID should contain a brief statement addressing each item listed below, even if the item is not applicable. The statement should at least explain why the item is not applicable.

A. General Information
1. Name of applicant
2. Type of facility
3. Location of facility
4. Product manufactured

B. Description Summaries
1. Describe the proposed facility and construction activity
2. Describe all ancillary construction not directly involved with the production processes
3. Describe briefly the manufacturing processes and procedures
4. Describe the plant site, its history, and the general area

C. Environmental Concerns
1. Historical and Archeological (include a statement from the State Historical Preservation Officer)
2. Wetlands Protection and 100-year Floodplain Management (the Army Corps of Engineers must be contacted if any wetland area or floodplain is affected)
3. Agricultural Lands (a prime farmland statement from the Soil Conservation Service must be included)
4. Coastal Zone Management and Wild and Scenic Rivers
5. Endangered Species Protection and Fish and Wildlife Protection (a statement from the U.S. Fish and Wildlife Service must be included)
6. Air, Water and Land Issues: Quality, effects, usage levels, municipal services used, discharges and emissions, runoff and wastewater control, geology and soils involved, land-use compatibility, solid and hazardous waste disposal, natural and man-made hazards involved.
7. Biota concerns: Floral, faunal, aquatic resources, inventories and effects
8. Community Infrastructures available and resulting effects: Social, economic, health, safety, educational, recreational, housing, transportation and road resources.

Addendum D—Notice of Intent Form

BILLING CODE 6560–50–U

NPDES FORM _____

United States Environmental Protection Agency
Washington, DC 20460

Form Approved
OMB No. ____-____

Notice of Intent for Storm Water Discharges Associated with INDUSTRIAL ACTIVITY Under the Multi-sector NPDES General Permit

Submission of this completed Notice of Intent constitutes notice that the entity in Section B intends to be authorized to discharge pollutants to waters of the United States, from the facility or site identified in Section C, under EPA's Storm Water Multi-sector General Permit (MSGP) identified in Section A of this form. Submission of the NOI also constitutes notice that the party identified in Section B of this form has read, understands, and meets the eligibility conditions of Part I of the MSGP; agrees to comply with all applicable terms and conditions of the MSGP; understands that continued authorization under the MSGP is contingent on maintaining eligibility for coverage, and that implementation of the permittee's pollution prevention plan is required two days after a complete NOI is mailed. In order to be granted coverage, all information required on this form must be completed. Please read and make sure you comply with all permit requirements, including the requirement to prepare and implement a storm water pollution prevention plan. AN NOI FOR COVERAGE UNDER A GENERAL PERMIT IS IN EFFECT A "REGISTRATION" UNDER THE GENERAL PERMIT WHICH HAS ALREADY BEEN PUBLISHED IN THE FEDERAL REGISTER. THE PERMIT LANGUAGE FROM THE FEDERAL REGISTER IS YOUR PERMIT. THE CONFIRMATION LETTER PROVIDED BY THE NOI PROCESSING CENTER THAT ASSIGNS YOUR FACILITY'S PERMIT NUMBER IS ESSENTIALLY JUST A "RECEIPT" FOR YOUR NOI "REGISTRATION."

A. Permit Selection

Permit Coverage Requested Under Permit No. ☐☐ RO5*## ☐ (Enter Permit Area Number from Part 1.1 of the MSGP)

B. Facility Operator Information

1. Name: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ 2. Phone: ☐☐☐☐☐☐☐☐☐☐

3. Mailing Address: a. Street or P.O. Box: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

b. City: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ c. State: ☐☐ d. Zip Code: ☐☐☐☐☐-☐☐☐☐

4. Permit Applicant: ☐ Federal ☐ State ☐ Tribal ☐ Private ☐ Other public entity

C. Facility/Site Information

1. Facility/Site Name: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

2. Location Address: a. Street: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

b. City: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ c. County: ☐☐☐☐☐☐☐☐☐☐

d. State: ☐☐ e. Zip Code: ☐☐☐☐☐-☐☐☐☐

3. a. Latitude: ☐☐ ° ☐☐ ' ☐☐ " b. Longitude: ☐☐☐ ° ☐☐ ' ☐☐ "
☐☐ . ☐☐☐☐☐☐ ☐☐☐ . ☐☐☐☐☐☐

4. Is the facility located on Indian Country lands? Yes ☐ No ☐

5. Is this a Federal facility (e.g., operated for the federal government)? Yes ☐ No ☐

6. Does the facility discharge storm water into:

a. Receiving water(s)? Yes ☐ No ☐

If yes, name(s) of receiving water(s): ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

b. A municipal separate storm sewer system (MS4)? Yes ☐ No ☐

If yes, name of the MS4 operator: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

7. The 4-digit Standard Industrial Classification (SIC) codes or the 2-letter Activity Codes that best represent the principal products produced or services rendered by your facility and major co-located activities:

Primary: ☐☐☐☐ Secondary (if applicable): ☐☐☐☐ ☐☐☐☐ ☐☐☐☐

8. The applicable sector(s) of industrial activity, as designated in Part 1.2.1 of the MSGP, that include the discharges associated with industrial activity that you seek to have covered under the permit: (check all that apply, up to three)

☐ Sector A	☐ Sector F	☐ Sector K	☐ Sector P	☐ Sector U	☐ Sector Z
☐ Sector B	☐ Sector G	☐ Sector L	☐ Sector Q	☐ Sector V	☐ Sector AA
☐ Sector C	☐ Sector H	☐ Sector M	☐ Sector R	☐ Sector W	☐ Sector AB
☐ Sector D	☐ Sector I	☐ Sector N	☐ Sector S	☐ Sector X	☐ Sector AC
☐ Sector E	☐ Sector J	☐ Sector O	☐ Sector T	☐ Sector Y	☐ Sector AD

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D. Certification

1. a. Based on the instructions in Addendum A of the MSGP, are any listed or proposed threatened or endangered species, or designated critical habitat, in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit? Yes ☐ No ☐

   b. Under which subpart of Part 1.2.3.6.3 (Endangered Species) of the permit are you certifying eligibility?

   ☐ Part 1.2.3.6.3.1 — Not in proximity

   ☐ Part 1.2.3.6.3.2 — Past consultation under Section 7 of the Endangered Species Act

   ☐ Part 1.2.3.6.3.3 — Authorized under Section 10 of the Endangered Species Act

   ☐ Part 1.2.3.6.3.4 — In proximity, but adverse effects unlikely

   ☐ Part 1.2.3.6.3.5 — Addressed in previous certification covering the facility

   c. Was the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) consulted in making your determination of eligibility? Yes ☐ No ☐

2. a. Based on the instructions in Addendum B of the MSGP, are any historic properties listed or eligible for listing on the National Register of Historic Places located on the facility property or in proximity to the discharge? Yes ☐ No ☐

   b. Under which subpart of Part 1.2.3.7.1 (Historic Properties) of the permit are you certifying eligibility?

   ☐ Part 1.2.3.7.1.1 — No adverse effect

   ☐ Part 1.2.3.7.1.2 — Obtained and in compliance with written agreement with SHPO/THPO

   c. Was the State or Tribal Historic Preservation Officer (SHPO or THPO) consulted in making your determination of eligibility? Yes ☐ No ☐

3. Do you certify that a storm water pollution prevention plan (SWPPP) meeting the requirements of Part 4 of the permit has been developed (including attaching a copy of the applicable permit language to the plan)? Yes ☐ No ☐

4. Do you certify under penalty of law that this document and all attachments were prepared under your direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted? Based on your inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, do you certify that the information submitted is, to the best of your knowledge and belief, true, accurate, and complete? Do you certify that you are aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations? Yes ☐ No ☐

Print Name: _____

Print Title: _____

Signature: _____

Date: _____

Instructions for Completing the Notice of Intent for Storm Water Discharges Associated with INDUSTRIAL ACTIVITY Under the Multi-sector NPDES General Permit

Who Must File a Notice of Intent?

Under the provisions of section 402(p) of the Clean Water Act (CWA) and regulations at 40 CFR Part 122, federal law prohibits "point source" discharges of storm water associated with industrial activity to waters of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. If you operate a facility which is described in Part 1.2.1. of the Multi-sector General Permit (MSGP) or if you have been designated as needing permit coverage for your storm water discharges by your NPDES permitting authority, and you meet the eligibility requirements in Part 1 of the permit, you may satisfy your CWA obligation for permit coverage by submitting a completed NOI to obtain coverage under the MSGP. If you have questions about whether you need a permit under the NPDES Storm Water Program, contact your NPDES permitting authority (i.e., your EPA Regional storm water coordinator) or your State water pollution control agency.

One NOI must be submitted for each facility or site for which you are seeking permit coverage. Only one NOI need be submitted to apply for coverage for all of your activities at each facility (e.g., you do not need to submit a separate NOI for each type of industrial activity located at a facility or industrial complex, provided your storm water pollution prevention plan covers each area for which you are an operator). Finally, the NOI must be submitted in accordance with the deadlines established in Part 2.1 of the MSGP.

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Instructions for Completing the Notice of Intent for Storm Water Discharges Associated with INDUSTRIAL ACTIVITY Under the Multi-sector NPDES General Permit

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When to File the NOI Form

DO NOT FILE THE NOI UNTIL YOU HAVE OBTAINED A COPY OF THE MULTI-SECTOR GENERAL PERMIT. You will need it to determine your eligibility, prepare your storm water pollution prevention plan, and correctly answer all questions on the NOI form — all of which must be done before you can sign the certification statement on the NOI in good faith (and without risk of committing perjury).

If you have a new facility or are the new operator of an existing facility, this form must be postmarked at least 48 hours before you need permit coverage. If your facility was covered under the 1995 Multi-sector General Permit or if you are currently operating without a permit, see Part 2.1 of the MSGP for your deadlines. CAUTION: You must allow enough lead time to gather the information necessary to complete the NOI (especially that related to determining eligibility with regards to endangered species and historic properties) and prepare the pollution prevention plan required by Part 4 of the MSGP prior to submitting your NOI.

Where to File the NOI Form

NOIs must be sent to the following address (do not send Storm Water Pollution Prevention Plans (SWPPPs) to this address):

Storm Water Notice of Intent (4203)
U.S. EPA
Room 2104, Northeast Mall
401 M Street, SW
Washington, D.C. 20460

(For overnight/express delivery of NOIs, add the phone number (202) 260-9541)

NOTE: While not currently available, EPA is exploring the possibility of offering the option to complete the NOI form electronically online via the Internet. If this option does become available, directions will be posted on EPA's web site. To check on the availability of the alternative Online NOI, please visit www.epa.gov/ow/sw. If the Online NOI is not available, you must file the NOI at the above address.

If your facility discharges through a municipal separate storm sewer system (MS4) that is permitted as a medium or large MS4 under the NPDES Storm Water Program, you must also submit a signed copy of the NOI to the operator of that MS4, in accordance with the deadlines established in Part 2.1 of the permit.

Completing the NOI Form

To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words. Please make sure you have addressed all applicable questions and have made a photocopy for your records before sending the completed form to the address above.

Section A. Permit Selection

You must indicate the NPDES storm water general permit under which you are applying for coverage. Find the generic permit "number" in Part 1.1 of the permit that covers the area where your facility is located. For example, if you are located in New Mexico (except Indian Country lands), the generic number would be NMR05*###. If you are located on Navajo lands in New Mexico, the generic permit number would be AZR05*##I. CAUTION: You must use the correct permit number or your permit coverage will be invalid since you are not located within the coverage area for that permit.

Section B. Facility Operator Information

1. Provide the legal name of the person, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or other legal entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager.

2. Provide the telephone number of the facility operator.

3. Provide the mailing address of the facility operator. Include the street address or P.O. Box, city, state, and zip code. All correspondence regarding the permit will be sent to this address, not the facility address in Section C.

4. Indicate the legal status of the facility operator as a Federal, State, Tribal, private, or other public entity (other than Federal or State). This refers only to the operator, not the owner or the land the facility or site is located upon.

Section C. Facility/Site Information

1. Enter the official or legal name of the facility or site.

2. Enter the complete street address (if no street address exists, provide a geographic description [e.g., Intersection of Routes 9 and 55]), city county, state, and zip code. Do not use a P.O. Box.

3. Enter the latitude and longitude of the approximate center of the facility or site in decimal form or in degrees/minutes/seconds. Latitude and longitude can be obtained from United States Geological Survey (USGS) quadrangle or topographic maps, by using a GPS unit, by calling 1-(888)ASK-USGS, by searching for your facility's address on several commercial "map" sites on the Internet, or by accessing EPA's web site at http://www.epa.gov/owm/sw/industry/index.htm and selecting Latitude and Longitude Finders under the Resources/Permit section.

4. Indicate whether the facility is located on Indian Country lands (e.g., a federally recognized reservation, etc.).

5. Indicate whether your facility is a federal facility (e.g., a facility operated by or for the federal government, such as a U.S. Navy, Marine, Army, or Air Force base; a Dept. of Energy facility; etc.).

6. Indicate whether the facility or site discharges storm water into a receiving water(s) and/or a municipal separate storm sewer system (MS4). Enter the name(s) of the closest receiving water(s) and/or the MS4. (An MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body and is designed or used for collecting or conveying storm water.)

7. List, in descending order of significance, up to four 4-digit Standard Industrial Classification (SIC) codes or 2-character Activity Codes that best describe the principal products or services provided at the facility or site identified in Section C of this application. For industrial activities defined in 40 CFR 122.26(b)(14)(i)-(ix) and (xi) that do not have SIC codes that accurately describe the principal products produced or services provided, use the following 2-character Activity Codes:

   HZ = Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA [40 CFR 122.26(b)(14)(iv)];

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LF = Landfills, land application sites, and open dumps that receive or have received any industrial wastes, including those that are subject to regulation under subtitle D of RCRA [40 CFR 122.26(b)(14)(v)];

SE = Steam electric power generating facilities, including coal handling sites [40 CFR 122.26(b)(14)(vii)];

TW = Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage [40 CFR 122.26(b)(14)(ix)]; or

Alternatively, if your facility or site was specifically designated by your NPDES permitting authority (EPA), enter "**AD**."

8. Indicate the applicable sector(s) of industrial activity, as designated in Part 1.2.1 of the MSGP, that describe the industrial activity(ies) that you seek to have covered under the permit. The SIC codes or Activity Codes entered in (7) of Section C must coincide with the codes covered by the sector(s) you check here. If your facility has more than one industrial activity requiring permit coverage YOU MUST CHECK EACH SECTOR IN WHICH THE ACTIVITY IS FOUND. For example, an industrial inorganic chemical facility (Sector C) may also have an area used for repair and maintenance of trucks used for transportation of raw materials and finished products (Sector P). The facility operator, therefore, must check both Sector C and Sector P, and comply with both sets of requirements as found in the permit and incorporate the requirements into a comprehensive storm water pollution prevention plan. You may check up to three different sectors.

Section D. Certification

1a. Based on the instructions in Addendum A of the MSGP, indicate if there are any listed or proposed threatened or endangered species, or designated critical habitat, in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit. Coverage under the MSGP is available only if your storm water discharges and discharge-related activities avoid unacceptable effects on Federally listed endangered and threatened species or designated critical habitat.

b. Indicate under which subpart of Part 1.2.3.6.3 (Endangered Species) of the MSGP you are certifying eligibility to discharge with regard to protection of endangered or threatened species, or designated critical habitat. You must use the process in Addendum A of the permit to determine your eligibility and then keep documentation of your determination with your SWPPP. Addendum A includes a more detailed description of the five choices.

c. Indicate whether you conferred with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) regarding the effects of your facility's discharge on listed endangered species and critical habitat and your eligibility to discharge under this permit.

2a. Indicate if there are any historic properties listed or eligible for listing on the National Register of Historic Places located on your facility's property or in proximity to your discharge point to be covered by this permit. In order to be eligible for coverage under the MSGP you must be in compliance with the National Historic Preservation Act.

b. Indicate under which subpart of Part 1.2.3.7.1 (Historic Properties) of the MSGP you are certifying eligibility to discharge with regard to protection of historic properties. You must use the process in Addendum B of the permit to determine your eligibility and then keep documentation of your determination with your SWPPP. Addendum B includes a more detailed description of the two choices.

c. Indicate whether you conferred with the State or Tribal Historic Preservation Officer (SHPO or THPO) regarding the effects of your facility's discharge on historic properties and your eligibility to discharge under this permit.

3. Check "Yes" or "No" as appropriate to certify whether a storm water pollution prevention plan (SWPPP) meeting the requirements of Part 4 of the permit has been developed for your facility or site. The development effort must include attaching a copy of the applicable sections of the MSGP to the plan. The plan must be prepared before you are eligible to obtain permit coverage, therefore, do not submit this NOI until you are able to check "yes" to this certification question.

4. Certification statement and signature. (CAUTION: An unsigned or undated NOI form will prevent the granting of permit coverage.) Federal statues provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

(i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or

(ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipal, State, Federal, or other public facility: by either a principal executive or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this certification is estimated to average 3.7 hours per certification, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose to provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Director, OPPE Regulatory Information Division (2137), USEPA, 401 M Street, SW, Washington, D.C. 20460. Include the OMB control number of this form on any correspondence. Do not send the completed NOI form to this address.

BILLING CODE 6560–50–C

Addendum E—Notice of Termination Form

EPA does not plan to change the current NOT form—a copy will be included with the final permit.

Addendum F—No Exposure Certification Form

In conjunction with the new Phase II storm water rule, EPA created a ''No Exposure'' permitting exclusion option for Phase I storm water discharges associated with industrial activity (other than construction). In order to claim this exclusion, a discharger must meet the eligibility conditions at 40 CFR 122.26(g) and submit, once every five years, a certification of eligibility. While a copy of the ''No Exposure'' form was published along with the Phase II storm water rule (64 FR 68722, December 8, 1999), EPA requests comment on whether an additional copy should be provided as an addendum to the MSGP.

[FR Doc. 00–7203 Filed 3–29–00; 8:45 am]

BILLING CODE 6560–50–U

Federal Register

Thursday,
March 30, 2000

Part III

Department of Housing and Urban Development

24 CFR Part 3280

Condensation Control for Exterior Walls of Manufactured Homes Sited in Humid and Fringe Climates; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3280

[Docket No. FR–4578–P–01]

Manufactured Home Construction and Safety Standards; Condensation Control for Exterior Walls of Manufactured Homes Sited in Humid and Fringe Climates; Notice of Proposed Regulatory Waiver

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposal of waiver; request for comments.

SUMMARY: This notice advises the public of HUD's proposal to issue a waiver of its regulations regarding manufactured home construction and safety standards. HUD may issue a final regulatory waiver after reviewing the public comments received in response to this notice. HUD proposes to waive certain provisions of these regulations when manufacturers, at their option, utilize the alternatives provided in this notice to reduce the problems currently being experienced in humid and fringe climate areas. Presently, there are no provisions in HUD's regulations that separately address condensation control and vapor retarder requirements for manufactured homes sited in warm, moist climates of the South Atlantic and Gulf Regions. The states have provided HUD with information that indicates there is an immediate need to consider alternate requirements for exterior walls in these humid and fringe climate areas, to prevent moisture damage due to condensation. HUD intends for this waiver to be in place for no more than 24 months, as permanent changes to the regulations are being considered.

DATES: *Comment due date:* May 1, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Rebecca J. Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Room 9146, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–8000; telephone (202) 708–0502 (this is not a toll-free telephone number). Hearing or speech-impaired individuals may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Manufacturers and State Administrative Agencies (SAAs) in southeastern States have recently reported an increase in the number and severity of consumer complaints caused primarily by moisture build-up and condensation in homes located in the south. They suggest this increase in complaints coincides with the Department's implementing more stringent energy efficiency requirements in its regulations regarding manufactured home construction and safety standards located at 24 CFR part 3280 (referred to as the ''Standards'').

At present, the Standards at 24 CFR 3280.504 do not distinguish between climates for requirements for condensation control and installation of vapor retarders. Thus, for example, the Standards do not separately address homes placed in humid and fringe environments or climates, which are predominantly located in the southeastern part of the United States. In these climates, it may be beneficial to prevent the outside, moisture laden air from entering through the warm (exterior) side of the home's exterior wall and condensing and collecting on the cold (living space or interior) side of the wall assembly. One means of preventing moisture from entering the exterior wall cavity from the outside, would be to install a vapor retarder on the warm or exterior side of the wall instead of on the interior or living space side of the exterior wall.

The interior surface of the exterior wall should also then be constructed of a permeable material. This would permit any moisture-laden air that may have entered the wall cavity through a discontinuity in the exterior vapor retarder to be dissipated through the interior permeable material. In such cases, use of vapor retarder paints, vinyl covered gypsum wallboard, or other impermeable materials or finishes on the interior side of exterior walls would be detrimental, because they would trap moisture within the wall.

II. This Notice

To address these concerns, HUD is considering issuing a waiver to the current condensation control and vapor barrier installation requirements for exterior walls in humid and fringe climates. Specifically, this waiver would allow for manufacturers, in humid and fringe climates, to install the vapor retarder on the exterior rather than interior or living space side of the exterior wall. The proposed waiver will permit manufacturers to locate the vapor retarder on the exterior side of the wall assembly provided there is no vapor retarder on the interior and the interior finish or interior wall panels are designed with a three perms or higher rating. The waiver will also require manufacturers to add a statement and a map to the data plate indicating that the home is only suitable for installation in humid and fringe climates and provide a map to designate the acceptable locations.

The Department intends for the final waiver to be effective for a period not to exceed 24 months. This will permit the Department to consider recommendations received from the National Fire Protection Association (NFPA), research, field data obtained from the use of this waiver, and other information to effectuate changes to the standards of a more permanent nature.

III. NFPA Consensus Standards Process

HUD has designated the NFPA to undertake a consensus process in developing recommendations for new manufactured housing standards. Participants in the NFPA process met in December 1999, to discuss comments received on recommended standards changes. One such recommendation that was discussed involved changes to HUD's regulation at 24 CFR 3280.504(b)(1) for homes sited in ''humid climates'' or ''fringe climates'' as set forth in figure 16, Chapter 21, 1989 ASHRAE Handbook of Fundamentals. (The Humid and Fringe Climate Map being proposed in this waiver is based on figure 16 in ASHRAE.) HUD looks forward to receiving the results of the consensus process and does not intend for this proposed waiver to undermine a consensus approach to standards revisions on this matter.

IV. Alternative Methods

This proposed waiver is not intended to limit alternate approaches by manufactured home producers in utilizing other solutions to assure that homes built and sited in warm humid and fringe climates are durable and free of moisture related problems. Other methods of moisture control that meet the intent of the 24 CFR part 3280 and this proposed waiver may be submitted for review and consideration in accordance with 24 CFR 3282.14

(entitled ''Alternate Construction of Manufactured Homes'').

V. Comments Requested

Comments are specifically requested on the Department's decision to proceed with a waiver in warm humid and fringe climates to permit the vapor retarder to be located on the warm side of exterior walls.

VI. Proposed Waiver

In accordance with 24 CFR 3280.8, the Secretary hereby proposes to waive the specific requirements of 24 CFR 3280.504(b)(1) for homes to be sited in a humid or fringe climate as identified in section VI.F. of this waiver. Manufacturers who elect to utilize this alternative rather than to follow the requirements of the existing standards in 24 CFR 3280.504(b)(1), must produce homes in accordance with the following requirements (all other requirements of the Standards continue to apply):

A. Exterior walls must be constructed with a vapor retarder of not greater than 1.0 perm (dry cup method) or an exterior finish and sheathing with a combined permeance of not greater than 1.0 perm installed on the exterior (warm side) of the wall assembly.

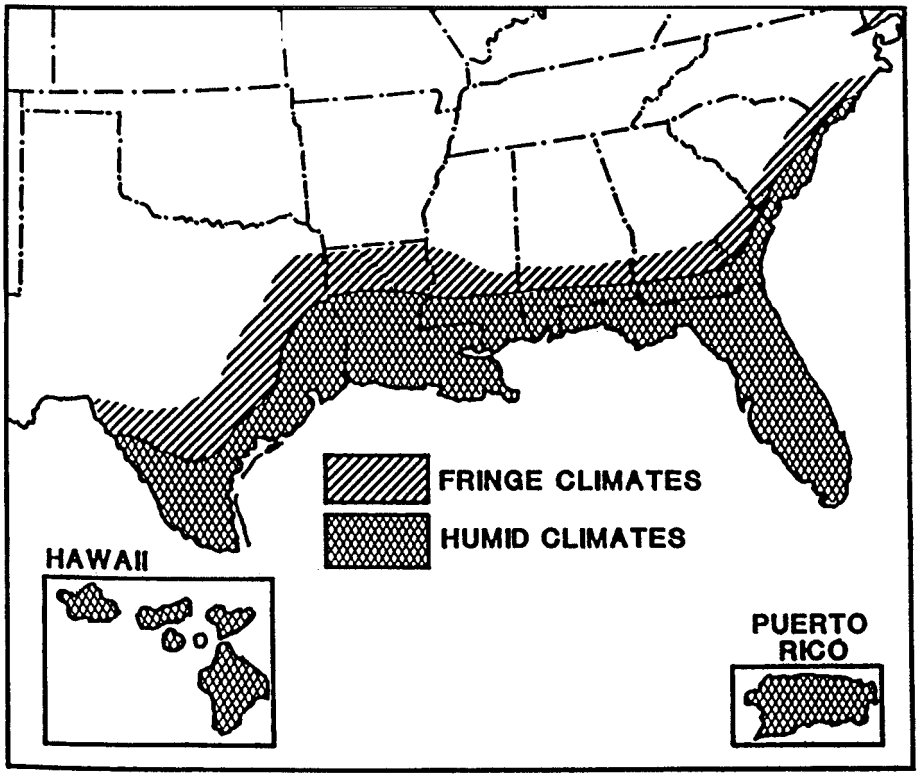
B. The interior finish and interior wall panel materials shall be designed to have a combined vapor permeance greater than 3.0 perms (dry cup method). Vapor retarder paint, vinyl covered gypsum wall panels, and other impermeable interior surfaces or finishes that have a combined rating less than 3.0 perms (dry cup method) shall be prohibited.

C. Exterior wall cavities shall not be ventilated to the outdoors.

D. An additional statement shall be provided on the data plate required by 24 CFR 3280.5 that indicates: ''As designed and constructed, this home is suitable for installation only in humid and fringe climates as shown on the Humid and Fringe Climate Map provided with this data plate.'' The statement is to be typed in bold face using letters at least ¼ inch in size.

E. A reproduction of the following Humid and Fringe Climate Map is to be provided on the data plate.

Humid and Fringe Climate Map



F. The following areas of local governments (listed by State) are deemed to be within the humid and fringe climate areas shown on the Humid and Fringe Climate Map, and this waiver would apply to homes built to be sited within these jurisdictions:

Alabama

Baldwin, Barbour, Bullock, Butler, Chootaw, Clarke, Cofee, Conecuh, Covington, Crenshaw, Dale, Escambia, Geneva, Henry, Houston, Lowndes, Marengo, Mobile, Monroe, Montgomery, Pike, Washington, Wilcox.

Florida

All counties and locations within the State of Florida.

Georgia

Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clay, Clinch, Coffee, Colquitt, Cook, Crisp, Decatur, Dougherty, Early, Echols, Effingham, Evans, GlynnWayne, Grady, Irwin, Jeff Davis, Lanier, Lee, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Pierce, Quitman,

Randolph, Seminole, Tattnall, Terrell, Thomas, Tift, Turner, Ware, Worth.

Louisiana

All counties and locations within the State of Louisiana.

Mississippi

Adams, Amite, Clairborne, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Issaquena, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Pearl River, Perry, Pike, Rankin, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson.

North Carolina

Brunswick, Carteret, Columbus, New Hanover, Onslow, Pender.

South Carolina

Jasper, Beaufort, Colleton, Dorchester, Charleston, Berkeley, Georgetown, Horry.

Texas

Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bexar, Brazoria, Brazos, Brooks, Burleson, Caldwell, Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Colorado, Comal, De Witt, Dimmit, Duval, Falls, Fayette, Fort Bend, Franklin, Freestone, Frio, Gavelston, Goliad, Gonzales, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hopkins, Houston, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kaufman, Kennedy, Kinney, Kleberg, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Madison, Marion, Matagorda, Maverick, McMullen, Medina, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Polk, Rains, Refugio, Robertson, Rusk, Sabine, San Augistine, San Jacinto, San Patricio, Shelby, Smith, Starr, Titus, Travis, Trinity, Tyler, Upshur, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Wood, Zapata, Zavala.

Dated: March 23, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–7782 Filed 3–29–00; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Thursday,
March 30, 2000

Part IV

Department of Housing and Urban Development

Section 8 Rental Certificate and Rental Voucher Programs, FY 2000; Family Self-Sufficiency Program Coordinators; Notice of Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4546–N–01]

Notice of Funding Availability Family Self-Sufficiency (FSS) Program Coordinators for the Section 8 Rental Certificate and Rental Voucher Programs for Fiscal Year 2000

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability for Fiscal Year (FY) 2000 for Section 8 Family Self-Sufficiency Program Coordinators.

SUMMARY: *Purpose of Program:* The Section 8 FSS program is intended to promote the development of local strategies to coordinate the use of assistance under the Section 8 certificate and voucher programs with public and private resources to enable participating families to achieve economic independence and self-sufficiency. An FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

Available Funds: This NOFA announces the availability of up to $29 million in Fiscal Year (FY) 2000 to fund Section 8 Family Self-Sufficiency (FSS) program coordinators.

Eligible Applicants: Public housing agencies (PHAs) eligible to receive funding under this NOFA are only those that received funding under one of the FY 99 NOFAs for Section 8 FSS Program Coordinators and that continue to operate a Section 8 FSS program.

Application Deadline: The application deadline for FSS Program Coordinator funding under this NOFA is May 30, 2000, at the time described under section I of Additional Information of this NOFA.

ADDITIONAL INFORMATION

I. Application Due Date, Application Kits, and Technical Assistance

Application Due Date: The application deadline for Section 8 FSS Program Coordinator funding under this NOFA is May 30, 2000, at the time described in section I of this NOFA. The application deadline is firm as to date and hour. In the interest of fairness to all competing PHAs, HUD will treat as ineligible for consideration any application that is not received by the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

Official Place of Application Receipt: The original and a copy of the application should be submitted to Michael E. Diggs, Director of the PIH Grants Management Center, U.S. Department of Housing and Urban Development, 501 School Street, Suite 804, Washington, DC 20024 and one copy to the local HUD Field Office. In the interest of fairness to all competing applicants, HUD will not consider any application that is not submitted to and received by the PIH Grants Management Center at the address indicated above. For ease of reference, the term ''GMC'' will be used throughout the NOFA to mean the PIH Grants Management Center.

Mailed Applications: Applications will be considered timely filed if postmarked on or before 12 midnight on the application due date and received by the PIH Grants Management Center on or within ten (10) days of the application due date.

Applications Sent by Overnight/Express Mail Delivery: Applications sent by overnight delivery or express mail will be considered timely filed if received by the appropriate PIH Grants Management Center before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications: Applications must be delivered to the PIH Grants Management Center by 5 pm on the due date. Hand carried applications will be accepted during normal business hours before the application due date.

For Application Kits, Further Information and Technical Assistance: There is no application kit for this NOFA. For answers to your questions, you may contact either the Public and Indian Housing Resource Center at 1–800–955–2232 or the HUB Director of Public Housing or the Program Center Coordinator in the local HUD Field Office. Hearing- or speech-impaired individuals may call HUD's TTY number 1–800–877–8339 (the Federal Information Relay Service TTY). Information can be accessed via the Internet at http://www.hud.gov. Prior to the application deadline, staff at the numbers given above will be available to provide general guidance, but not guidance in actually preparing the application. Following selection, but prior to award, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD.

II. Amount Allocated

For FY 2000, up to $29 million is available for PHA administrative fees for Section 8 FSS program coordinators. This amount is composed of $25.1 million from the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. 106–74, enacted October 21, 1999), and approximately $3.4 million in FY 1999 carryover authority from the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105–276, approved October 21, 1998). All of the approximately $29 million being made available in FY 2000 will be provided to those PHAs that received funds in response to the FY 99 Section 8 FSS program coordinator NOFAs. This is the seventh fiscal year of funding for Section 8 FSS program coordinators.

HUD Corrections to Funding Provided Under the FY 99 NOFA

If prior to award of funding under the FY 2000 Section 8 FSS NOFA, HUD determines that any PHAs have been underfunded in amounts awarded under the FY 99 FSS Program Coordinator NOFAs, before funding any applications under the FY 2000 NOFA, the Department will increase funding to the amount that the PHAs should have received under the FY 99 FSS NOFAs with funding available under the FY 2000 FSS NOFA.

III. Program Description; Eligible Applicants; Eligible Activities

(A) Program Description

In the earliest FSS program coordinator NOFAs, HUD provided funding for Section 8 FSS program coordinators only to PHAs with Section 8 programs of fewer than 1,000 units. The FY 1994 and FY 1995 funds were awarded to these PHAs based on a request for funding, and all complete applications were funded. The FY 1996 funds were awarded based on a competitive NOFA. In FY 1996, state and regional PHAs that administered more than 1,000 rental vouchers and certificates, but fewer than 1,000 mandatory FSS slots, were also eligible to apply, and some received funding. In FY 1997, HUD allocated funds for Section 8 FSS program coordinators to allow PHAs that were previously

funded to continue to pay a Section 8 FSS coordinator. Since funding for Section 8 FSS program coordinators was limited, HUD did not accept applications from PHAs that were not previously funded. In FY 1998 HUD awarded funds to PHAs that were funded for Section 8 FSS program coordinators in FY 1997 to continue to pay for an FSS coordinator for another year and was also able to fund additional eligible small PHAs and state and regional PHAs that did not receive Section 8 FSS program coordinator funding in the previous year. HUD extended eligibility for funding under the FY 98 NOFA to include PHAs operating voluntary Section 8 FSS programs as well as those with mandatory Section 8 FSS programs.

In FY 99, HUD published two Section 8 FSS NOFAs that made a sufficient amount available to continue funding for another year to those PHAs that received funding under the FY 98 NOFA. In FY 99 HUD was also able to fund applications from PHAs (including state and regional HAs) that were not funded in FY 98, for PHAs with approval to administer voluntary or mandatory Section 8 FSS programs of at least 25 slots.

Under the FY 99 NOFAs, for the first time, there was no maximum Section 8 rental certificate/voucher program size limit for PHAs eligible to apply for funding under the NOFA.

The response to the FY '99 NOFA was so strong that HUD expects to need all available funds in FY 2000 for renewals of Section 8 FSS program coordinators funded under the FY 99 NOFAs to allow PHAs to continue to pay a Section 8 FSS program coordinator for another year.

(B) Eligible Applicants

Subject to the availability of sufficient funding, all PHAs that received funding under one of the FY 99 NOFAs for Section 8 FSS program coordinators that are still operating Section 8 FSS programs will be funded in FY 2000, except those PHAs submitting applications that are ineligible under Section VII.(C) of this NOFA, provided the PHA continues to operate a Section 8 FSS program, has hired a Section 8 FSS program coordinator with funding awarded for that purpose under one of the FY '99 FSS program coordinator NOFAs, and has made progress in implementing the FSS program demonstrated by having completed activities in each of the categories in section 2 of the required Attachment A certification of this NOFA. Subject to the availability of funds, the eligible PHAs funded in FY 99 will receive 103 percent of FY 99 funding (not to exceed $47,700) unless the PHA requests a lower amount or the salary comparability information submitted by the PHA supports approval of a lower amount. HUD will not provide FY 2000 funding to any PHA that received Section 8 FSS Program Coordinator funding in FY 99 that does not comply with all of the above requirements.

(C) Eligible Activities

Funds are available under this NOFA to employ or otherwise retain the services of up to one Section 8 FSS program coordinator for one year. A part-time Section 8 FSS program coordinator may be retained where appropriate. Under the Section 8 FSS program, PHAs are required to use Section 8 rental assistance together with public and private resources to provide supportive services to enable participating families to achieve economic independence and self-sufficiency. Effective delivery of supportive services is a critical element in a successful FSS program.

IV. Program Requirements

(A) Program Coordinator Role

PHAs administering the FSS program use program coordinating committees (PCCs) to assist them to secure resources and implement the FSS program. The PCC is made up of representatives of local government, job training and employment agencies, local welfare agencies, educational institutions, child care providers, nonprofit service providers, and businesses.

An FSS program coordinator works with the PCC and with local service providers to assure that program participants are linked to the supportive services they need to achieve self-sufficiency. The FSS program coordinator may ensure, through case management, that the services included in participants' contracts of participation are provided on a regular, ongoing and satisfactory basis, and that participants are fulfilling their responsibilities under the contracts.

(B) Staffing Guidelines

Under normal circumstances, a full-time FSS program coordinator should be able to serve approximately 50 FSS participants, depending on the coordinator's case management functions.

(C) Other Requirements

(1) Compliance With Fair Housing and Civil Rights Laws.

All applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) Has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, the applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(2) Additional Nondiscrimination Requirements.

Applicants must comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972. In addition to compliance with the civil rights requirements listed at 24 CFR section 5.105, each successful applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964, U.S.C. sections 2000e *et seq.*; the Equal Pay Act, 29 U.S.C. section 206(d); the Age Discrimination in Employment Act of 1967, 29 U.S.C. sections 621 *et seq.*, and Titles I and V of the Americans with Disabilities Act, 42 U.S.C. sections 12101 *et seq.*

(3) Affirmatively Furthering Fair Housing.

Each successful applicant will have a duty to affirmatively further fair housing. After the application is approved, applicants will be required to identify the specific steps that they will take to: (a) Address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice; (b) remedy discrimination in housing; or (c) promote fair housing rights and fair housing choice. Further, applicants have a duty to carry out the specific activities cited in their responses in a manner which will affirmatively further fair housing.

V. Application Selection Process

The funds available under this NOFA are not being awarded on a competitive basis. The Department anticipates that there will be sufficient funds available under the NOFA to fund all applications that meet the NOFA requirements. Applications will be reviewed by the GMC to determine whether or not they are technically adequate based on the NOFA requirements. Categories of applications that will not be funded are stated in section VII(C) of this NOFA.

All technically adequate applications will be funded to the extent funds are available. If HUD receives applications for funding greater than the amount made available under this NOFA, HUD will fund eligible applicants in size order starting from the smallest PHAs first (*i.e.,* those PHAs with the smallest combined rental voucher and certificate programs first). Section 8 program size will be determined by HUD using baseline data developed by the Department. If there are not sufficient monies to fund all applications from PHAs with the same combined Section 8 rental certificate voucher program size, funding will be provided based on the size of the PHA's Section 8 FSS program, reflected in the PHA's HUD-approved Section 8 FSS Action Plan, starting with the largest approved Section 8 FSS program. If there is insufficient money remaining to fully fund the last application funded, HUD will provide residual funding to that application in an amount less than the amount requested by the PHA, unless the PHA is unwilling to accept the lower amount.

VI. Application Submission Requirements

(A) Each PHA that received funding for a Section 8 FSS program coordinator under one of the FY 99 NOFAs that wishes to receive funding under this NOFA must complete a certification in the format shown as ''Attachment A'' of this NOFA, which includes all information required in ''Attachment A.'' The completed Attachment A certification along with the Fair Housing Certification (Attachment B of this NOFA) and the Certification Regarding Lobbying (Attachment C of this NOFA) constitute the entire HA application for funding under this section. These three certifications and supporting documents must be submitted to the GMC by the due date.

(B) *Fair Housing Certification and Certification Regarding Lobbying:* All PHAs applying for funding under this NOFA must submit the Certification Regarding Fair Housing and Equal Opportunity which is included as Attachment B of this NOFA and the Certification Regarding Lobbying which is Attachment C of this NOFA.

VII. Corrections to Deficient Applications

(A) Acceptable Applications

To be eligible for processing, an application must be received by the GMC no later than the date and time specified in this NOFA. The GMC will initially screen all applications and notify PHAs of technical deficiencies by letter.

(B) Correction of Deficient Applications

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies. Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. *Examples* of curable technical deficiencies include failure to submit the proper certifications or failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 14 calendar days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

(C) Unacceptable Applications

(1) After the 14-calendar day technical deficiency correction period, the GMC will disapprove PHA applications that it determines are not acceptable for processing. The HUD notification of rejection letter must state the basis for the decision.

(2) Applications from PHAs that fall into any of the following categories are ineligible for funding under this NOFA and will not be processed:

(a) An PHA application submitted after the deadline date for this NOFA.

(b) An application from a PHA that is not an eligible PHA under III.(B) of this NOFA or an application that does not comply with the requirements of VI.(A) or VI.(B) of this NOFA.

(c) An application from a PHA that does not meet the requirements of IV.C.(1) of this NOFA, Compliance with Fair Housing and Civil Rights Laws.

(d) An application from a PHA that at the end of the 14-calendar day technical correction period has not made progress satisfactory to HUD in resolving serious outstanding Inspector General audit findings, or serious outstanding HUD management review findings for one or more of the following programs: Rental Voucher, Rental Certificate or Moderate Rehabilitation. Serious program management findings are those that would cast doubt on the capacity of the PHA to administer its Section 8 programs in accordance with applicable HUD regulatory and statutory requirements.

VIII. Findings and Certifications

(A) Paperwork Reduction Act

The Section 8 information collection requirements contained in this notice were submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and have been assigned OMB control number 2577–0198. 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.

(B) Environmental Requirements

In accordance with provisions of 24 CFR part 50.19(c)(5)(ii), a finding of no significant impact is not required under this Notice. This NOFA provides funding under 24 CFR part 984, which does not contain environmental review provisions because it concerns activities that are listed in 24 CFR 50.19(b) as categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 CFR 4321) (''NEPA''). Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under NEPA. No environmental review is required in connection with the award of assistance under this NOFA, because the NOFA only provides funds for employing a coordinator that provides public and supportive services, which are categorically excluded under 24 CFR 50.19(b)(4) and (12).

(C) Catalog of Federal Domestic Assistance Numbers

The catalog of Federal Domestic Assistance number for the Section 8 rental certificate program is 14.855. The

number for the Section 8 rental voucher program is 14.857.

(D) Executive Order 13132, Federalism

This notice 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 the Executive Order. The NOFA makes funds available for HAs to employ or otherwise retain the services of up to one FSS program coordinator for one year. As such, there are no direct implications on the relationship between the national government and the states or on the distribution of power and responsibilities among various levels of government.

(E) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate that basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel.

(G) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted. The certification and the SF–LLL are included as Attachment D of this NOFA.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

IX. Authority

The Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 2000 (Pub. L. No. 106–74, enacted October 21, 1999) allows funding for program coordinators under the Section 8 FSS program. As a result, the Department determined to make a sufficient amount available under this NOFA, under Part 984, in accordance with section 984.302(b), to enable PHAs to employ up to one Section 8 FSS program coordinator for one year at a reasonable cost as determined by the PHA and HUD, based on salaries for similar positions in the locality.

Dated: March 23, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

Attachment A—Required Certification Format for FY 2000 Section 8 FSS Program Coordinator Funding [1]

Mr. Michael E. Diggs, Director, Grants Management Center, 501 School Street, Suite 804, Washington, DC 20024.

Dear Mr. Diggs: In connection with the FY 2000 NOFA for Section 8 FSS program coordinators, I hereby certify for the _____ (enter PHA name) [2] that:

(1) The PHA which received funding under a FY '99 FSS program coordinator NOFA, continues to operate a Section 8 FSS program and has hired a Section 8 FSS program coordinator using HUD funds provided for

[1] To be eligible for funding under this NOFA, PHAs must have received Section 8 FSS Program Coordinator funding under a FY 99 FSS NOFA, must have hired an FSS program coordinator with funding awarded under that NOFA, must demonstrate activities in each of the categories in section 2(a), 2(b), and 2(c) of this Attachment A certification and must still be operating a Section 8 FSS program.

[2] For joint applications, please indicate the names of all co-applicants and identify the lead PHA that received and administered funds received under the FY '99 NOFA.

that purpose on _____ (enter the ACC effective date of Section 8 FY 99 FSS program coordinator funding increment), and

(2) The PHA has (check all that apply):

__ (a) Formed and convened an FSS program coordinating committee,

__ (b) Obtained HUD approval of its Section 8 FSS action plan,

__ (c) Executed contracts of participation with FSS participants.

(3) Total number of Section 8 FSS program slots based on the number of (both voluntary and mandatory) FSS slots identified in the PHA's HUD-approved Action Plan OR, when HAs are applying jointly, the combined total of Section 8 FSS program slots in the HUD-approved Action Plans of the PHAs: _____.

(4) Amount requested under the FY 2000 Section 8 FSS NOFA: _____.

(5) Section 8 FSS Program Coordinator Salary:

a. *Salary level*, based on salaries for comparable jobs (modified by number of hours worked) _____.

b. *Annual salary* plus Fringe Benefits: _____ Hours/Week; _____ $/Hour; _____ Fringe Rate (%); Annual Salary: _____.

(6) Attachment: Evidence demonstrating salary comparability to similar positions in the local jurisdiction.

If there are any questions, please contact _____ at _____.

Sincerely,

Executive Director.

Attachments

Attachment B—Fair Housing and Equal Opportunity Certifications

The housing agency (PHA) certifies that in administering the funding for the Section 8 Family Self-Sufficiency program coordinators it will comply with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing. CDBG recipients also must certify to compliance with section 109 of the Housing and Community Development Act.

_____

Name of PHA

_____

Signature and Title of PHA Representative

_____

Date

Attachment C—Certification Regarding Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1342, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature of PHA Representative _____
Name of Signatory (print or type) _____
Name of PHA _____
Date signed _____

[FR Doc. 00–7781 Filed 3–29–00; 8:45 am]

BILLING CODE 4210–33–P

Federal Register

Thursday,
March, 30, 2000

Part V

Department of Housing and Urban Development

24 CFR Parts 201 and 202
Strengthening the Title I Property Improvement and Manufactured Home Loan Insurance Programs and Title I Lender/Title II Mortgagee Approval Requirements; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 201 and 202

[Docket No. FR–4246–P–01]

RIN: 2502–AG95

Strengthening the Title I Property Improvement and Manufactured Home Loan Insurance Programs and Title I Lender/Title II Mortgagee Approval Requirements

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend HUD's regulations for the Title I Property Improvement and Manufactured Housing Loan Insurance programs. The changes are designed to enhance program controls and strengthen the financial viability of the programs. Among other amendments, this proposed rule would require that lenders disburse the proceeds of a direct property improvement loan in excess of $7,500 using a draw system, similar to that used in construction lending; expand and strengthen the on-site inspection requirements applicable to dealer and direct property improvement loans; and require that a lien securing a property improvement loan in excess of $7,500 must occupy no less than a second lien position. The proposed rule would also require that a lender disburse Title I dealer property improvement loan proceeds either solely to the borrower, or jointly to the borrower and dealer or other parties to the transaction. HUD also proposes to increase the insurance charge for Title I property improvement and manufactured housing loan insurance. Additionally, the proposed rule would also conform the liquidity requirements applicable to the Title I program to those currently applicable to the Title II Single Family Mortgage Insurance program. Finally, the rule would increase the net worth requirements applicable to both the Title I and Title II programs.

DATES: Comments due date: May 30, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–2700 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Title I Loan Insurance

Section 2 of Title I of the National Housing Act (12 U.S.C. 1703) authorizes HUD to insure approved lenders against losses sustained as a result of borrower defaults on property improvement loans and manufactured home loans. The regulations implementing the Title I Loan Insurance programs are located in 24 CFR part 201. Additionally, the HUD regulations at 24 CFR part 202 establish minimum standards and requirements for approval by the Secretary of HUD of lenders and mortgagees to participate in both the Title I programs and the Title II Single Family Mortgage Insurance program. The programs are administered by HUD's Office of Housing-Federal Housing Administration (FHA).

B. Property Improvement Loans

The Title I property improvement loan program is often the most viable, cost-effective mechanism for individuals to finance property improvements. Under the program, HUD–FHA makes it easier for consumers to obtain affordable loans by insuring such loans made by private lenders to improve properties that meet certain requirements. Title I loans may be used to finance permanent property improvements that protect or improve the basic livability or utility of the property. Only lenders approved by HUD specifically for the program can make loans covered by Title I insurance. Eligible borrowers include the owner of the property to be improved, the person leasing the property (with a fixed lease term that expires not less than 6 calendar months after the final maturity of the loan), or someone purchasing the property under a land installment contract.

C. Manufactured Home Loans

HUD has been insuring loans on manufactured homes under Title I since 1969. By protecting lenders against the risk of default, HUD's participation has encouraged them to finance manufactured homes, which had traditionally been financed as personal property through comparatively high-interest, short term consumer installment loans. The Title I manufactured home loan program, therefore, increases the availability of affordable financing for buyers of manufactured homes. All buyers who plan to purchase manufactured homes as their principal place of residence are eligible to participate in the program. Approved lending institutions are eligible for insurance on loans made under the program. Buyers of manufactured homes may obtain insured loans for insurance through HUD-approved lenders or through approved dealers.

D. Changes to the Title I Programs

While HUD believes that Title I property improvement and manufactured home loans fill an important role otherwise unserved by either public or private lending products, HUD also believes that the program can be strengthened by implementing new financial and program controls. HUD recently conducted a comprehensive review of the Title I programs and concluded that several changes are necessary to strengthen the financial viability of the programs. Accordingly, HUD is issuing this proposed rule, which would make several changes to the Title I and lender approval program regulations at 24 CFR parts 201 and 202, respectively. HUD believes these amendments are needed to protect the financial interests of the FHA, taxpayers, and the vast majority of borrowers and lenders who comply fully with the requirements of the Title I programs. The proposed changes to the Title I program regulations are discussed in section II of this preamble.

E. Net Worth Requirements for the Title I and Title II Programs

In addition to the changes described above (which would only apply to the Title I programs), this proposed rule would also revise 24 CFR part 202 to raise the current minimum net worth requirements applicable to loan correspondents under both the Title I and Title II programs. This proposed change is discussed in section III of this preamble.

II. Proposed Regulatory Changes to the Title I Program Regulations

The changes that would be made by this proposed rule to HUD's Title I regulations are as follows. As noted, some of the changes would be applicable to both the property improvement and manufactured home loan programs. Other changes would apply solely to Title I property improvement loans.

1. *Two party disbursements of dealer property improvement loan proceeds (§§ 201.2 and 201.26).* The proposed rule would amend the definition of ''dealer loan'' in § 201.2 to prohibit lenders from disbursing property improvement loan proceeds solely to a dealer. The proposed rule would require that a lender disburse the proceeds either solely to the borrower or jointly to the borrower and dealer or other parties to the transaction. The proposed rule would also make a conforming change to § 201.26, which describes the conditions for disbursement of property improvement loan proceeds.

This regulatory amendment will reduce the risk that property improvement loan proceeds might be released without the borrower's consent. Further, by requiring that the borrower agrees to the payment of funds to the contractor, the proposed amendment will ensure that all property improvement work is completed in an acceptable manner. The proposed requirement will also assure that any disagreements between the borrower and contractor are brought to the lender's attention as quickly as possible.

2. *Lien position for property improvement loans in excess of $7,500 (§ 201.24).* The proposed rule would amend § 201.24 (which describes security requirements) to require that a lien securing a property improvement loan in excess of $7,500 must occupy no less than a second lien position. The current regulation does not specify the position that such a lien must occupy, other than to state that the Title I property improvement loan must have priority over any lien securing an uninsured loan made at the same time.

3. *Disbursement of direct property improvement loan proceeds in excess of $7,500 (§ 201.26).* This proposed rule would amend § 201.26 (which describes the conditions for loan disbursement) to modify the disbursement procedures for direct property improvement loans in excess of $7,500. The proposed rule would require that such disbursements be made using a ''draw'' system, similar to that used in construction lending. Lenders would be required to deposit all of the loan proceeds in an interest bearing escrow account until they are disbursed. The draws would be made in accordance with criteria established by the Secretary. The loan proceeds would be disbursed in three draws—an initial disbursement of 40 percent of the loan proceeds, a subsequent 40 percent disbursement, and a final 20 percent disbursement.

This regulatory amendment will help to reduce opportunities for misuse of funds. However, HUD recognizes that the use of a draw system will impose some additional administrative and other costs on lenders. Accordingly, this proposed rule would only require the use of this disbursement procedure only for direct loans in excess of $7,500.

The proposed draw system would not apply to dealer loans. As explained elsewhere in this preamble, HUD would establish other requirements to safeguard the proper use of dealer loan proceeds. These protections include the prohibition on the disbursement of Title I loan proceeds solely to a dealer (see the discussion of proposed change number 1 above). Further, the proposed rule would establish a telephone interview requirement for the disbursement of dealer loan proceeds (see the discussion of proposed change number 4 below).

4. *Telephone interviews for dealer property improvement loan disbursements (§ 201.26).* The proposed rule would amend § 201.26 to require that the lender must conduct a telephone interview with the borrower before the disbursement of dealer property improvement loan proceeds. The lender, at a minimum, must obtain an oral affirmation from the borrower to release funds to the dealer. As with the proposed dual disbursement requirement discussed above (see proposed change number 1), it is expected that the telephone interview will help to ensure borrower satisfaction with the work being performed by the dealer/contractor. The lender shall document the borrower's oral affirmation.

5. *Liquidity requirement (§§ 201.27, 202.6, 202.7, and 202.8).* The proposed rule would amend the regulations at 24 CFR parts 201 and 202 to conform the liquidity requirements applicable to the Title I program to those currently applicable to the Title II Single Family Mortgage Insurance program. The proposed liquidity requirement would apply to Title I supervised lenders (§ 202.6), Title I unsupervised lenders (§ 202.7), Title I loan correspondent lenders (§ 202.8), and Title I dealers (§ 201.27). Under the proposed rule, these Title I participants would be required to have liquid assets consisting of cash (or its equivalent acceptable to the Secretary) in the amount of 20 percent of their net worth, up to a maximum liquidity requirement of $100,000. For purposes of this proposed rule, HUD will not consider lines of credit to be liquid assets, nor loans or mortgages held for resale by the mortgagee. Liquid assets include cash on hand, checking accounts, savings accounts, certificates of deposit, and marketable securities.

HUD believes that the proposed liquidity requirement will protect the interests of the FHA and consumers by ensuring that only financially sound program participants are eligible to participate in the Title I programs. Further, the liquidity requirement would provide Title I lenders, dealers, and loan correspondents with a reserve of cash upon which to draw if unexpected expenditures arise. HUD believes the new requirement would reduce the temptation to misuse trust funds and escrow accounts. The proposed liquidity requirements would not become applicable until six months after the effective date of the final rule. This delayed effective date will provide Title I lenders, dealers and loan correspondents with adequate time to meet the new requirement.

6. *Reporting of loans for insurance (§ 201.30).* The proposed rule would amend § 201.30 to clarify that required loan reports must be submitted on the form prescribed by the Secretary, and must contain the data prescribed by HUD. This change will ensure that information vital to the proper monitoring of Title I loans (such as the address of the borrower and the applicable interest rate) is properly collected and transmitted to HUD.

7. *Increase in insurance charge for property improvement and manufactured home loans (§ 201.31).* The proposed rule would revise § 201.31(a) to increase the insurance charge for Title I property improvement and manufactured home loan insurance. Currently, Title I lenders are required to pay an insurance charge of 0.50 percent of the loan amount, multiplied by the number of years of the loan term. This proposed rule would increase the applicable percentage to 1.00 percent of the loan amount. The current charge amount has proven insufficient in covering the costs of insurance claims paid by HUD under the program. The proposed increase is necessary to strengthen the financial viability of the Title I program.

Further, the proposed rule would amend § 201.31(b) to conform the procedures governing the payment of the insurance charge for manufactured

home loans with the insurance charge payment procedures for property improvement loans. The current regulations establish an accelerated payment schedule for manufactured home loans with a maturity in excess of 25 months. Given the proposed increase in the insurance charge, HUD also proposes to eliminate this ''front loading'' system for manufactured home loans. Under the proposed rule, the payment schedule for manufactured homes loans with a maturity in excess of 25 months would be identical to that applicable to comparable property improvement loans. Specifically, insurance charge payments for both types of loans would be made in annual installments of 1.00 percent of the loan amount until the insurance charge is paid.

8. *Inspection requirements for all dealer and direct property improvement loans (§ 201.40).* HUD proposes to expand the current on-site inspection requirements for dealer and direct property improvement loans at § 201.40. Specifically, the proposed rule would require that on-site inspections be conducted for all dealer and direct property improvement loans (not just for loans where the principal obligation is $7,500 or more, or where the borrower fails to submit a completion certificate). In the case of dealer and direct property improvement loans of $7,500 or less, the lender would be required to conduct two inspections—a pre-construction inspection and a post-construction inspection. For dealer and direct loans in excess of $7,500 the lender would also be required to conduct a third inspection. Additionally, the proposed rule would also require that photographs of the site be taken as part of all required inspections. The pre-construction inspection and photograph requirements do not apply where emergency action is needed to repair damage resulting from a disaster, as described in § 201.20(b)(3)(ii). The proposed rule would also authorize HUD to grant exceptions to the pre-construction inspection and photograph requirements.

The expanded inspection requirements will protect the interests of borrowers and the FHA by helping to verify that all property improvement work has been completed in a satisfactory manner. In addition, the proposed regulatory amendments will help to ensure that no funding is extended for improvements that were completed prior to obtaining the Title I loan.

III. Increased Net Worth Requirements

In addition to the regulatory changes described in Section II of this preamble (which would only apply to the Title I property improvement and manufactured home programs), this proposed rule would also increase the net worth requirements for both Title I and Title II loan correspondents. Specifically, the rule would amend § 202.8 to raise the minimum net worth requirement for Title II loan correspondent mortgagees and Title I loan correspondent lenders from $50,000 to $75,000. The proposed rule would also amend § 201.27 to raise the current minimum net worth requirements for Title I property improvement loan and manufactured home dealers from $25,000 and $50,000, respectively, to $75,000.

The net worth reforms proposed by this rule are directed toward this goal of ensuring that only responsible and adequately capitalized entities are program participants. In HUD's experience there is less stress on well capitalized companies to misuse restricted funds such as insurance premiums or escrows for operating expenses. The net worth requirements were last raised in 1992 and HUD believes they need to be raised again to take into account inflation as well as increased losses per claim. Since fiscal year 1991, the average Title I claim has increased from $7,020 to $15,314 while the average loss has increased from $6,318 to $13,783. The average Title II claim has increased from $54,905 to $82,226, and the average loss has increased from $24,140 to $31,800. Even with this modest increase in required net worth, a lender would only be able cover indemnification for five Title I loans or two Title II mortgages.

The proposed net worth requirements would not become applicable until six months after the effective date of the final rule. This delayed effective date will provide dealers and loan correspondents with adequate time to meet the new requirements.

IV. Performance-Based Standards for the Title I Program

HUD is planning to develop performance-based standards for determining the continued eligibility of lenders, correspondents and dealers in the Title I program. These would identify objective criteria for loan performance and would ensure management quality. While HUD is still developing data collection and measurement systems for this purpose and is not proposing any requirements in this area under this proposed rule, it is interested in the public's views on using this tool.

V. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in § 201.26(a)(7) (the new telephone interview requirement for dealer property loan disbursements) has been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This is the only new information collection requirement that would be established by this proposed rule. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The average number of dealer transactions per year is 22,000. A single response to the information collection requirement would be required per dealer transaction. HUD estimates that the average time per response would be no more than five minutes. Accordingly, the estimated annual burden that would be imposed by the proposed information collection requirement is 1,833 hours.

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within sixty (60) days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–4246) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer,
Office of Management and Budget,

New Executive Office Building, Washington, DC 20503;

and

Ethelene Washington, Reports Liaison Officer, Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451—7th Street, SW, Room 9114, Washington, DC 20410

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review.* OMB 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 in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication, and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows.

With one exception (the increased net worth requirements for loan correspondents), the amendments made by this proposed rule exclusively relate to the Title I program. The majority of financial institutions participating in the Title I program are large depositary institutions and thus the proposed changes pose only minimum burdens for smaller entities seeking to conduct Title I loan transactions. Some of these proposed requirements (such as two-party disbursements for dealer loan proceeds, and ensuring at least a second lien position for certain loans) would impose minimal, or no, economic costs.

Where the proposed rule would impose an economic burden (such as the increased net worth and liquidity requirements), HUD has attempted to minimize the costs to lenders. For example, the proposed increased net worth and liquidity requirements would be ''phased-in,'' and not take effect until six months after the effective date of the other new regulatory requirements. This delayed effective date will provide lenders with additional time to meet the new requirements.

The proposed rule would also increase the net worth requirements for all Title I and Title II loan correspondents from $50,000 to $75,000. HUD is proposing to make this modest increase for a variety of reasons, including the need to make adjustments for inflation since the net worth requirements were last updated—in 1991 for the Title I program (October 18, 1991; 56 FR 52414); and 1992 for the Title II program (December 9, 1992; 57 FR 58326).

Although the primary purpose of setting minimum net worth standards is not to ensure that a lender can absorb the costs of fines or indemnifications, HUD notes that the proposed net worth requirement will cover only three Title I loans, assuming a maximum loan value of $25,000. The proposed net worth requirement would cover only five average Title I loans (assuming a $13,000 average loss). The proposed net worth requirement will cover less than one Title II loan, assuming a maximum loan value of $219,849. The proposed net worth requirement would cover two average Title II loans (assuming a $31,000 average loss). Therefore, the proposed net worth value is not significant in comparison to the typical size of a Title I and Title II loan.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

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

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program numbers applicable to the 24 CFR parts 201 and 202 are:

14.110 Manufactured Home Loan Insurance— Financing Purchase of Manufactured Homes as Principal Residences of Borrowers;

14.142 Structures and Building of New Nonresidential Structures; and

14.162 Mortgage Insurance—Combination and Manufactured Home Lot Loans.

List of Subjects

24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 202

Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR parts 201 and 202 to read as follows:

PART 201—TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

1. The authority citation for 24 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 1703 and 3535(d).

2. In § 201.2, revise the definition of ''*Dealer loan*'' to read as follows:

§ 201.2 Definitions.

* * * * *

Dealer loan means a loan where a dealer, having a direct or indirect financial interest in the transaction between the borrower and the lender, assists the borrower in preparing the credit application or otherwise assists the borrower in obtaining the loan from the lender. In the case of a property improvement loan, the lender may disburse the loan proceeds solely to the borrower, or jointly to the borrower and the dealer or other parties to the transaction. In the case of a manufactured home loan, the lender may disburse the loan proceeds solely to the dealer or the borrower, or jointly to the borrower and the dealer or other parties to the transaction.

* * * * *

3. Revise § 201.24(a) to read as follows:

§ 201.24 Security requirements.

(a) *Property improvement loans.* (1) *Property improvement loans in excess of $7,500.* (i) Any property improvement loan in excess of $7,500 shall be secured by a recorded lien on the improved property. The lien shall be evidenced by a mortgage or deed of trust, executed by the borrower and all other owners in fee simple.

(ii) If the borrower is a lessee, the borrower and all owners in fee simple must execute the mortgage or deed of trust. If the borrower is purchasing the property under a land installment contract, the borrower, all owners in fee simple, and all intervening contract sellers must execute the mortgage or deed of trust.

(iii) The lien need not be a first lien on the property; however, the lien securing the Title I loan must hold no less than the second lien position.

(2) *Property improvement loans of $7,500 or less.* Any property improvement loan for $7,500 or less (other than a manufactured home improvement loan) shall be similarly secured if, including such loan, the total amount of all Title I loans on the improved property is more than $7,500.

(3) *Manufactured home improvement loans.* Manufactured home improvement loans need not be secured.

* * * * *

4. Amend § 201.26 as follows:

a. Redesignate paragraphs (a) and (b) as paragraphs (b) and (c), respectively;

b. Add new paragraph (a);

c. Redesignate newly designated paragraphs (b)(6) and (b)(7) as paragraphs (b)(8) and (b)(9), respectively; and

d. Add new paragraphs (b)(6) and (b)(7).

§ 201.26 Conditions for loan disbursement.

(a) *Disbursement of direct property improvement loans in excess of $7,500.* (1) *Escrow account.* For all direct property improvement loans in excess of $7,500, the lender must deposit all of the loan proceeds in an interest-bearing escrow account until they are disbursed in accordance with the requirements of this section.

(2) *Disbursement schedule.* Disbursement of the loan proceeds will be made in a series of ''draws,'' in accordance with criteria established by the Secretary. Disbursement of the loan proceeds will be made using the following schedule:

(i) The lender will disburse 40% of the loan proceeds upon the completion of the pre-construction inspection required under § 201.40(c)(3)(i).

(ii) Subsequent to the initial 40% draw (but before the final draw of the loan proceeds) the borrower may draw up to an additional 40% of the property improvement loan proceeds.

(iii) The lender will disburse the balance of the loan proceeds upon the completion of the inspection required under § 201.40(c)(3)(ii).

(b) * * *

(6) In the case of a dealer loan, the lender may disburse the loan proceeds solely to the borrower, or jointly to the borrower and the dealer or other parties to the transaction.

(7) In the case of a dealer loan, the lender must conduct a telephone interview with the borrower before the disbursement of the loan proceeds. The lender, at minimum, must obtain an oral affirmation from the borrower to release funds to the dealer. The lender shall document the borrower's oral affirmation.

* * * * *

5. Revise § 201.27(a)(1) to read as follows:

§ 201.27 Requirements for dealer loans.

(a) *Dealer approval and supervision.* (1) The lender shall approve only those dealers which, on the basis of experience and information, the lender considers to be reliable, financially responsible, and qualified to satisfactorily perform their contractual obligations to borrowers and to comply with the requirements of this part. However, in no case shall the lender approve a dealer that is unable to meet the following minimum qualifications:

(i) *Net worth.* All property improvement and manufactured home dealers shall have and maintain a net worth of not less than $75,000, plus an additional $25,000 for each branch office, in assets acceptable to the Secretary, up to a maximum required net worth of $250,000.

(ii) *Liquid assets.* A dealer shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of $100,000.

(iii) *Business experience.* All property improvement loan and manufactured home dealers must have demonstrated business experience as a property improvement contractor or supplier, or in manufactured home retail sales, as applicable.

* * * * *

6. Revise § 201.30(a) to read as follows:

§ 201.30 Reporting of loans for insurance.

(a) *Date of reports.* The lender shall transmit a loan report on each loan reported for insurance within 31 days from the date of the loan's origination or purchase from a dealer or another lender. The loan report must be submitted on the form prescribed by the Secretary, and must contain the data prescribed by HUD. Any loan refinanced under this part shall similarly be reported on the prescribed form within 31 days from the date of refinancing. When a loan insured under this part is transferred to another lender without recourse, guaranty, guarantee, or repurchase agreement, a report on the prescribed form shall be transmitted to the Secretary within 31 days from the date of the transfer. No report is required when a loan insured under this part is transferred with recourse or under a guaranty, guarantee, or repurchase agreement.

* * * * *

7. Amend § 201.31 as follows:

a. Revise the first sentence of paragraph (a); and

b. Revise paragraph (b)(2).

§ 201.31 Insurance charge.

(a) *Insurance charge.* For each eligible property improvement loan and manufactured home loan reported and acknowledged for insurance, the lender shall pay to the Secretary an insurance charge equal to 1.00 percent of the loan amount, multiplied by the number of years of the loan term.

* * * * *

(b) * * *

(2)(i) For any loan having a maturity in excess of 25 months, payment of the insurance charge shall be made in annual installments, with the first installment due on the 25th calendar day after the date the Secretary acknowledges the loan report, and the second and successive installments due

on the 25th calendar day after the date of billing by the Secretary.

(ii) For any loan having a maturity in excess of 25 months, payment shall be made in annual installments of 1.00 percent of the loan amount until the insurance charge is paid.

* * * * *

8. In § 201.40, revise the section heading and paragraph (c) to read as follows:

§ 201.40 Pre- and Post-disbursement loan requirements.

* * * * *

(c) *Inspection requirement on dealer and direct property improvement loans.* (1) *General.* The lender or its agent shall conduct on-site inspections on all dealer and direct property improvement loans.

(2) *Inspections for dealer and direct property improvement loans of $7,500 or less.* For dealer and direct property improvement loans of $7,500 or less, the lender or its agent shall conduct:

(i) A pre-construction inspection within 30 days before the start of construction; and

(ii) A post-construction inspection within 60 days after the receipt of the completion certificate, or as soon as the lender determines that the borrower is unwilling to cooperate in submitting a completion certificate, as required under paragraph (b) of this section.

(3) *Inspections for dealer and direct property improvement loans in excess of $7,500.* For dealer and direct property improvement loans in excess of $7,500, the lender or its agent shall conduct:

(i) A pre-construction inspection within 30 days before the start of construction;

(ii) An inspection within 60 days before the disbursement of the loan proceeds (in the case of a dealer loan), or within 60 days before the final draw of the loan proceeds (in the case of a direct loan—see § 200.26(a)(2)(iii)); and

(iii) A post-construction inspection within 60 days after the receipt of the completion certificate, or as soon as the lender determines that the borrower is unwilling to cooperate in submitting a completion certificate, as required under paragraph (b) of this section.

(4) *Purpose of inspections.* The purpose of the inspections is to verify the eligibility of the improvements and whether the work has been completed. Photographs of the site must be taken as part of all inspections. If the borrower will not cooperate in permitting an on-site inspection, the lender shall report this fact to the Secretary.

(5) *Exceptions.* The pre-construction inspection and photograph requirements do not apply where emergency action is needed to repair damage resulting from a disaster, as described in § 201.20(b)(3)(ii). Exceptions to the pre-construction inspection and photograph requirements can be granted in other circumstances if the prior approval of the Secretary is obtained.

* * * * *

PART 202—APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES

8. The authority citation for part 202 continues to read as follows:

Authority: 12 U.S.C. 1703, 1709 and 1715b; 42 U.S.C. 3535(d).

9. Revise § 202.6(b)(2) to read as follows:

§ 202.6 Supervised lenders and mortgagees.

* * * * *

(b) * * *

(2) *Liquid assets.* The lender or mortgagee shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of $100,000.

* * * * *

10. Revise § 202.7(b)(2) to read as follows:

§ 202.7 Nonsupervised lenders and mortgagees.

* * * * *

(b) *Liquid assets.* The lender or mortgagee shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of $100,000.

* * * * *

11. Amend § 202.8 by revising paragraphs (b)(1) and (b)(4) to read as follows:

§ 202.8 Loan correspondent lenders and mortgagees.

* * * * *

(b) * * *

(1) *Net worth.* A loan correspondent lender or mortgagee shall have a net worth of not less than $75,000 in assets acceptable to the Secretary, plus an additional $25,000 for each branch office authorized by the Secretary, up to a maximum requirement of $250,000, except that a multifamily mortgagee shall have a net worth of not less than $250,000 in assets acceptable to the Secretary.

* * * * *

(4) *Liquid assets.* A loan correspondent lender or mortgagee shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of $100,000.

* * * * *

Dated: March 7, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–7771 Filed 3–29–00; 8:45 am]

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