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# Federal Register

5–1–00 Monday
Vol. 65 No. 84 May 1, 2000
Pages 25233–25434

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**RESERVATIONS:** 202–523–4538

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# Rules and Regulations

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

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 981

**[Docket No. FV00–981–1 IFR]**

## Almonds Grown in California; Release of the Reserve Established for the 1999–2000 Crop Year

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule relaxes volume regulation implemented under the California almond marketing order (order) during the 1999–2000 crop year (August 1 through July 31). The order regulates the handling of almonds grown in California and is locally administered by the Almond Board of California (Board). This rule releases, in three stages, reserve almonds into normal salable channels. One-third of the reserve will be released on the effective date of this rule, the second-third will be released on June 1, 2000, and the final-third will be released on July 1, 2000. Releasing the reserve is necessary to provide a sufficient quantity of almonds to meet anticipated trade demand and carryover needs.

**DATES:** Effective on May 2, 2000; comments received by May 16, 2000 will be considered prior to issuance of a final rule.

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

**FOR FURTHER INFORMATION CONTACT:** Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 981, as amended, (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable and reserve percentages may be established for almonds during any crop year. This rule revises the salable and reserve percentages for marketable California almonds during the 1999–2000 crop year, which began August 1, 1999, and ends July 31, 2000. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This interim final rule relaxes volume regulation implemented under the order during the 1999–2000 crop year (August 1 through July 31). The order regulates the handling of almonds grown in California and is locally administered by the Board. During the 1999–2000 season, handlers were required to withhold as a reserve, from normal competitive markets, 22.36 percent of the almonds which they received from growers. The remaining 77.64 percent of the crop could be sold by handlers to any market at any time. These percentages are referred to as reserve and salable percentages, respectively. This rule relaxes this regulation on handlers by releasing, in three stages, all almonds held as reserve to be available for sale to normal market channels. This is necessary to provide a sufficient quantity of almonds to meet anticipated trade demand and carryover needs. This action was unanimously recommended by the Board at a meeting on April 10, 2000.

Section 981.47 of the almond marketing order provides authority for the Secretary, based on recommendations by the Board and the analysis of other available information, to establish salable and reserve percentages for almonds during a crop year. To aid the Secretary in fixing the salable and reserve percentages, § 981.49 of the order requires the Board to submit information to the Department on estimates of the marketable production of almonds, trade demand needs for the year, carryin inventory at the beginning of the year, and the desirable carryout inventory at the end of the year. Reserve almonds may be disposed of in authorized reserve outlets, such as certified organic markets or for use in almond oil,

almond butter, and animal feed. Reserve almonds can also be released for sale into normal marketing channels based on a revision of the aforementioned factors and other information. Authority for the Board to recommend revisions in the volume regulation percentages is provided in § 981.48 of the order. Such revisions must be recommended by May 15.

The Board met in May and July of 1999 to review projected crop estimates and marketing conditions for the 1999–2000 crop year. A record crop of 830 million kernelweight pounds was projected for the season. This would produce an estimated 796.8 marketable kernelweight pounds after an adjustment for processing losses and exempt product. When combined with estimated carryin and adjusted for desired carryout, an estimated 827.2 million pounds was available for the 1999–2000 crop year. Trade demand was estimated by the Board at 649 million pounds; thus, a projected oversupply of almonds existed for the 1999–2000 crop year of about 178.2 million pounds. The Board also considered other factors such as price levels and fluctuations, increased plantings and yields, and weather-related variations in production, and ultimately recommended establishment of a reserve for the 1999–2000 season. The Department established salable and reserve percentages of 77.64 and 22.36 percent, respectively, for almonds received by handlers during the 1999–2000 crop year, pursuant to a regulation published in the **Federal Register** on November 2, 1999 (64 FR 59107).

The Board met on April 10, 2000, to consider disposition of the reserve. At that time, the Board evaluated marketing and other conditions in the industry, and recommended revisions to the marketing policy estimates initially used in establishing the reserve. A comparison of the initial estimates and revised estimates are contained in the following table.

MARKETING POLICY ESTIMATES—1999 CROP

[Kernelweight basis in millions of pounds]

| | 7/12/99 initial estimates | 4/10/00 revised estimates |
|---|---|---|
| Estimated Production: | | |
| 1. 1999 Production | 830.0 | 827.4 |
| 2. Loss and Exempt—4.0% | 33.2 | 33.1 |
| 3. Marketable Production | 796.8 | 794.3 |

MARKETING POLICY ESTIMATES—1999 CROP—Continued

[Kernelweight basis in millions of pounds]

| | 7/12/99 initial estimates | 4/10/00 revised estimates |
|---|---|---|
| Estimated Trade Demand: | | |
| 4. Domestic | 190.0 | 203.0 |
| 5. Export | 459.0 | 492.0 |
| 6. Total | 649.0 | 695.0 |
| Inventory Adjustment: | | |
| 7. Carryin 8/1/99 | 100.4 | 91.8 |
| 8. Desirable Carryover 7/31/00 | 70.0 | 191.1 |
| 9. Adjustment (Item 8 minus item 7) | −30.4 | 99.3 |
| Salable/Reserve: | | |
| 10. Adjusted Trade Demand (Item 6 plus item 9) | 618.6 | 794.3 |
| 11. Reserve (Item 3 minus item 10) | 178.2 | 0.0 |
| 12. Salable % (Item 10 divided by item 3×100) | 77.64% | 100.0 |
| 13. Reserve % (100% minus item 12) | 22.36% | 0.0 |

In arriving at these estimates, the Board revised its the 1999–2000 crop estimate of 830 million pounds to 827.4 million pounds, and marketable production of 796.8 million pounds to 794.3 million pounds. The carryin on August 1, 1999, was initially estimated to be 100.4 million pounds. That figure was revised to reflect actual carryin of 91.8 million pounds. Thus, the total available supply for the 1999–2000 crop year is slightly lower than initially estimated.

Shipment figures for the year to date were analyzed. Through March 2000, total industry shipments of almonds were 525.5 million pounds, significantly higher than shipments for a comparable period in any prior year. Based on historical shipping patterns and shipments to date this season, the Board anticipates strong shipment levels to continue for the remainder of the season. Therefore, the Board revised its trade demand estimate from 649 million pounds to 695 million pounds.

Although an official crop estimate for the 2000–2001 crop year will not be available until May 11, 2000, the consensus in the industry is that next year's crop will be significantly smaller than the current crop. Several factors have contributed to this conclusion. In addition to the usual pattern of a shorter crop following a large crop, the weather throughout the production area during the month of February was generally cool, rainy, and windy. During this period, almond trees were in bloom, and the weather conditions were not conducive to good flower pollination. Field observations since the bloom period confirm that next year's crop will be significantly smaller. Preliminary industry discussions indicate that the 2000–2001 crop will be approximately 550 million pounds. A crop of that size would not provide a sufficient supply of almonds to meet trade needs and provide an adequate carryout at the end of the 2000–2001 crop year. Therefore, to provide more almonds to satisfy the current year's trade demand and to augment next year's supplies, the Board recommended releasing the 1999–2000 crop year reserve.

The Board also considered the timing of releasing reserve product to salable market channels. The Board determined that a gradual release schedule would best serve the industry. This would prevent a large quantity of almonds from being made available for sale by handlers immediately, which could put downward pressure on prices and create disorderly marketing conditions. Thus, the Board unanimously recommended releasing one-third of the reserve as soon as possible, one-third on June 1, 2000, and the final-third on July 1, 2000. The resulting salable and reserve percentages will be 85.09 percent and 14.91 percent, respectively, on the effective date of this rule; 92.55 percent and 7.45 percent, respectively, on June 1, 2000; and 100 and 0 percent, respectively, on July 1, 2000.

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

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

There are approximately 105 handlers of California almonds who are subject to regulation under the marketing order and approximately 6,000 producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000.

Based on the most current data available, about 54 percent of almond handlers ship under $5,000,000 worth of almonds and 46 percent ship over $5,000,000 worth on an annual basis. In addition, based on production and grower prices reported by the National Agricultural Statistics Service (NASS), and the total number of almond growers, the average annual grower revenue is approximately $195,000. In view of the foregoing, it can be concluded that the majority of handlers and producers of California almonds may be classified as small entities.

Pursuant to §§ 981.47 and 981.49, during the 1999–2000 crop year, handlers were required to withhold as a reserve, from normal competitive markets, 22.36 percent of the almonds which they received from growers (64 FR 59107, November 2, 1999). The remaining 77.64 percent of the crop could be sold by handlers to any market at any time. Volume regulation was implemented because the available supply of almonds for the 1999–2000 crop year, adjusted by carryin and desired carryout, was estimated to be about 827 million pounds, which exceeded the estimated trade demand needs of about 649 million pounds.

Pursuant to § 981.48 of the order, this rule releases 7.45 percent of the reserve on the effective date of this rule, 7.45 percent on June 1, 2000, and 7.45 percent on July 1, 2000. Releasing the reserve is necessary to provide a sufficient quantity of almonds to meet anticipated trade demand and carryover needs. Shipment levels through March 2000 and anticipated strong shipments for the remainder of the season lead to an increased trade demand estimate from 649 million pounds to 695 million pounds. In addition, because a smaller 2000–2001 crop is expected (approximately 550 million pounds), the industry would like to increase the amount of 1999–2000 carryout inventory from 70 million pounds to 191.2 million pounds to augment supplies during the next crop year. Timing of the release is structured so that all 178 million pounds of reserve product will not enter the market at one time.

This action is expected to have a positive effect on producers and handlers of almonds. It gradually removes the regulatory requirement that handlers hold product in reserve or sell it to reserve outlets. Handlers will be able to sell reserve almonds into normal markets at prevailing prices (currently in the range of $1.25 per pound to $1.60 per pound) as opposed to selling them into lower value reserve outlets (ranging from 8 to 15 cents per pound for oil or 4 to 5 cents per pound for animal feed). Although reserve almonds can be sold to organic markets or for use in the manufacture of almond butter at higher prices than other reserve outlets, the quantity that can be sold is limited because those markets are limited. Handlers and growers should be able to achieve higher total revenue for their product by selling to normal markets, because trade demand for almonds has increased significantly from early season estimates, and price levels have also improved in recent months.

Releasing reserve almonds into the market in three stages will help to ensure that a large supply of almonds is not available for sale by handlers at the same time, which could create a temporary oversupply and have a negative impact on price levels. The staged release will also help to ensure that additional product will be available to carry into the following crop year to augment anticipated short supplies.

This action is intended to promote orderly marketing conditions for the remainder of the 1999–2000 crop year and also leading into the 2000–2001 crop year, for the benefit of producers and handlers, regardless of size.

One alternative considered was to release all of the reserve product to normal market channels as soon as possible. This alternative was not recommended because it was believed that too much product would be available at one time, creating a short-term oversupply situation, which could negatively impact prices and market conditions. Another alternative considered was to release one-third of the reserve as soon as possible, and if the May 11, 2000, crop estimate issued by NASS for the 2000–2001 crop is less than 525 million pounds, to release the entire reserve as soon as possible after that. If the May crop estimate is more than 525 million pounds, this alternative would release one-third of the reserve as soon as possible after the estimate is issued and the final one-third on July 1, 2000. This was not recommended. The Board decided that three equal releases were preferable.

All the scenarios considered had the common goal of releasing all the 1999–2000 crop year reserve to the salable category. The Board ultimately recommended releasing one-third of the reserve as soon as possible (on the effective date of this rule), one third on June 1, 2000, and the final one-third on July 1, 2000. The Board believed this would best achieve orderly marketing objectives. Adequate supplies should be available to meet market needs for the remainder of the crop year and for carryin to the next crop year, thus satisfying market needs and maintaining market and price stability.

This rule will not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to help reduce information requirements and duplication by industry and public sector agencies.

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

Further, the Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the April 10, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Reserve Committee met on April 10, 2000, and discussed this issue in detail. That meeting was also a public meeting and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

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

A comment period of 15 days is provided to allow interested persons to

respond to this interim final rule. A comment period of 15 days is deemed appropriate to allow the Department sufficient time to consider comments prior to the scheduled releases on June 1, and July 1, 1999. All comments timely received will be considered in finalizing this action.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes requirements currently in effect by increasing the quantity of almonds that may be marketed; (2) the 1999–2000 crop year ends July 31, (3) this rule was discussed at a public meeting and interested persons had an opportunity to provide input; (4) the rule was unanimously recommended by the Board; and (5) this rule provides a 15-day comment period and any comments received will be considered prior to finalization of this rule.

### List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

## PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

[**Note:** This section will not appear in the Code of Federal Regulations.]

2. In Part 981, § 981.240 is revised to read as follows:

### § 981.240 Salable and reserve percentages for almonds during the crop year beginning on August 1, 1999.

The salable and reserve percentages during the crop year beginning on August 1, 1999, shall be 85.09 percent and 14.91 percent, respectively, beginning on May 2, 2000; 92.55 percent and 7.45 percent, respectively, beginning on June 1, 2000, and 100 percent and 0 percent, respectively, beginning on July 1, 2000.

Dated: April 25, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–10765 Filed 4–28–00; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 1205

**[CN–00–002]**

## 2000 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

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

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is amending the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. This action is required by this regulation on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton.

**EFFECTIVE DATE:** May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Whitney Rick, (202) 720–2259.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866

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

### Executive Order 12988

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

The Cotton Research and Promotion Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This rule would affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This rule would lower the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment will be lowered, the decrease is small and will not significantly affect small businesses.

The current assessment on imported cotton is $0.011397 per kilogram of imported cotton. The amended assessment is $0.009833, a decrease of $0.001564 or a 13.72 percent decrease from the current assessment. From January through December 1999 approximately $23 million was collected at the $0.011397 per kilogram rate. Should the volume of cotton products imported into the U.S. remain at the same level in 2000, one could expect the decreased assessment to generate approximately $19.8 million or a 13.72 percent decrease from 1999.

### Paperwork Reduction

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093.

### Background

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program.

These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991 and the amended Order was published in the **Federal Register** on December 10, 1991, (56 FR 64470). Proposed rules implementing the amended Order were published in the **Federal Register** on December 17, 1991, (56 FR 65450). Implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This rule will decrease the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510 (b) (2)). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms of cotton.

Supplemental assessments are levied at a rate of five-tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency has adopted the practice of assigning the calendar year weighted average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. This is done so that the assessment on domestically produced cotton and the assessment on imported cotton and the cotton content of imported products remain similar. The source for the average price statistic is ''Agricultural Prices'', a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the weighted average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment that approximates assessments paid on domestically produced cotton in the prior calendar year.

The current value of imported cotton as published in the **Federal Register** (64 FR 30236) on June 7, 1999, for the purpose of calculating supplemental assessments on imported cotton is $1.3977 per kilogram. This number was calculated using the annual weighted average price received by farmers for Upland cotton during the calendar year 1998 which was $0.634 per pound and multiplying by the conversion factor 2.2046. Using the Average Weighted Price Received by U.S. farmers for Upland cotton for the calendar year 1999, which is $0.492 per pound, the new value of imported cotton is $1.0847 per kilogram. The amended value is $0.313 per kilogram less than the previous value.

An example of the complete assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.

One kilogram equals 2.2046 pounds.

One pound equals 0.453597 kilograms.

*One Dollar Per Bale Assessment Converted to Kilograms*

A 500 pound bale equals 226.8 kg. (500 × .453597).

$1 per bale assessment equals $0.002000 per pound (1 ÷ 500) or $0.004409 per kg. (1 ÷ 226.8).

*Supplemental Assessment of 5/10 of One Percent of the Value of the Cotton Converted to Kilograms.*

The 1999 calendar year weighted average price received by producers for Upland cotton is $0.492 per pound or $1.0847 per kg. (0.492 × 2.2046) = 1.0847.

Five tenths of one percent of the average price in kg. equals $0.005424 per kg. (1.0847 × .005).

*Total Assessment*

The total assessment per kilogram of raw cotton in obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment $0.005424 per kg. which equals $0.009833 per kg.

The current assessment on imported cotton is $0.011397 per kilogram of imported cotton. The amended assessment is $0.009833, a decrease of $0.001564 per kilogram. This decrease reflects the decrease in the Average Weighted Price of Upland Cotton Received by U.S. Farmers during the period January through December 1999.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the right hand column of the Import Assessment Table 1205.510 (b)(3) are a result of such a calculation, the figures in this table have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

A proposed rule with a request for comments was published in the **Federal Register** (65 FR 12141) on March 8, 2000. No comments were received during the comment period (March 8 through April 7, 2000).

**List of Subjects in 7 CFR Part 1205**

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1205 is amended as follows:

## PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

**Authority:** 7 U.S.C. 2101–2118.

2. In § 1205.510, paragraph (b)(2) and the table in paragraph (b)(3)(ii) are revised to read as follows:

**§ 1205.510 Levy of assessments.**

* * * * *

(b) * * *

(1) * * *

(2) The 12-month average of monthly weighted average prices received by U.S. farmers will be calculated annually. Such weighted average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $0.9833 per kilogram.

(3) * * *

(I) * * *

(ii) * * *

IMPORT ASSESSMENT TABLE

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 5201000500 ..... | 0 | 0.9833 |
| 5201001200 ..... | 0 | 0.9833 |
| 5201001400 ..... | 0 | 0.9833 |
| 5201001800 ..... | 0 | 0.9833 |
| 5201002200 ..... | 0 | 0.9833 |
| 5201002400 ..... | 0 | 0.9833 |
| 5201002800 ..... | 0 | 0.9833 |
| 5201003400 ..... | 0 | 0.9833 |
| 5201003800 ..... | 0 | 0.9833 |
| 5204110000 ..... | 1.1111 | 1.0925 |
| 5204200000 ..... | 1.1111 | 1.0925 |
| 5205111000 ..... | 1.1111 | 1.0925 |
| 5205112000 ..... | 1.1111 | 1.0925 |
| 5205121000 ..... | 1.1111 | 1.0925 |
| 5205122000 ..... | 1.1111 | 1.0925 |
| 5205131000 ..... | 1.1111 | 1.0925 |
| 5205132000 ..... | 1.1111 | 1.0925 |
| 5205141000 ..... | 1.1111 | 1.0925 |
| 5205210020 ..... | 1.1111 | 1.0925 |
| 5205210090 ..... | 1.1111 | 1.0925 |
| 5205220020 ..... | 1.1111 | 1.0925 |
| 5205220090 ..... | 1.1111 | 1.0925 |
| 5205230020 ..... | 1.1111 | 1.0925 |
| 5205230090 ..... | 1.1111 | 1.0925 |
| 5205240020 ..... | 1.1111 | 1.0925 |
| 5205240090 ..... | 1.1111 | 1.0925 |
| 5205310000 ..... | 1.1111 | 1.0925 |
| 5205320000 ..... | 1.1111 | 1.0925 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 5205330000 | 1.1111 | 1.0925 |
| 5205340000 | 1.1111 | 1.0925 |
| 5205410020 | 1.1111 | 1.0925 |
| 5205410090 | 1.1111 | 1.0925 |
| 5205420020 | 1.1111 | 1.0925 |
| 5205420090 | 1.1111 | 1.0925 |
| 5205440020 | 1.1111 | 1.0925 |
| 5205440090 | 1.1111 | 1.0925 |
| 5206120000 | 0.5556 | 0.5463 |
| 5206130000 | 0.5556 | 0.5463 |
| 5206140000 | 0.5556 | 0.5463 |
| 5206220000 | 0.5556 | 0.5463 |
| 5206230000 | 0.5556 | 0.5463 |
| 5206240000 | 0.5556 | 0.5463 |
| 5206310000 | 0.5556 | 0.5463 |
| 5207100000 | 1.1111 | 1.0925 |
| 5207900000 | 0.5556 | 0.5463 |
| 5208112020 | 1.1455 | 1.1264 |
| 5208112040 | 1.1455 | 1.1264 |
| 5208112090 | 1.1455 | 1.1264 |
| 5208114020 | 1.1455 | 1.1264 |
| 5208114060 | 1.1455 | 1.1264 |
| 5208114090 | 1.1455 | 1.1264 |
| 5208118090 | 1.1455 | 1.1264 |
| 5208124020 | 1.1455 | 1.1264 |
| 5208124040 | 1.1455 | 1.1264 |
| 5208124090 | 1.1455 | 1.1264 |
| 5208126020 | 1.1455 | 1.1264 |
| 5208126040 | 1.1455 | 1.1264 |
| 5208126060 | 1.1455 | 1.1264 |
| 5208126090 | 1.1455 | 1.1264 |
| 5208128020 | 1.1455 | 1.1264 |
| 5208128090 | 1.1455 | 1.1264 |
| 5208130000 | 1.1455 | 1.1264 |
| 5208192020 | 1.1455 | 1.1264 |
| 5208192090 | 1.1455 | 1.1264 |
| 5208194020 | 1.1455 | 1.1264 |
| 5208194090 | 1.1455 | 1.1264 |
| 5208196020 | 1.1455 | 1.1264 |
| 5208196090 | 1.1455 | 1.1264 |
| 5208224040 | 1.1455 | 1.1264 |
| 5208224090 | 1.1455 | 1.1264 |
| 5208226020 | 1.1455 | 1.1264 |
| 5208226060 | 1.1455 | 1.1264 |
| 5208228020 | 1.1455 | 1.1264 |
| 5208230000 | 1.1455 | 1.1264 |
| 5208292020 | 1.1455 | 1.1264 |
| 5208292090 | 1.1455 | 1.1264 |
| 5208294090 | 1.1455 | 1.1264 |
| 5208296090 | 1.1455 | 1.1264 |
| 5208298020 | 1.1455 | 1.1264 |
| 5208312000 | 1.1455 | 1.1264 |
| 5208321000 | 1.1455 | 1.1264 |
| 5208323020 | 1.1455 | 1.1264 |
| 5208323040 | 1.1455 | 1.1264 |
| 5208323090 | 1.1455 | 1.1264 |
| 5208324020 | 1.1455 | 1.1264 |
| 5208324040 | 1.1455 | 1.1264 |
| 5208325020 | 1.1455 | 1.1264 |
| 5208330000 | 1.1455 | 1.1264 |
| 5208392020 | 1.1455 | 1.1264 |
| 5208392090 | 1.1455 | 1.1264 |
| 5208394090 | 1.1455 | 1.1264 |
| 5208396090 | 1.1455 | 1.1264 |
| 5208398020 | 1.1455 | 1.1264 |
| 5208412000 | 1.1455 | 1.1264 |
| 5208416000 | 1.1455 | 1.1264 |
| 5208418000 | 1.1455 | 1.1264 |
| 5208421000 | 1.1455 | 1.1264 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 5208423000 | 1.1455 | 1.1264 |
| 5208424000 | 1.1455 | 1.1264 |
| 5208425000 | 1.1455 | 1.1264 |
| 5208430000 | 1.1455 | 1.1264 |
| 5208492000 | 1.1455 | 1.1264 |
| 5208494020 | 1.1455 | 1.1264 |
| 5208494090 | 1.1455 | 1.1264 |
| 5208496010 | 1.1455 | 1.1264 |
| 5208496090 | 1.1455 | 1.1264 |
| 5208498090 | 1.1455 | 1.1264 |
| 5208512000 | 1.1455 | 1.1264 |
| 5208516060 | 1.1455 | 1.1264 |
| 5208518090 | 1.1455 | 1.1264 |
| 5208523020 | 1.1455 | 1.1264 |
| 5208523045 | 1.1455 | 1.1264 |
| 5208523090 | 1.1455 | 1.1264 |
| 5208524020 | 1.1455 | 1.1264 |
| 5208524045 | 1.1455 | 1.1264 |
| 5208524065 | 1.1455 | 1.1264 |
| 5208525020 | 1.1455 | 1.1264 |
| 5208530000 | 1.1455 | 1.1264 |
| 5208592025 | 1.1455 | 1.1264 |
| 5208592095 | 1.1455 | 1.1264 |
| 5208594090 | 1.1455 | 1.1264 |
| 5208596090 | 1.1455 | 1.1264 |
| 5209110020 | 1.1455 | 1.1264 |
| 5209110035 | 1.1455 | 1.1264 |
| 5209110090 | 1.1455 | 1.1264 |
| 5209120020 | 1.1455 | 1.1264 |
| 5209120040 | 1.1455 | 1.1264 |
| 5209190020 | 1.1455 | 1.1264 |
| 5209190040 | 1.1455 | 1.1264 |
| 5209190060 | 1.1455 | 1.1264 |
| 5209190090 | 1.1455 | 1.1264 |
| 5209210090 | 1.1455 | 1.1264 |
| 5209220020 | 1.1455 | 1.1264 |
| 5209220040 | 1.1455 | 1.1264 |
| 5209290040 | 1.1455 | 1.1264 |
| 5209290090 | 1.1455 | 1.1264 |
| 5209313000 | 1.1455 | 1.1264 |
| 5209316020 | 1.1455 | 1.1264 |
| 5209316035 | 1.1455 | 1.1264 |
| 5209316050 | 1.1455 | 1.1264 |
| 5209316090 | 1.1455 | 1.1264 |
| 5209320020 | 1.1455 | 1.1264 |
| 5209320040 | 1.1455 | 1.1264 |
| 5209390020 | 1.1455 | 1.1264 |
| 5209390040 | 1.1455 | 1.1264 |
| 5209390060 | 1.1455 | 1.1264 |
| 5209390080 | 1.1455 | 1.1264 |
| 5209390090 | 1.1455 | 1.1264 |
| 5209413000 | 1.1455 | 1.1264 |
| 5209416020 | 1.1455 | 1.1264 |
| 5209416040 | 1.1455 | 1.1264 |
| 5209420020 | 1.0309 | 1.0137 |
| 5209420040 | 1.0309 | 1.0137 |
| 5209430030 | 1.1455 | 1.1264 |
| 5209430050 | 1.1455 | 1.1264 |
| 5209490020 | 1.1455 | 1.1264 |
| 5209490090 | 1.1455 | 1.1264 |
| 5209516035 | 1.1455 | 1.1264 |
| 5209516050 | 1.1455 | 1.1264 |
| 5209520020 | 1.1455 | 1.1264 |
| 5209590025 | 1.1455 | 1.1264 |
| 5209590040 | 1.1455 | 1.1264 |
| 5209590090 | 1.1455 | 1.1264 |
| 5210114020 | 0.6873 | 0.6758 |
| 5210114040 | 0.6873 | 0.6758 |
| 5210116020 | 0.6873 | 0.6758 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 5210116040 | 0.6873 | 0.6758 |
| 5210116060 | 0.6873 | 0.6758 |
| 5210118020 | 0.6873 | 0.6758 |
| 5210120000 | 0.6873 | 0.6758 |
| 5210192090 | 0.6873 | 0.6758 |
| 5210214040 | 0.6873 | 0.6758 |
| 5210216020 | 0.6873 | 0.6758 |
| 5210216060 | 0.6873 | 0.6758 |
| 5210218020 | 0.6873 | 0.6758 |
| 5210314020 | 0.6873 | 0.6758 |
| 5210314040 | 0.6873 | 0.6758 |
| 5210316020 | 0.6873 | 0.6758 |
| 5210318020 | 0.6873 | 0.6758 |
| 5210414000 | 0.6873 | 0.6758 |
| 5210416000 | 0.6873 | 0.6758 |
| 5210418000 | 0.6873 | 0.6758 |
| 5210498090 | 0.6873 | 0.6758 |
| 5210514040 | 0.6873 | 0.6758 |
| 5210516020 | 0.6873 | 0.6758 |
| 5210516040 | 0.6873 | 0.6758 |
| 5210516060 | 0.6873 | 0.6758 |
| 5211110090 | 0.6873 | 0.6758 |
| 5211120020 | 0.6873 | 0.6758 |
| 5211190020 | 0.6873 | 0.6758 |
| 5211190060 | 0.6873 | 0.6758 |
| 5211210025 | 0.6873 | 0.6758 |
| 5211210035 | 0.4165 | 0.4095 |
| 5211210050 | 0.6873 | 0.6758 |
| 5211290090 | 0.6873 | 0.6758 |
| 5211320020 | 0.6873 | 0.6758 |
| 5211390040 | 0.6873 | 0.6758 |
| 5211390060 | 0.6873 | 0.6758 |
| 5211490020 | 0.6873 | 0.6758 |
| 5211490090 | 0.6873 | 0.6758 |
| 5211590025 | 0.6873 | 0.6758 |
| 5212146090 | 0.9164 | 0.9011 |
| 5212156020 | 0.9164 | 0.9011 |
| 5212216090 | 0.9164 | 0.9011 |
| 5509530030 | 0.5556 | 0.5463 |
| 5509530060 | 0.5556 | 0.5463 |
| 5513110020 | 0.4009 | 0.3942 |
| 5513110040 | 0.4009 | 0.3942 |
| 5513110060 | 0.4009 | 0.3942 |
| 5513110090 | 0.4009 | 0.3942 |
| 5513120000 | 0.4009 | 0.3942 |
| 5513130020 | 0.4009 | 0.3942 |
| 5513210020 | 0.4009 | 0.3942 |
| 5513310000 | 0.4009 | 0.3942 |
| 5514120020 | 0.4009 | 0.3942 |
| 5516420060 | 0.4009 | 0.3942 |
| 5516910060 | 0.4009 | 0.3942 |
| 5516930090 | 0.4009 | 0.3942 |
| 5601210010 | 1.1455 | 1.1264 |
| 5601210090 | 1.1455 | 1.1264 |
| 5601300000 | 1.1455 | 1.1264 |
| 5602109090 | 0.5727 | 0.5631 |
| 5602290000 | 1.1455 | 1.1264 |
| 5602906000 | 0.526 | 0.5172 |
| 5604900000 | 0.5556 | 0.5463 |
| 5607902000 | 0.8889 | 0.8741 |
| 5608901000 | 1.1111 | 1.0925 |
| 5608902300 | 1.1111 | 1.0925 |
| 5609001000 | 1.1111 | 1.0925 |
| 5609004000 | 0.5556 | 0.5463 |
| 5701104000 | 0.0556 | 0.055 |
| 5701109000 | 0.1111 | 0.1092 |
| 5701901010 | 1.0444 | 1.027 |
| 5702109020 | 1.1 | 1.0816 |
| 5702312000 | 0.0778 | 0.077 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 5702411000 | 0.0722 | 0.071 |
| 5702412000 | 0.0778 | 0.077 |
| 5702421000 | 0.0778 | 0.077 |
| 5702913000 | 0.0889 | 0.087 |
| 5702991010 | 1.1111 | 1.0925 |
| 5702991090 | 1.1111 | 1.0925 |
| 5703900000 | 0.4489 | 0.4414 |
| 5801210000 | 1.1455 | 1.1264 |
| 5801230000 | 1.1455 | 1.1264 |
| 5801250010 | 1.1455 | 1.1264 |
| 5801250020 | 1.1455 | 1.1264 |
| 5801260020 | 1.1455 | 1.1264 |
| 5802190000 | 1.1455 | 1.1264 |
| 5802300030 | 0.5727 | 0.5631 |
| 5804291000 | 1.1455 | 1.1264 |
| 5806200010 | 0.3534 | 0.3475 |
| 5806200090 | 0.3534 | 0.3475 |
| 5806310000 | 1.1455 | 1.1264 |
| 5806400000 | 0.4296 | 0.4224 |
| 5808107000 | 0.5727 | 0.5631 |
| 5808900010 | 0.5727 | 0.5631 |
| 5811002000 | 1.1455 | 1.1264 |
| 6001106000 | 1.1455 | 1.1264 |
| 6001210000 | 0.8591 | 0.8448 |
| 6001220000 | 0.2864 | 0.2816 |
| 6001910010 | 0.8591 | 0.8448 |
| 6001910020 | 0.8591 | 0.8448 |
| 6001920020 | 0.2864 | 0.2816 |
| 6001920030 | 0.2864 | 0.2816 |
| 6001920040 | 0.2864 | 0.2816 |
| 6002203000 | 0.8681 | 0.8536 |
| 6002206000 | 0.2894 | 0.2846 |
| 6002420000 | 0.8681 | 0.8536 |
| 6002430010 | 0.2894 | 0.2846 |
| 6002430080 | 0.2894 | 0.2846 |
| 6002921000 | 1.1574 | 1.1381 |
| 6002930040 | 0.1157 | 0.1138 |
| 6002930080 | 0.1157 | 0.1138 |
| 6101200010 | 1.0094 | 0.9925 |
| 6101200020 | 1.0094 | 0.9925 |
| 6102200010 | 1.0094 | 0.9925 |
| 6102200020 | 1.0094 | 0.9925 |
| 6103421020 | 0.8806 | 0.8659 |
| 6103421040 | 0.8806 | 0.8659 |
| 6103421050 | 0.8806 | 0.8659 |
| 6103421070 | 0.8806 | 0.8659 |
| 6103431520 | 0.2516 | 0.2474 |
| 6103431540 | 0.2516 | 0.2474 |
| 6103431550 | 0.2516 | 0.2474 |
| 6103431570 | 0.2516 | 0.2474 |
| 6104220040 | 0.9002 | 0.8852 |
| 6104220060 | 0.9002 | 0.8852 |
| 6104320000 | 0.9207 | 0.9053 |
| 6104420010 | 0.9002 | 0.8852 |
| 6104420020 | 0.9002 | 0.8852 |
| 6104520010 | 0.9312 | 0.9156 |
| 6104520020 | 0.9312 | 0.9156 |
| 6104622006 | 0.8806 | 0.8659 |
| 6104622011 | 0.8806 | 0.8659 |
| 6104622016 | 0.8806 | 0.8659 |
| 6104622021 | 0.8806 | 0.8659 |
| 6104622026 | 0.8806 | 0.8659 |
| 6104622028 | 0.8806 | 0.8659 |
| 6104622030 | 0.8806 | 0.8659 |
| 6104622060 | 0.8806 | 0.8659 |
| 6104632006 | 0.3774 | 0.3711 |
| 6104632011 | 0.3774 | 0.3711 |
| 6104632026 | 0.3774 | 0.3711 |
| 6104632028 | 0.3774 | 0.3711 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 6104632030 | 0.3774 | 0.3711 |
| 6104632060 | 0.3774 | 0.3711 |
| 6104692030 | 0.3858 | 0.3794 |
| 6105100010 | 0.985 | 0.9686 |
| 6105100020 | 0.985 | 0.9686 |
| 6105100030 | 0.985 | 0.9686 |
| 6105202010 | 0.3078 | 0.3027 |
| 6105202030 | 0.3078 | 0.3027 |
| 6106100010 | 0.985 | 0.9686 |
| 6106100020 | 0.985 | 0.9686 |
| 6106100030 | 0.985 | 0.9686 |
| 6106202010 | 0.3078 | 0.3027 |
| 6106202030 | 0.3078 | 0.3027 |
| 6107110010 | 1.1322 | 1.1133 |
| 6107110020 | 1.1322 | 1.1133 |
| 6107120010 | 0.5032 | 0.4948 |
| 6107210010 | 0.8806 | 0.8659 |
| 6107220015 | 0.3774 | 0.3711 |
| 6107220025 | 0.3774 | 0.3711 |
| 6107910040 | 1.2581 | 1.2371 |
| 6108210010 | 1.2445 | 1.2237 |
| 6108210020 | 1.2445 | 1.2237 |
| 6108310010 | 1.1201 | 1.1014 |
| 6108310020 | 1.1201 | 1.1014 |
| 6108320010 | 0.2489 | 0.2447 |
| 6108320015 | 0.2489 | 0.2447 |
| 6108320025 | 0.2489 | 0.2447 |
| 6108910005 | 1.2445 | 1.2237 |
| 6108910015 | 1.2445 | 1.2237 |
| 6108910025 | 1.2445 | 1.2237 |
| 6108910030 | 1.2445 | 1.2237 |
| 6108920030 | 0.2489 | 0.2447 |
| 6109100005 | 0.9956 | 0.979 |
| 6109100007 | 0.9956 | 0.979 |
| 6109100009 | 0.9956 | 0.979 |
| 6109100012 | 0.9956 | 0.979 |
| 6109100014 | 0.9956 | 0.979 |
| 6109100018 | 0.9956 | 0.979 |
| 6109100023 | 0.9956 | 0.979 |
| 6109100027 | 0.9956 | 0.979 |
| 6109100037 | 0.9956 | 0.979 |
| 6109100040 | 0.9956 | 0.979 |
| 6109100045 | 0.9956 | 0.979 |
| 6109100060 | 0.9956 | 0.979 |
| 6109100065 | 0.9956 | 0.979 |
| 6109100070 | 0.9956 | 0.979 |
| 6109901007 | 0.3111 | 0.3059 |
| 6109901009 | 0.3111 | 0.3059 |
| 6109901049 | 0.3111 | 0.3059 |
| 6109901050 | 0.3111 | 0.3059 |
| 6109901060 | 0.3111 | 0.3059 |
| 6109901065 | 0.3111 | 0.3059 |
| 6109901090 | 0.3111 | 0.3059 |
| 6110202005 | 1.1837 | 1.1639 |
| 6110202010 | 1.1837 | 1.1639 |
| 6110202015 | 1.1837 | 1.1639 |
| 6110202020 | 1.1837 | 1.1639 |
| 6110202025 | 1.1837 | 1.1639 |
| 6110202030 | 1.1837 | 1.1639 |
| 6110202035 | 1.1837 | 1.1639 |
| 6110202040 | 1.1574 | 1.1381 |
| 6110202045 | 1.1574 | 1.1381 |
| 6110202065 | 1.1574 | 1.1381 |
| 6110202075 | 1.1574 | 1.1381 |
| 6110909022 | 0.263 | 0.2586 |
| 6110909024 | 0.263 | 0.2586 |
| 6110909030 | 0.3946 | 0.388 |
| 6110909040 | 0.263 | 0.2586 |
| 6110909042 | 0.263 | 0.2586 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 6111201000 | 1.2581 | 1.2371 |
| 6111202000 | 1.2581 | 1.2371 |
| 6111203000 | 1.0064 | 0.9896 |
| 6111205000 | 1.0064 | 0.9896 |
| 6111206010 | 1.0064 | 0.9896 |
| 6111206020 | 1.0064 | 0.9896 |
| 6111206030 | 1.0064 | 0.9896 |
| 6111206040 | 1.0064 | 0.9896 |
| 6111305020 | 0.2516 | 0.2474 |
| 6111305040 | 0.2516 | 0.2474 |
| 6112110050 | 0.7548 | 0.7422 |
| 6112120010 | 0.2516 | 0.2474 |
| 6112120030 | 0.2516 | 0.2474 |
| 6112120040 | 0.2516 | 0.2474 |
| 6112120050 | 0.2516 | 0.2474 |
| 6112120060 | 0.2516 | 0.2474 |
| 6112390010 | 1.1322 | 1.1133 |
| 6112490010 | 0.9435 | 0.9277 |
| 6114200005 | 0.9002 | 0.8852 |
| 6114200010 | 0.9002 | 0.8852 |
| 6114200015 | 0.9002 | 0.8852 |
| 6114200020 | 1.286 | 1.2645 |
| 6114200040 | 0.9002 | 0.8852 |
| 6114200046 | 0.9002 | 0.8852 |
| 6114200052 | 0.9002 | 0.8852 |
| 6114200060 | 0.9002 | 0.8852 |
| 6114301010 | 0.2572 | 0.2529 |
| 6114301020 | 0.2572 | 0.2529 |
| 6114303030 | 0.2572 | 0.2529 |
| 6115198010 | 1.0417 | 1.0243 |
| 6115929000 | 1.0417 | 1.0243 |
| 6115936020 | 0.2315 | 0.2276 |
| 6116101300 | 0.3655 | 0.3594 |
| 6116101720 | 0.8528 | 0.8386 |
| 6116926420 | 1.0965 | 1.0782 |
| 6116926430 | 1.2183 | 1.198 |
| 6116926440 | 1.0965 | 1.0782 |
| 6116928800 | 1.0965 | 1.0782 |
| 6117809510 | 0.9747 | 0.9584 |
| 6117809540 | 0.3655 | 0.3594 |
| 6201121000 | 0.948 | 0.9322 |
| 6201122010 | 0.8953 | 0.8803 |
| 6201122050 | 0.6847 | 0.6733 |
| 6201122060 | 0.6847 | 0.6733 |
| 6201134030 | 0.2633 | 0.2589 |
| 6201921000 | 0.9267 | 0.9112 |
| 6201921500 | 1.1583 | 1.139 |
| 6201922010 | 1.0296 | 1.0124 |
| 6201922021 | 1.2871 | 1.2656 |
| 6201922031 | 1.2871 | 1.2656 |
| 6201922041 | 1.2871 | 1.2656 |
| 6201922051 | 1.0296 | 1.0124 |
| 6201922061 | 1.0296 | 1.0124 |
| 6201931000 | 0.3089 | 0.3037 |
| 6201933511 | 0.2574 | 0.2531 |
| 6201933521 | 0.2574 | 0.2531 |
| 6201999060 | 0.2574 | 0.2531 |
| 6202121000 | 0.9372 | 0.9215 |
| 6202122010 | 1.1064 | 1.0879 |
| 6202122025 | 1.3017 | 1.28 |
| 6202122050 | 0.8461 | 0.832 |
| 6202122060 | 0.8461 | 0.832 |
| 6202134005 | 0.2664 | 0.262 |
| 6202134020 | 0.333 | 0.3274 |
| 6202921000 | 1.0413 | 1.0239 |
| 6202921500 | 1.0413 | 1.0239 |
| 6202922026 | 1.3017 | 1.28 |
| 6202922061 | 1.0413 | 1.0239 |
| 6202922071 | 1.0413 | 1.0239 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 6202931000 | 0.3124 | 0.3072 |
| 6202935011 | 0.2603 | 0.256 |
| 6202935021 | 0.2603 | 0.256 |
| 6203122010 | 0.1302 | 0.128 |
| 6203221000 | 1.3017 | 1.28 |
| 6203322010 | 1.2366 | 1.2159 |
| 6203322040 | 1.2366 | 1.2159 |
| 6203332010 | 0.1302 | 0.128 |
| 6203392010 | 1.1715 | 1.1519 |
| 6203399060 | 0.2603 | 0.256 |
| 6203422010 | 0.9961 | 0.9795 |
| 6203422025 | 0.9961 | 0.9795 |
| 6203422050 | 0.9961 | 0.9795 |
| 6203422090 | 0.9961 | 0.9795 |
| 6203424005 | 1.2451 | 1.2243 |
| 6203424010 | 1.2451 | 1.2243 |
| 6203424015 | 0.9961 | 0.9795 |
| 6203424020 | 1.2451 | 1.2243 |
| 6203424025 | 1.2451 | 1.2243 |
| 6203424030 | 1.2451 | 1.2243 |
| 6203424035 | 1.2451 | 1.2243 |
| 6203424040 | 0.9961 | 0.9795 |
| 6203424045 | 0.9961 | 0.9795 |
| 6203424050 | 0.9238 | 0.9084 |
| 6203424055 | 0.9238 | 0.9084 |
| 6203424060 | 0.9238 | 0.9084 |
| 6203431500 | 0.1245 | 0.1224 |
| 6203434010 | 0.1232 | 0.1211 |
| 6203434020 | 0.1232 | 0.1211 |
| 6203434030 | 0.1232 | 0.1211 |
| 6203434040 | 0.1232 | 0.1211 |
| 6203498045 | 0.249 | 0.2448 |
| 6204132010 | 0.1302 | 0.128 |
| 6204192000 | 0.1302 | 0.128 |
| 6204198090 | 0.2603 | 0.256 |
| 6204221000 | 1.3017 | 1.28 |
| 6204223030 | 1.0413 | 1.0239 |
| 6204223040 | 1.0413 | 1.0239 |
| 6204223050 | 1.0413 | 1.0239 |
| 6204223060 | 1.0413 | 1.0239 |
| 6204223065 | 1.0413 | 1.0239 |
| 6204292040 | 0.3254 | 0.32 |
| 6204322010 | 1.2366 | 1.2159 |
| 6204322030 | 1.0413 | 1.0239 |
| 6204322040 | 1.0413 | 1.0239 |
| 6204423010 | 1.2728 | 1.2515 |
| 6204423030 | 0.9546 | 0.9387 |
| 6204423040 | 0.9546 | 0.9387 |
| 6204423050 | 0.9546 | 0.9387 |
| 6204423060 | 0.9546 | 0.9387 |
| 6204522010 | 1.2654 | 1.2443 |
| 6204522030 | 1.2654 | 1.2443 |
| 6204522040 | 1.2654 | 1.2443 |
| 6204522070 | 1.0656 | 1.0478 |
| 6204522080 | 1.0656 | 1.0478 |
| 6204533010 | 0.2664 | 0.262 |
| 6204594060 | 0.2664 | 0.262 |
| 6204622010 | 0.9961 | 0.9795 |
| 6204622025 | 0.9961 | 0.9795 |
| 6204622050 | 0.9961 | 0.9795 |
| 6204624005 | 1.2451 | 1.2243 |
| 6204624010 | 1.2451 | 1.2243 |
| 6204624020 | 0.9961 | 0.9795 |
| 6204624025 | 1.2451 | 1.2243 |
| 6204624030 | 1.2451 | 1.2243 |
| 6204624035 | 1.2451 | 1.2243 |
| 6204624040 | 1.2451 | 1.2243 |
| 6204624045 | 0.9961 | 0.9795 |
| 6204624050 | 0.9961 | 0.9795 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 6204624055 | 0.9854 | 0.9689 |
| 6204624060 | 0.9854 | 0.9689 |
| 6204624065 | 0.9854 | 0.9689 |
| 6204633510 | 0.2546 | 0.2503 |
| 6204633530 | 0.2546 | 0.2503 |
| 6204633532 | 0.2437 | 0.2396 |
| 6204633540 | 0.2437 | 0.2396 |
| 6204692510 | 0.249 | 0.2448 |
| 6204692540 | 0.2437 | 0.2396 |
| 6204699044 | 0.249 | 0.2448 |
| 6204699046 | 0.249 | 0.2448 |
| 6204699050 | 0.249 | 0.2448 |
| 6205202015 | 0.9961 | 0.9795 |
| 6205202020 | 0.9961 | 0.9795 |
| 6205202025 | 0.9961 | 0.9795 |
| 6205202030 | 0.9961 | 0.9795 |
| 6205202035 | 1.1206 | 1.1019 |
| 6205202046 | 0.9961 | 0.9795 |
| 6205202050 | 0.9961 | 0.9795 |
| 6205202060 | 0.9961 | 0.9795 |
| 6205202065 | 0.9961 | 0.9795 |
| 6205202070 | 0.9961 | 0.9795 |
| 6205202075 | 0.9961 | 0.9795 |
| 6205302010 | 0.3113 | 0.3061 |
| 6205302030 | 0.3113 | 0.3061 |
| 6205302040 | 0.3113 | 0.3061 |
| 6205302050 | 0.3113 | 0.3061 |
| 6205302070 | 0.3113 | 0.3061 |
| 6205302080 | 0.3113 | 0.3061 |
| 6206100040 | 0.1245 | 0.1224 |
| 6206303010 | 0.9961 | 0.9795 |
| 6206303020 | 0.9961 | 0.9795 |
| 6206303030 | 0.9961 | 0.9795 |
| 6206303040 | 0.9961 | 0.9795 |
| 6206303050 | 0.9961 | 0.9795 |
| 6206303060 | 0.9961 | 0.9795 |
| 6206403010 | 0.3113 | 0.3061 |
| 6206403030 | 0.3113 | 0.3061 |
| 6206900040 | 0.249 | 0.2448 |
| 6207110000 | 1.0852 | 1.0671 |
| 6207199010 | 0.3617 | 0.3557 |
| 6207210010 | 1.1085 | 1.09 |
| 6207210030 | 1.1085 | 1.09 |
| 6207220000 | 0.3695 | 0.3633 |
| 6207911000 | 1.1455 | 1.1264 |
| 6207913010 | 1.1455 | 1.1264 |
| 6207913020 | 1.1455 | 1.1264 |
| 6208210010 | 1.0583 | 1.0406 |
| 6208210020 | 1.0583 | 1.0406 |
| 6208220000 | 0.1245 | 0.1224 |
| 6208911010 | 1.1455 | 1.1264 |
| 6208911020 | 1.1455 | 1.1264 |
| 6208913010 | 1.1455 | 1.1264 |
| 6209201000 | 1.1577 | 1.1384 |
| 6209203000 | 0.9749 | 0.9586 |
| 6209205030 | 0.9749 | 0.9586 |
| 6209205035 | 0.9749 | 0.9586 |
| 6209205040 | 1.2186 | 1.1982 |
| 6209205045 | 0.9749 | 0.9586 |
| 6209205050 | 0.9749 | 0.9586 |
| 6209303020 | 0.2463 | 0.2422 |
| 6209303040 | 0.2463 | 0.2422 |
| 6210109010 | 0.2291 | 0.2253 |
| 6210403000 | 0.0391 | 0.038 |
| 6210405020 | 0.4556 | 0.448 |
| 6211111010 | 0.1273 | 0.1252 |
| 6211111020 | 0.1273 | 0.1252 |
| 6211118010 | 1.1455 | 1.1264 |
| 6211118020 | 1.1455 | 1.1264 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 6211320007 | 0.8461 | 0.832 |
| 6211320010 | 1.0413 | 1.0239 |
| 6211320015 | 1.0413 | 1.0239 |
| 6211320030 | 0.9763 | 0.96 |
| 6211320060 | 0.9763 | 0.96 |
| 6211320070 | 0.9763 | 0.96 |
| 6211330010 | 0.3254 | 0.32 |
| 6211330030 | 0.3905 | 0.384 |
| 6211330035 | 0.3905 | 0.384 |
| 6211330040 | 0.3905 | 0.384 |
| 6211420010 | 1.0413 | 1.0239 |
| 6211420020 | 1.0413 | 1.0239 |
| 6211420025 | 1.1715 | 1.1519 |
| 6211420060 | 1.0413 | 1.0239 |
| 6211420070 | 1.1715 | 1.1519 |
| 6211430010 | 0.2603 | 0.256 |
| 6211430030 | 0.2603 | 0.256 |
| 6211430040 | 0.2603 | 0.256 |
| 6211430050 | 0.2603 | 0.256 |
| 6211430060 | 0.2603 | 0.256 |
| 6211430066 | 0.2603 | 0.256 |
| 6212105020 | 0.2412 | 0.2372 |
| 6212109010 | 0.9646 | 0.9485 |
| 6212109020 | 0.2412 | 0.2372 |
| 6212200020 | 0.3014 | 0.2964 |
| 6212900030 | 0.1929 | 0.1897 |
| 6213201000 | 1.1809 | 1.1612 |
| 6213202000 | 1.0628 | 1.0451 |
| 6213901000 | 0.4724 | 0.4645 |
| 6214900010 | 0.9043 | 0.8892 |
| 6216000800 | 0.2351 | 0.2312 |
| 6216001720 | 0.6752 | 0.6639 |
| 6216003800 | 1.2058 | 1.1857 |
| 6216004100 | 1.2058 | 1.1857 |
| 6217109510 | 1.0182 | 1.0012 |
| 6217109530 | 0.2546 | 0.2503 |
| 6301300010 | 0.8766 | 0.862 |
| 6301300020 | 0.8766 | 0.862 |
| 6302100005 | 1.1689 | 1.1494 |
| 6302100008 | 1.1689 | 1.1494 |
| 6302100015 | 1.1689 | 1.1494 |
| 6302215010 | 0.8182 | 0.8045 |
| 6302215020 | 0.8182 | 0.8045 |
| 6302217010 | 1.1689 | 1.1494 |
| 6302217020 | 1.1689 | 1.1494 |
| 6302217050 | 1.1689 | 1.1494 |
| 6302219010 | 0.8182 | 0.8045 |
| 6302219020 | 0.8182 | 0.8045 |
| 6302219050 | 0.8182 | 0.8045 |
| 6302222010 | 0.4091 | 0.4023 |
| 6302222020 | 0.4091 | 0.4023 |
| 6302313010 | 0.8182 | 0.8045 |
| 6302313050 | 1.1689 | 1.1494 |
| 6302315050 | 0.8182 | 0.8045 |
| 6302317010 | 1.1689 | 1.1494 |
| 6302317020 | 1.1689 | 1.1494 |
| 6302317040 | 1.1689 | 1.1494 |
| 6302317050 | 1.1689 | 1.1494 |
| 6302319010 | 0.8182 | 0.8045 |
| 6302319040 | 0.8182 | 0.8045 |
| 6302319050 | 0.8182 | 0.8045 |
| 6302322020 | 0.4091 | 0.4023 |
| 6302322040 | 0.4091 | 0.4023 |
| 6302402010 | 0.9935 | 0.9769 |
| 6302511000 | 0.5844 | 0.5746 |
| 6302512000 | 0.8766 | 0.862 |
| 6302513000 | 0.5844 | 0.5746 |
| 6302514000 | 0.8182 | 0.8045 |
| 6302600010 | 1.1689 | 1.1494 |

IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

| HTS No. | Conv. fact. | Cents/kg. |
|---|---|---|
| 6302600020 | 1.052 | 1.0344 |
| 6302600030 | 1.052 | 1.0344 |
| 6302910005 | 1.052 | 1.0344 |
| 6302910015 | 1.1689 | 1.1494 |
| 6302910025 | 1.052 | 1.0344 |
| 6302910035 | 1.052 | 1.0344 |
| 6302910045 | 1.052 | 1.0344 |
| 6302910050 | 1.052 | 1.0344 |
| 6302910060 | 1.052 | 1.0344 |
| 6303110000 | 0.9448 | 0.929 |
| 6303910000 | 0.6429 | 0.6322 |
| 6304111000 | 1.0629 | 1.0451 |
| 6304190500 | 1.052 | 1.0344 |
| 6304191000 | 1.1689 | 1.1494 |
| 6304191500 | 0.4091 | 0.4023 |
| 6304192000 | 0.4091 | 0.4023 |
| 6304910020 | 0.9351 | 0.9195 |
| 6304920000 | 0.9351 | 0.9195 |
| 6505901540 | 0.181 | 0.178 |
| 6505902060 | 0.9935 | 0.9769 |
| 6505902545 | 0.5844 | 0.5746 |

* * * * *

Dated: April 24, 2000.

**Kathleen A. Merrigan,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 00–10709 Filed 4–28–00; 8:45 am]

BILLING CODE 3410–02–P

## NUCLEAR REGULATORY COMMISSION

## 10 CFR Part 72

**RIN 3150–AG 31**

## List of Approved Spent Fuel Storage Casks: Holtec HI–STORM 100 Addition

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to add the Holtec HI–STORM 100 cask system to the list of approved spent fuel storage casks. This amendment allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

**EFFECTIVE DATE:** This final rule is effective on May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Merri Horn, telephone (301) 415–8126, e-mail mlh1@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear reactor power sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license, publishing a final rule in 10 CFR Part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' containing procedures and criteria for obtaining NRC approval of dry storage cask designs.

### Discussion

This rule will add the Holtec HI–STORM 100 cask system to the list of NRC approved casks for spent fuel storage in 10 CFR 72.214. Following the procedures specified in 10 CFR 72.230 of Subpart L, Holtec International submitted an application for NRC approval with the Safety Analysis Report (SAR) entitled ''Topical Safety Analysis Report for the HI–STORM 100 Cask System.'' The NRC evaluated the Holtec International submittal and issued a preliminary Safety Evaluation Report (SER) and a proposed Certificate of Compliance (CoC) for the Holtec HISTORM 100 cask system. The NRC published a proposed rule in the **Federal Register** (64 FR 51271; September 22, 1999) to add the Holtec HI–STORM 100 cask system to the listing in 10 CFR 72.214. The comment period ended on December 6, 1999. Four comment letters were received on the proposed rule.

Based on NRC review and analysis of public comments, the NRC staff has modified, as appropriate, its proposed CoC, including its appendices, the Technical Specifications (TSs), and the Approved Contents and Design Features, for the Holtec HI–STORM 100 cask system. The NRC staff has also modified its preliminary SER. Finally, comments were received from other industry organizations suggesting changes to the TSs and the Approved Contents and Design Features. Some of these were editorial in nature, others provided clarification and consistency, and some reflected final refinements in the cask design. The NRC staff agrees with many of these suggested changes and has incorporated them into the final documents, as appropriate. The NRC staff has also modified the rule language by changing the word ''Certification'' to ''Certificate'' to clarify that it is actually the Certificate that expires.

The NRC finds that the Holtec International HI–STORM 100 cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72. Thus, use of the Holtec HI–STORM 100 cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the Holtec HI–STORM 100 cask system under the general license in 10 CFR Part 72, Subpart K, by holders of power reactor operating licenses under 10 CFR Part 50. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on May 31, 2000. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

### Summary of Public Comments on the Proposed Rule

The NRC received four comment letters on the proposed rule. The commenters included a industry users group, two members of the public, and a State. Copies of the public comments are available for review in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20003–1527.

### Comments on the Holtec HI–STORM 100 Cask System

The comments and responses have been grouped into eleven areas: General, radiation protection, accident analysis, criticality, design, welds, structural, materials, thermal, technical specifications, and miscellaneous. Several of the commenters provided specific comments on the draft CoC, the NRC staff's preliminary SER, the TSs, and the applicant's SAR. Some of the editorial comments have been grouped.

To the extent possible, all of the comments on a particular subject are grouped together. The listing of the Holtec HI–STORM 100 cask system within 10 CFR 72.214, ''List of approved spent fuel storage casks'' has not been changed as a result of the public comments. A review of the comments and the NRC staff's responses follow.

*A. General*

*Comment A.1:* One commenter expressed concern over the number of cask designs being certified because there would be more problems and a lack of standardization and integration in the country's total waste system. The commenter stated that this amendment would change existing environmental concerns as it would add one more design, complicating the waste system for workers at a plant. The commenter asked how many designs would be certified by the NRC and how many designs could be used at one plant. Additional designs add to more mistakes and human error because each design has different fabrication criteria and handling procedures.

*Response:* These comments are beyond the scope of this rule that is focused solely on whether to add a particular cask design, the Holtec HI–STORM 100 cask system, to the list of approved casks. Pursuant to the general license, each licensee must determine whether or not the reactor site parameters are encompassed by the cask design bases considered in the cask SAR and SER. Further, each general licensee must document this determination in accordance with 10 CFR 72.212.

*Comment A.2:* One commenter stated that the tiered environmental impact statement (EIS) is outdated for current dry cask design and should be redone, particularly looking at terrorism and sabotage at an independent spent fuel storage installation (ISFSI).

*Response:* The NRC disagrees with the comment. The environmental assessment (EA) and finding of no significant impact (FONSI) prepared as required by 10 CFR Part 51 conform to National Environmental Policy Act (NEPA) procedural requirements. Tiering on past EISs and EAs is a standard process under NEPA. As stated in the Council on Environmental Quality's 40 Frequently Asked Questions, the tiering process makes each EIS/EA of greater use and meaning to the public as the plan or program develops without duplication of the analysis prepared for the previous impact statement.

The NRC reviewed potential issues related to possible radiological sabotage of storage casks at reactor site ISFSIs in the 1990 rule that added Subparts K and L to 10 CFR Part 72 (55 FR 29181; July 18, 1990). The NRC still finds the results of the 1990 rule current and acceptable. In addition, each Part 72 licensee is required by 10 CFR 73.51 or 73.55 to develop a physical protection plan for the ISFSI. The licensee is also required to install systems that provide high assurance against unauthorized activities that could constitute an unreasonable risk to the public health and safety.

*Comment A.3:* One commenter questioned whether the NRC was including interim storage away from reactors in the EA, such as at a Federal or private storage site in Nevada or Utah. The commenter further questioned whether it was the NRC's intent to include transfer and storage at a second site in the EA. The commenter asked if the certification covered use at an interim site in Nevada or Utah.

*Response:* The EA supports the generic use of the Holtec HI–STORM 100 cask system under a general license. The storage could occur at any site that meets the definition of a general licensee under 10 CFR Part 72. The general licensee must evaluate the site to determine whether or not the chosen site parameters are enveloped by the design bases of the approved cask as required by 10 CFR 72.212(b)(3). The EA does not cover transportation from one site to another.

*Comment A.4:* One commenter questioned whether the NRC claims to have done research on the condition of spent fuel after 20 to 50 years of storage at a reactor in pools and dry casks, after being unloaded twice and being transported across the country. The commenter stated that a detailed analysis of what can happen to spent fuel before it gets to Nevada or Utah should be conducted by the NRC. The commenter asked what the spent fuel will be like and what the potential environmental impacts will be after the fuel is unloaded and transported.

*Response:* The NRC staff has reviewed numerous research reports regarding the long term condition of spent fuel in wet and dry storage. Additionally, the NRC has ongoing confirmatory research with spent fuel removed from dry storage after 10 to 20 years. Analysis of spent fuel has included the loads from routine shipping; and the effects, primarily due to vibration, were found to be negligible.

The HI–STORM 100 MPC is a dual-purpose canister. Once loaded in the MPC, the fuel is not intended to be unloaded and reloaded as the questioner suggests. The lid welding and testing requirements and the structural and thermal analyses in the SAR give the NRC staff reasonable assurance that cask confinement and fuel integrity will be maintained under design basis normal, off-normal, or accident events. Therefore, fuel unloading should not be necessary. Regardless of whether unloading may be necessary, each cask user is required to develop detailed site-specific unloading procedures. Proper unloading does not cause any particular degradation to occur to the fuel.

*Comment A.5:* One commenter stated that the no action alternative was acceptable because the NRC should not be certifying numerous designs. The commenter stated that other agencies such as NWTRB, EPA, OCRWM, and DOE should be contacted for their views on what happens to the whole waste system as more designs are certified.

*Response:* The NRC disagrees with the comment. The NRC found no inherent design features that would result in significant environmental impacts and that the HI–STORM 100 design meets regulatory requirements. Therefore, there is no basis for denial of the application. The NRC does not limit the number or types of casks that may be certified. The NRC is not required to contact the agencies mentioned by the commenter and we have not specifically solicited their input. The commenter may contact these other agencies if interested in their views.

*Comment A.6:* One commenter recommended finding a reference (reference 1 on page 3–16 of the SER) that is more recent than 1962.

*Response:* The NRC disagrees with this comment. This reference refers to the change of the coefficient of friction from static to dynamic condition. The rational behind this engineering principle has not changed with time.

*Comment A.7:* One commenter stated that the NRC should request simpler designs because of material interactions instead of approving designs with new materials that have never received long term testing for material interactions.

*Response:* The NRC staff disagrees with this comment. The materials used in casks are selected upon the basis of the needed properties. Casks are constructed from a limited number of materials. The materials used in the Holtec HI–STORM design have a long history of use in the nuclear industry and the performance of those materials is well known.

*Comment A.8:* One commenter objects to site specific changes that are made to generic designs.

*Response:* This comment is beyond the scope of this rule that is focused solely on whether to place the HI–STORM 100 cask system on the list of approved casks. Section 72.48 permits

changes to the spent fuel storage cask as described in the FSAR and defines the conditions under which these changes may be made without prior NRC approval.

*Comment A.9:* One commenter stated that it appeared that Holtec split what appears to be one generic system into two separate rules and asked why the system was not certified together. Systems should be complete when they are proposed for rulemaking. The commenter further stated that vendors should apply for storage and transport at the same time and that NRC should not allow loading until the transportation portion is certified.

*Response:* The NRC disagrees with the comment. The HI–STAR 100 Cask System and HI–STORM 100 Cask System are two separate spent fuel storage cask systems. Each is a complete spent fuel storage cask system that satisfies the requirements of 10 CFR Part 72. Regarding the dual-purpose (storage and transportation) use of a cask system or its components, separate certifications are required for approval of a cask design (or individual components such as a canister) under the provisions of use for 10 CFR Parts 71 and 72. There is no regulatory requirement that the certification be simultaneous.

*Comment A.10:* One commenter asked a number of site-specific questions related to Private Fuel Storage's plans to use the Holtec HI–STAR and HI–STORM cask systems at the Utah site. These issues related to cask handling, dry transfer, sabotage scenarios, infrastructure for unloading, etc. One commenter stated that they understood that Private Fuel Storage plans to use the HI–STAR system for storage and transport with the HI–STORM as a companion concrete overpack, that the metal HI–STAR overpack would be used as a backup, and that the commenter objected to these plans.

*Response:* The comment is beyond the scope of this rule that is focused solely on whether to add a particular design, the Holtec HI–STORM 100 cask system, to the list of approved casks. The rule will enable licensees to use this cask system under the general license provisions of 10 CFR Part 72. The rule does not address site-specific issues related to potential users.

*Comment A.11:* One commenter objected to calling the cask a multi-purpose cask (MPC) because that stands for storage, transport, and disposal, and stated that the cask is not approved for these functions which can cause confusion when real MPCs are certified.

*Response:* The NRC disagrees with the comment. The name or model number given to the cask design is developed by the applicant. The CoC for the Holtec HI–STORM 100 is intended for the interim storage of spent fuel. The use of MPC in a dry storage cask application or an NRC SER/CoC is not a certification under 10 CFR Part 71 for the transport of radioactive materials or an approval for disposal at a high-level waste repository.

*Comment A.12:* One commenter stated that Holtec should not be allowed to approve its own suppliers and that the suppliers should be ASME-approved.

*Response:* The NRC disagrees with the comment. NRC regulations do not require an ASME stamp for a cask or the use of ASME-approved suppliers. The design and fabrication requirements for a certified dry cask storage system are described in 10 CFR Part 72 and the NRC staff's Standard Review Plan, NUREG–1536, ''Standard Review Plan for Dry Cask Storage Systems'' (SRP). Applicant submittals are reviewed to the criteria in the SRP. Cask fabrication activities are audited by the licensees and inspected by the NRC staff to ensure that components are fabricated as designed. The CoC holder and licensee are responsible for verifying that fabricators are qualified. The CoC holder and licensee must have a Quality Assurance (QA) Program that has been approved by the NRC as part of the licensing or CoC issue process. This QA program must meet the requirements of 10 CFR 72.148 and 10 CFR 72.154 for the selection of fabricators. Also, the procurement documents issued to the fabricator must comply with 10 CFR 21.31. The licensee/CoC holder is required to verify that all regulations and CoC conditions applicable to the container are met. The NRC inspects the licensee/CoC holders and fabricators to verify compliance. Additionally, many storage cask fabricators are certified by the American Society of Mechanical Engineers and are N-Stamp Certificate holders.

*Comment A.13:* One commenter stated that issues should not be resolved in telephone conferences but in public meetings with a record in the public document room.

*Response:* The NRC disagrees with the comment. Telephone conferences are an important mode of communication with applicants and licensees and enable the NRC staff to conduct its official business efficiently. If, in these telephone conferences, the NRC staff receives information that would form the basis for its regulatory decision, that information is documented and made available for public inspection under 10 CFR Parts 2 and 9.

*Comment A.14:* One commenter stated that all details of the design should be finalized and open for public comment.

*Response:* The NRC disagrees that all design details need to be finalized and open for public comment before a design is approved. The NRC staff focuses its review on those design details that are significant with respect to the health and safety of the public and/or are required to make a regulatory finding. Design details that are pertinent to the NRC staff's findings are finalized and made available for public inspection and comment under 10 CFR Parts 2 and 9.

*B. Radiation Protection*

*Comment B.1:* One commenter objected to the use of less shielding for the 100-ton transfer cask and allowing the utilities to perform a cost-benefit analysis to justify the use of the 100-ton transfer cask at the expense of the worker. The workers should receive the minimum achievable dose and not the maximum allowable dose. The NRC should not allow the use of the 100-ton transfer cask because the dose is 3 times higher and workers should not be treated as guinea pigs. The commenter stated that the utilities should be required to use the 125-ton transfer cask which is safer and modify their facilities to accommodate the transfer cask or choose a cask that works for their specific site limitations because the utilities shouldn't limit the shielding for workers.

*Response:* NRC disagrees with this comment. Each cask user will operate the HI–STORM 100 under a 10 CFR Part 20 radiological protection program. ALARA means making every reasonable effort to maintain exposures to radiation as far below the dose limits while taking in account the state of technology, the economics of improvements in relation to the state of technology, and the economics of improvements in relation to benefits to the public health and safety. As stated in Section 2.0.3 of the SAR, the general licensee should utilize the 125-ton transfer cask provided it is capable of using it. However, licensees not capable of using the more shielded design may employ ALARA considerations when evaluating whether to modify its plant or use the 100-ton transfer cask. The NRC found this acceptable as discussed in Section 10.2 of the SER.

*Comment B.2:* One commenter asked why the specific dose rate criteria for the HI–TRAC was not given and indicated that the criteria should be included.

*Response:* The applicant did not provide explicit dose rate values as design criteria for the transfer cask designs, but stated that the radiological requirements of 10 CFR Parts 72 and 20 as the overall shielding design objectives for the cask system. The NRC found this acceptable. The TSs in Appendix A of the CoC specify dose rate limits for the transfer casks that are based on the applicant's shielding calculations.

*Comment B.3:* One commenter questioned the bounding analysis for cobalt impurities, asked how much cobalt is really in the fuel, and if the quantity had been tested and verified for the real thing.

*Response:* The applicant's analysis of cobalt impurities is discussed in Section 5.2.1 of the SER. The applicant showed that the cobalt impurity values that are assumed in its shielding analyses were appropriate based on industry data and analysis of post-irradiation cooling of older fuel. The NRC found this acceptable. The cask user is not required to measure the actual quantity of cobalt in its spent fuel. The cask user will operate the cask under a 10 CFR Part 20 radiological protection program and verify that the cask system meets the dose rate limits specified in the TSs.

*Comment B.4:* One commenter asked why backscattering was not considered for all cask designs.

*Response:* This comment is beyond the scope of this rule that is focused solely on whether to add a particular cask design, the Holtec HI–STORM 100 cask system, to the list of approved casks. Note that backscatter was considered for the Holtec HI–STORM 100 cask system.

*Comment B.5:* One commenter asked what are the various array configurations allowed and what are the differences between them. The commenter asked if the cask array is limited to two rows and for the applicable NRC criteria.

*Response:* The use of the HI–STORM design is not limited to two rows. The NRC requires the applicant to perform off-site dose calculations from a typical ISFSI array to demonstrate that radiation shielding features are sufficient to meet the radiological requirements of 10 CFR Parts 72.104 and 72.106. As discussed in Section 5.3.1 of the SER, the applicant used a two-row cask array model as part of its methodology to estimate off-site dose rates. The values obtained by this method can be applied to dose rate calculations for typical cask arrays that may consist of multiple rows. NRC found the dose estimates to be acceptable. Each general licensee will identify an ISFSI configuration and perform a site-specific dose evaluation to demonstrate compliance with Part 72 radiological requirements.

*Comment B.6:* One commenter asked why the dose rate for the bottom of the MPC–68 was higher than for the MPC–24 when the dose rates at the side and top were higher for the MPC–24. The commenter stated that the trunnion doses showed that extreme care needs to be taken in those areas and that the bottom doses are really high and don't get enough attention.

*Response:* The applicant appropriately assumed design basis fuel loadings for each canister and estimated dose rates at various locations. The NRC notes that dose rates at the bottom of the canister depend on several factors such as the fuel hardware characteristics, irradiation and cooling history, and the relative position of each fuel type within the cask system. The NRC found that the applicant appropriately addressed these and other factors, and that the calculated dose rates at the bottom and at the trunnions of the transfer cask were acceptable. In addition, each cask user will operate the HI–STORM 100 under a 10 CFR Part 20 radiological protection program and monitor dose rates during loading and unloading.

*Comment B.7:* One commenter asked what the dose for the 2x5 cask array was at 100 meters.

*Response:* Figure 5.1.3 of the SAR indicates that the dose rate for a 2x5 array at 100 meters is approximately 600 to 700 mrem/yr assuming a design basis fuel loading and 100 percent occupancy. Each general licensee will identify an ISFSI configuration and perform a site-specific dose evaluation, based partly on site-specific characteristics, to demonstrate compliance with Part 72 radiological requirements.

*Comment B.8:* One commenter asked why other cask designs do not account for approximate atmospheric conditions. The commenter also asked the conditions of weather or location for which the air density decreases.

*Response:* Atmospheric density changes daily. The measure of the density is provided by local weather forecasters through the barometric pressure. When a high pressure front passes an area, the air density is greater than when a low pressure weather front passes the same location.

The comment concerning other cask designs is beyond the scope of this rule that is focused solely on whether to place the Holtec HI–STORM 100 cask system on the list of approved casks. For the HI–STORM 100, each general licensee should consider atmospheric conditions relevant to its ISFSI as indicated in Section 5.4.2 of the SER.

*Comment B.9:* One commenter asked how much the releases from dry storage add to the effluent from a reactor site and the duration of a release, and what happens to the cask and fuel during the release.

*Response:* Specific effluent releases from reactors operated by general licensees are beyond the scope of this rule. However, NRC does not expect any effluent release from the HI–STORM 100 under credible conditions. Design basis public exposures from direct radiation and hypothetical releases are discussed in SER Sections 10.4 and 10.5.

*Comment B.10:* One commenter approved of the condition in Appendix B of the CoC regarding the evaluation of engineering features (*e.g.* berm) that are used for radiological protection by the user.

*Response:* No response is necessary.

*Comment B.11:* One commenter stated that average surface dose rates in TS 3.2.1 for transfer cask dose rates should not be used, that the highest value should be used, and the limit should not be exceeded. The commenter also asked why the side dose rates are measured along the middle of the flat surface section of the neutron shield rather than on the radial steel fins where dose rates are assumed by the commenter to be higher.

*Response:* The NRC disagrees with the comment. The specification of surface average dose rates and the measuring locations on the side of the neutron shield are consistent with health physics methods that are used to characterize radiation fields around a cask. The measuring locations are also consistent with the dose rate calculations presented in the applicant's shielding analysis. The cask user will operate the HI–STORM 100 under a 10 CFR Part 20 radiological protection program. NRC has reasonable assurance that the general licensee's radiological protection and ALARA program will detect and mitigate exposures from the radiation fields that are expected during operation of the HI–STORM 100 system.

*Comment B.12:* One commenter asked why the dose rate for the bottom of the transfer cask is not provided in TS 3.2.1 and what is that dose rate.

*Response:* Dose rate limits for the bottom of the transfer casks are not needed because they would not provide a significant benefit in ensuring compliance with regulatory limits on occupational dose and dose to the public. The dose limits at the top and side of the transfer casks are adequate to help ensure that the cask system is

safely operated in compliance with 10 CFR Part 20 and Part 72. Calculated dose rates at the bottom of the transfer casks are reported in Sections 5.1 and 5.4 of the SAR.

*Comment B.13:* One commenter recommended that Section 5.1.2 of the SER be revised to clarify that overpack surface dose rates are design objectives and are shown to be met by analysis, and that the TSs are equal to or more conservative than the design objectives.

*Response:* The NRC disagrees with this comment. The NRC staff does agree that the vent dose rates calculated by the applicant are significantly less than the applicant's proposed design criteria. However, the differences between the calculated vent dose rates and the proposed design criteria are not relevant to the bases and findings in the SER. The TSs in Appendix A of the CoC specify vent dose rate limits for the overpack that are based on the applicant's shielding calculations. Therefore, a revision to the SER to reflect the dose rate difference is not necessary.

*Comment B.14:* One commenter recommended that Section 5.4.11 and Table 5.4–1 of the SER be clarified to indicate that the dose rates are not peak or maximum values.

*Response:* The NRC agrees with the comment. The SER has been clarified to state the vent dose rates are average over the area of the vent opening. A footnote has been added to Table 5.4.1 to clarify values are average over surface detector areas.

*Comment B.15:* One commenter recommended that Section 10.5.1 of the SER be revised to indicate that the maximum MPC leak rate is utilized in the calculations.

*Response:* The NRC agrees with the comment. The SER text has been revised accordingly.

*Comment B.16:* One commenter indicated there was an inconsistency between the accident condition whole body and thyroid dose values referenced in Chapter 11 of the draft SER and the dose values calculated in Section 7 of the applicant's SAR.

*Response:* The NRC agrees with the comment. The SER has been revised to indicate the correct whole body and thyroid dose values calculated by the applicant. The accident condition whole body total effective dose equivalent (TEDE) is 44.1 mrem and the thyroid dose is 4.1 mrem.

*Comment B.17:* One commenter objected to the use of a 30-day duration of a radiological release during an accident. The commenter noted that this assumption is stated in Interim Staff Guidance 5 but that it is not justified in the guidance or any accompanying report. The commenter pointed out that NRC regulations for ISFSIs do not require offsite emergency planning, or planning for the ingestion pathway zone, and therefore, there is no basis for assuming that something happens within 30 days to stop the release.

*Response:* The NRC disagrees with the comment. As indicated in ISG–5, Rev.1, the 30-day assumption is consistent with the time period that is used to demonstrate compliance with radiological dose requirements associated with reactor facilities that operate under 10 CFR Part 50. The applicant specified corrective actions for each accident in Chapter 11 of the SAR. NRC believes that these corrective actions can be reasonably achieved within 30 days. Although NRC does not expect effluent release from the HI–STORM 100 under credible accident scenarios, the 30-day assumption in the analysis is acceptable because the NRC staff has reasonable assurance that in the 30-day timeframe adequate protective measures can and will be taken for the public in the event of a radiological emergency. These protective measures include implementation of the general licensee's Part 50 emergency plan, evacuation of the surrounding public, and mitigation of radiological ingestion pathways.

*Comment B.18:* One commenter objected to the assumption that a person at the fence post (500 meters) would be exposed for only 2000 hours/year which is the number of working hours in a year. The commenter stated that 8,760 hours/year should be used because a licensee can not control who would be in the area outside the fence or how long they would be there. For conservatism, the applicant should have assumed that people, such as mothers with pre-school aged children, the elderly, ranchers, and farmers are present at the fence post day-long and year-round.

*Response:* The NRC agrees that 8,760 hours/year should be used and notes that Section 7.2.9 of the HI–STORM SAR explicitly states that: ''The individual at the site boundary is exposed for 8,760 hours [7.0.2].'' The NRC staff's independent calculations confirmed Holtec's calculated results, as stated in the NRC staff's SER. In addition, Section 7.2.9 also assumed in its calculations that: ''The distance from the cask to the site boundary is 100 meters.'' With respect to hypothetical individual exposed at the site boundary, the methods used in the dosage calculations cover children, the elderly, ranchers, farmers, etc. The overall public dose limit is protective of all individuals because the variation of sensitivity with age and gender was accounted for in the selection of the lifetime risk limit, from which the annual public dose limit was derived.

The NRC continues to believe that the existing regulations and approved methodologies adequately address public health and safety. The issue of dose rates to children was addressed in the **Federal Register** on May 21, 1991 (56 FR 23387).

*Comment B.19:* One commenter stated that the dose due to direct gamma and ingestion of radionuclides should be considered in the dose calculation because to ignore these pathways underestimates the dose. The commenter further objected to the NRC staff stating (in the Holtec HI–STAR 100 final rule) that these pathways would be addressed in the general licensee's site-specific review. The commenter stated that there is no regulatory requirement for these actions to be taken by the general licensee. The commenter stated that it is misleading for the applicant to do a calculation that provides a reassuring result, based on assumptions that have nothing to do with the real requirements of the regulations because licensees tend to rely heavily on the generic analyses that have been performed by cask manufacturers.

*Response:* The NRC disagrees with the comment. Although the NRC does not expect effluent release from the HI–STORM 100 under credible conditions, the applicant's method used to determine design basis dose rates from a hypothetical release are adequate to demonstrate that the confinement features are sufficient to meet the radiological requirements of 10 CFR 72.106. The NRC staff believes the methods applied by the applicant conservatively bound hypothetical dose rates to the general public. Further, 10 CFR 72.212(b)(6) requires the general licensee to review its reactor emergency plan and radiation protection program to determine its effectiveness and make changes if necessary when using a cask listed in 10 CFR Part 72, Subpart L.

*Comment B.20:* One commenter stated that the thyroid and whole body doses should consider chlorine-36 (Cl–36) because it will be present in the irradiated fuel and will significantly contribute to the dose. The commenter points out that the Department of Energy acknowledges that Cl–36 is one of the significant radionuclides in Appendix A, of the Yucca Mountain Draft EIS.

*Response:* The NRC disagrees with the comment. The NRC staff's independent analysis of the thyroid and whole body dose was based on independent

calculations using the ORIGEN computer code, as referenced by the commenter. The calculated contribution of the chlorine gas was below the truncation limit used in the calculation. Cl–36 has an inconsequential contribution on the total dose to an individual.

*C. Accident Analysis*

*Comment C.1:* One commenter asked if lead could be a missile strike barrier from a tornado or from current weapons. The commenter asked if missiles could penetrate the transfer cask and canister inside, and when the missile strike is assumed to occur (*i.e.* when a loaded transfer cask is on top of the overpack.) The commenter stated that this needs to be updated and evaluated.

*Response:* The lead backed outer shell of HI–TRAC has been evaluated for the required tornado missile strike. The analysis shows that there is no penetration consequence that would lead to a radiological release. The threat of missiles from weapons is beyond the scope of this rule.

*Comment C.2:* One commenter expressed concern that the transfer cask is a real target on top of the storage cask and asked if it had been fully evaluated for terrorism and sabotage, particularly when it was on top of the storage cask. The commenter asked if the overpack was put in place while on the pad; the commenter felt that this would be a target for terrorists. The commenter asked if the transfer cask, with inner cannister inside, could be knocked off by a terrorist blast and fall, crash, or roll into other casks or be upended so that the fuel is upside down.

*Response:* The performance of the transfer cask in a sabotage or terrorist event was not evaluated. The threat of terrorism or sabotage is beyond the scope of this rule. See also the response to C.8.

*Comment C.3:* One commenter asked if the seismic event was based on the actual pad analysis and not the reactor building seismic analysis because the conditions between the reactor building and pad location could significantly differ.

*Response:* The storage pad is a site-specific issue and is beyond the scope of this cask design rule. Under 10 CFR 72.212, the cask operators are required to perform written evaluations to ensure that storage pads have been designed to adequately support the stored casks. The licensee using a particular cask design has the responsibility under the general license to evaluate the match between reactor site parameters and the range of site conditions (*i.e.* the envelope) reviewed by the NRC for an approved cask.

*Comment C.4:* One commenter asked how a full cask array would behave in a seismic event. The commenter asked what buildings or equipment are allowed on the pad that could crash into the casks during a seismic event, such as the transfer equipment. The commenter asked if a crack or ''push up'' of the pad could cause the cask to roll (down an incline or into water).

*Response:* The SAR indicates that the HI–STORM 100 overpack will neither slide nor tip over due to a seismic event with the design-basis earthquake input listed in Section 3.4.2 of the SER. The use of a general licensed cask by a utility requires that the user ensure that the site is not subject to any potential accident that has not been analyzed for the general license. This would include any potential design basis earthquakes that were not enveloped by the NRC SER for the cask or any site conditions associated with the actual pad and cask locations that could affect the cask design.

*Comment C.5:* One commenter asked what the design-basis earthquake on top of the surface pad was and where it occurred. The commenter questioned why the bottom surface was not evaluated because the ground can push up and crack or cause heaving in the concrete and how the condition of the bottom surface is known.

*Response:* The design basis earthquake is the most severe earthquake that has been historically reported for a particular site and surrounding area, with sufficient margins for the limited accuracy, quantity, and period of time in which historical data have been accumulated. Structure, systems, and components important to safety are designed to withstand the effects of this earthquake without loss of capability to perform their safety functions. The design basis earthquake is described by an appropriate response spectrum anchored at the peak ground acceleration. The response is then amplified through the pad to obtain the input response spectrum at the top of the pad (or at the bottom of the cask) for cask seismic evaluation. Soil and storage pad interaction is a site-specific issue that will be addresses in the cask user's 10 CFR 72.212 evaluation and is beyond the scope of this rule.

*Comment C.6:* One commenter asked what happens if the pad is cracked and heaving up as the cask is tipping over because a tornado or seismic event will likely affect both the pad and the casks.

*Response:* The NRC does not consider the scenario described by the commenter to be credible. The evaluation in Section 3 of the SAR shows that tipover will not occur. However, as a defense-in-depth measure, cask tipover is also evaluated in Section 3 of the SAR and discussed in Section 3.4.2 of the SER.

*Comment C.7:* One commenter asked if the cask could become upside down in a tornado or seismic event and if it happened would the top of the fuel hit the underside of the MPC lid with the weight on the overpack lid studs.

*Response:* The HI–STORM 100 overpack is evaluated for tornado, tornado missiles, and seismic events in Section 3 of the SAR. The results indicate that the cask will not tip over. Therefore, the cask will not become upside down.

*Comment C.8:* One commenter stated that an airplane crash with its fuel fire should be evaluated, including crash into a full cask array, damage to the pad, and a fuel and airplane explosion after the crash. The commenter stated that an anti-missile device with an incendiary device and a truck bomb should be analyzed for the cask transfer facility (CTF).

*Response:* The NRC disagrees with the comment. Before using the HI–STORM 100 casks, the general licensee must evaluate the site to determine whether or not the chosen site parameters are enveloped by the design bases of the approved casks as required by 10 CFR 72.212(b)(3). The licensee's site evaluation should consider the effects of nearby transportation and military activities.

The NRC reviewed potential issues related to possible radiological sabotage of storage casks at reactor site ISFSIs in the 1990 rule that added Subparts K and L to 10 CFR Part 72 (55 FR 29181; July 18, 1990). NRC regulations in 10 CFR Part 72 establish physical protection requirements for an ISFSI located within the owner-controlled area of a licensed power reactor site. Spent fuel in the ISFSI is required to be protected against radiological sabotage using provisions and requirements as specified in 10 CFR 72.212(b)(5). Further, specific performance criteria are specified in 10 CFR Part 73. Each utility licensed to have an ISFSI at its reactor site is required to develop physical protection plans and install systems that provide high assurance against unauthorized activities that could constitute an unreasonable risk to public health and safety.

The physical protection systems at an ISFSI and its associated reactor are similar in design features to ensure the detection and assessment of unauthorized activities. Alarm

annunciations at the general license ISFSI are monitored by the alarm stations at the reactor site. Response to intrusion alarms is required. Each ISFSI is periodically inspected by NRC. Also, the licensee conducts periodic patrols and surveillances to ensure that the physical protection systems are operating within their design limits. The ISFSI licensee is responsible for protecting spent fuel in the casks from sabotage not the certificate holder. Comments on the existing regulations specifying what type of sabotage events must be considered are beyond the scope of this rule.

*Comment C.9:* One commenter questioned why the tornado missile test simulated a pulse impact of a vehicle and stated that a sharp object such as a metal pole or other items that might be in the vicinity of a real pad would do more penetration damage.

*Response:* In addition to the 4,000-pound automobile impacting at a 126 mph velocity, the SAR also provided analyses for two more missiles impacting at 126 mph velocity: a 1-in diameter steel sphere and an 8-in diameter rigid cylinder. Results of the analyses show that the 4,000 pound automobile produces the highest impact force on the cask because it has the largest mass. Based on these results, the NRC staff has reasonable assurance that the 4,000 pound vehicle bounds the effect of other credible types of tornado missiles.

*Comment C.10:* One commenter stated that the 15-minute transporter fire is not valid. A big plane crash with its fuel should be evaluated as well as a sabotage missile penetration with an incendiary device.

*Response:* The NRC disagrees with this comment. The basis for the 4.8-minute fire (not a 15 minute fire, see response to comment C.18) is associated with the time it would take to burn 50 gallons of fuel, presumably carried by the transporter. The CoC, Appendix B, Section 3.4, states that ''the on-site transporter fuel tank will contain no more than 50 gallons of diesel fuel while handling a loaded OVERPACK or TRANSFER CASK.'' Other modes of transport causing the fire (*e.g.,* airplanes, trains, delivery trucks or missiles) are not considered as plausible and are beyond the scope of this rule. Before using the HI–STORM casks, the general licensee must evaluate the site to determine whether or not the chosen site parameters are enveloped by the design bases of the approved cask as required by 10 CFR 72.212(b)(3). Included in this evaluation is the verification that no credible source of an external explosion that would produce an external pressure above that analyzed in the SAR and that any cask handling equipment used to move the HI–STORM cask to the pad is limited to 50 gallons of fuel (refer to CoC, Appendix B, Section 3.4—Site Specific Parameters and Analyses).

*Comment C.11:* One commenter asked why there were no calculations for the bottom plate, overpack lid, etc. in a fire because the temperatures of these plates were important to know and could affect the pad or fire fighting equipment.

*Response:* The applicant did calculate the temperatures for the bottom plate and the overpack lid. However, these temperatures were not reported in the SAR. Not all calculated temperatures are reported in the SAR. With respect to the impact of fire on the pad or fire fighting equipment, a postulated 50 gallon fuel source would have minimal impact on those components. The heat generated by the pool of fuel is directed upward where the fuel is in a gaseous state. The limiting temperatures will occur above the surface of the concrete pad. Because the fuel has to vaporize in order to burn, the liquid fuel on the concrete will have minimal impact on the bottom plate of the overpack lid (in a liquid state, the fuel is cool). The duration of the fire is less than 4 minutes. The impact on the fire fighting equipment would be minimal, if any. Table 4–3 of the SER was modified to indicate that the temperatures were not reported.

*Comment C.12:* One commenter asked how the 45,000 MWD/MTU for 5 years related to the sabotage and terrorist evaluation for radiation disposal and stated that the evaluation is outdated.

*Response:* The comment on the sabotage report is beyond the scope of this rule. See the discussion in the response to C.8.

*Comment C.13:* One commenter asked if the water jacket could be pierced with an anti-missile gun or if a terrorist could shoot the jacket full of holes, and what are the consequences if these events did occur.

*Response:* The specific threat of an anti-missile gun or other small arms against the HI–STORM 100 is beyond the scope of this rule. However, the resultant dose rate for an assumed complete loss of the water jacket is addressed in Section 5.1.2 of the SAR. The analysis indicates that the off-site dose at 100 meters will be below the 5 rem accident limit in 10 CFR 72.106.

*Comment C.14:* One commenter asked why a burial under a landslide during a seismic event is not considered.

*Response:* Burying a cask due to seismic event, landside, or tornado is considered a very unlikely event. Considering the unlikeliness of the event coupled with the casks being able to withstand these events make burying and any adverse consequence in the opinion of the NRC not credible.

*Comment C.15:* One commenter asked why a vertical drop of a loaded transfer cask is not considered a credible accident, particularly as it is perched on top of the concrete overpack to load.

*Response:* A vertical drop of a transfer cask is not considered credible because vertical lifting of a loaded transfer cask must be performed with structures and components designed to prevent a cask drop. The criteria for those structures and components are specified in Section 3.5 of Appendix B to CoC No. 1014. The restrictions on vertical lifting are specified in Section 5.5 of the TSs (Appendix A to the CoC).

*Comment C.16:* One commenter stated that defense-in-depth is needed for sabotage events which could cause a tipover.

*Response:* The NRC disagrees with this comment. Sabotage events are beyond the scope of this rule. They are considered in Part 73. Furthermore, the SAR demonstrates that the HI–STORM 100 overpack will not tipover due to a design basis accident. However, as an added defense-in-depth measure, cask tipover is evaluated in Section 3 of the SAR and discussed in Section 3.4.2 of the SER.

*Comment C.17:* One commenter asked why a postulated explosion from a truck bomb at the pad fence was not evaluated.

*Response:* The specific threat of a truck bomb is beyond the scope of this rule. The response to C.8 addresses radiological sabotage of storage casks at generally licensed ISFSIs.

*Comment C.18:* One commenter asked the basis for the 217-second fire for the overpack and the 4.8-minute fire for the transfer cask. The commenter also asked if the NRC assumed that nothing on the vehicle or in the vicinity (such as grass or trees or other structures) will burn and cause the fire to burn longer.

*Response:* The duration of a fire burn is based on several factors. One factor is the rate at which the fire burns, normally categorized as inches of fuel burned per minute. The burn rate (inches per minute) is the same for both the overpack and the transfer cask because the source of fuel is the same (*e.g.*, diesel fuel). The duration of the burn comes from the postulated depth of the pool of fuel. A conservative estimate of the time of burn is to assume that the spilled fuel does not extend beyond 1 meter of the surface of the overpack or the surface of the transfer cask. (In reality, the fuel will spill significantly farther than one meter on

a flat surface, just as spilling a bucket of water on the ground, and will not accumulate to any significant depth which creates a shorter fire burn time.) Because the outer diameter of the overpack and the outer diameter of the transfer cask are different, the postulated depth or height that 50 gallons of fuel is postulated to reach will differ for the two cases. The case with the higher column of fuel will burn longer. Because the surface area of the pool of fuel for the overpack is 1.3 times larger than for the transfer cask, the pool of fuel for the overpack will be lower (given the same volume of available fuel, *e.g.*, 50 gallons). A lower pool of fuel will burn quicker. (Note that the burn rate is in inches of fuel per minute, and a smaller column of fuel will burn quicker than a higher column of fuel). Therefore, the burn time for the overpack is shorter than the burn time for the transfer cask.

With respect to other flammable sources that could catch fire, before using the HI–STORM cask, the general licensee must evaluate the site to determine whether or not the chosen site parameters are enveloped by the design bases of the approved cask as required by 10 CFR 72.212(b)(3). Included in this evaluation is the verification that the cask handling equipment used to move the concrete cask to the pad is limited to 50 gallons of fuel (refer to CoC, Appendix B, Section 3.4.5) and that the assumptions used in the SAR bound the consequences for the proposed site. Additional assessments would have to be performed if other sources are identified that could result in a more limiting fire.

*Comment C.19:* One commenter objected to the use of the leakage rate used by Holtec because it is based on an analysis of a transportation cask rather than a storage cask, for which the NRC and industry have different design and testing requirements. The commenter noted that the small assumed leakage rate and calculation methodology in NUREG/CR–6487 are based on ANSI standard N14.5 for transportation casks. ANSI N14.5 assumes that casks will be leak-tested periodically before shipment and after maintenance and repair. The commenter pointed out that some ISFSIs have no design provisions for testing helium leakage during storage and no provisions for repairing and maintaining casks and testing for leakage after repair and maintenance. Therefore, it is inappropriate to assume that these storage casks will have the same small leakage rate as transportation casks for which leakage potential is designed and planned to be monitored. The commenter stated that neither Holtec nor the NRC has any basis for relying on NUREG–1617 to assume a small leakage rate in a storage cask breach.

*Response:* The NRC disagrees with the comment. The ANSI N14.5 standard was developed to determine allowable leak rates for shipping packages that employ mechanical seals, which typically undergo repetitive use. Periodic testing is prescribed for the mechanical seal to ensure it has not degraded from repetitive use and/or seal maintenance. The analytic technique in ANSI N14.5 that is used to determine a leak rate across an assumed leak path is valid for determining an assumed leak rate across the confinement boundary of a welded canister. An off-site dose can be subsequently calculated using standard atmospheric dispersion principles and assuming a partial release of the cask constituents at the calculated leak rate. The welded closure is leak-tested to a sensitivity equal to the calculated leak rate to ensure integrity of the confinement system before storage operations. Periodic testing of the confinement boundary is not applicable because the welded confinement boundary is designed to remain intact during normal, off-normal, and accident conditions for the lifetime of the canister.

*Comment C.20:* One commenter stated that the methodology used in NUREG/CR–6487 may not apply for accidents that exceed the design basis accident. The allowed leak hole size can easily be exceeded in accidents involving sabotage such as an impact with a MILAN or TOW–2 hand held anti-tank device, a jet engine, or military ordnance.

*Response:* The NRC disagrees with the comment. Consideration of accidents that exceed design basis is not required by 10 CFR Part 72 and is beyond the scope of the NRC staff's review. The threat of accidents involving sabotage is beyond the scope of this rule. Sabotage issues are covered by 10 CFR Part 73.

*Comment C.21:* One commenter stated that Holtec should consider a 300 gallon fire or a 6,000 gallon fire. The commenter stated that these are credible accidents at an ISFSI and should be considered. A heavy haul tractor carries 300 gallons of fuel and is likely to be used at ISFSIs. Locomotives that carry casks to ISFSIs may carry 6,000 gallons of diesel fuel.

*Response:* The NRC disagrees with the comment. The analysis need only address the maximum permissible source of fuel at the storage site near the HI–STORM 100 system (10 CFR Part 72). Section 3.4 of Appendix B to the CoC limits the source of fuel near the HI–STORM 100 system to 50 gallons. Licensees are required to verify that all conditions of the CoC are met.

*Comment C.22:* One commenter stated that Holtec's fire analysis is deficient because the fire calculations assume that the fire takes place outside the concrete storage cask and does not consider the possibility of a fuel fire being drawn into the intake vent of the HI–STORM 100 cask.

*Response:* The NRC staff disagrees with the comment. The purpose of the fire analysis is to assess the consequences of a postulated fire on the HI–STORM system. The elements of interest are the impact of the fire on the peak clad temperature and the impact of the fire on the system materials. A 50-gallon fuel supply will have a very short burn duration. Applying the conservative assumptions of 10 CFR Part 71, a 50-gallon fuel supply would theoretically result in a pool size of 0.54 inches if limited to a one-meter spread around the overpack. The burn duration of the fuel in this configuration is 3.6 minutes. This burn duration will have insignificant impact on the peak clad temperature. The heat capacity of the system is too great to have an appreciable feedback on the peak clad temperature for a short duration transient. The greatest impact of a fire will be felt on the overpack. A bounding analysis was performed on the overpack by imposing a maximum burn temperature (specified in 10 CFR Part 71) on the entire outer surface of the overpack. This maximizes the impact on the steel liner and the concrete. In a less conservative calculation, the maximum temperature will be limited to the lower portion of the overpack. For additional conservatism, the applicant increased the inside temperature of the overpack to 300°F to account for heating of the air as it passes through the vents. As illustrated in SAR Figures 11.2.1—11.2.5, this bounding calculation illustrates that only the outer boundary of the concrete exceeds the temperature limit for concrete. At a depth of one inch into the concrete the temperature limit is not challenged. If a conservative assumption postulates the fire to occur inside the vent, similar results would occur because there is only a limited amount of energy (BTU) that can be deposited into the massive overpack structure. Exceeding the concrete temperature limit only at the concrete surface does not lead to a safety concern, and therefore, the SAR analysis is acceptable.

*Comment C.23:* One commenter stated that the consequences of a hit by an anti-tank missile, such as the MILAN or

TOW–2 missile should be considered. The commenter noted that the regulations only require a licensee to install systems that protect against unauthorized entry; however, entry to a site is not necessary to successfully carry out sabotage using an anti-tank missile. The commenter stated that the NRC should place additional conditions in the CoC to lower the probability of a sabotage event. The commenter further pointed out that the NRC has been inconsistent and arbitrary in determining whether to treat sabotage issues as site-specific or generic.

*Response:* The NRC disagrees with the comment. The threat of an anti-tank missile and other sabotage events is beyond the scope of this rule. Requirements on radiological sabotage are covered in 10 CFR Part 73 and apply to both ISFSIs and spent fuel storage cask designs. Therefore, comments on a specific threat or mode of attack are beyond the scope of this Part 72 rule. See also the response to C.8 addressing radiological sabotage of storage casks at reactor site ISFSIs.

*D. Criticality*

*Comment D.1:* One commenter objected to the assumption on the continued efficacy of the boral over a 20-year storage period because it has never been tested or proven.

*Response:* The NRC disagrees with the comment. The NRC staff does not consider the loss of fixed neutron poisons credible after installation into the cask because the poisons are fixed in place and contained. The neutron absorber is designed to remain effective in the HI–STORM system for a storage period greater than 20 years and there are no credible means to lose the neutron absorber. Section 6.3.2 of the HI–STORM SAR describes the neutron absorber and its environment, and evaluated boron depletion due to neutron absorption. Section 9.1.5.3 of the SAR describes the testing procedures for the neutron absorber material. The neutron absorber material will be manufactured and tested under the control and surveillance of a quality assurance and quality control program that conforms to the requirements of 10 CFR Part 72, Subpart G. The compositions and densities for the materials in the computer models were reviewed by the NRC staff and determined to be acceptable. This material is not unique and is commonly used in other spent fuel storage and transportation applications.

*Comment D.2:* One commenter asked if Boral had ever been used in any dry storage casks before and if it had, how long and had it been tested. The commenter asked if this was an experiment with a new application. The commenter further asked what proof was available to show the continued efficacy of a boral panel. The commenter asked what other fuel storage and transport applications utilized Boral and stated that it should be documented in the SER.

*Response:* As described in SAR section 1.2.1.3.1, Boral has been used in environments comparable to those in spent fuel storage casks since the 1950s, and in spent fuel shipping casks for Canadian spent fuel in the 1960s. In the United States, Boral has been used in numerous other spent fuel transportation casks since the early 1980's and in storage casks since the early 1990's. Some of the casks that use Boral are the NAC–I28 S/T, NAC–S/T, the NUHOMS–24P, NUHOMS MP–187, and BMI–1. The NRC disagrees that the HI–STORM SER should include a list of other casks that use Boral. Information on other spent fuel casks and Boral is publicly available. The response to comment D.1 discusses the efficacy of Boral and why testing other than initial fabrication testing is not necessary.

*Comment D.3:* One commenter stated that a test should be conducted to verify the presence and uniformity of the neutron absorber in fabrication.

*Response:* The presence and uniformity of the neutron absorber is verified as described in Section 9.1.5.3 of the SAR. The neutron absorber material will be manufactured and tested under the control and surveillance of a quality assurance and quality control program that conforms to the requirements of 10 CFR Part 72, Subpart G.

*Comment D.4:* One commenter asked if water injection in unloading reflood could result in large amounts of steam generation and two-phase flow conditions inside the MPC cavity causing over pressurization of the confinement boundary and a potential criticality.

*Response:* As stated in SAR section 6.4.2.1, the HI–STORM system was evaluated with various water densities inside the cask. The cask met the design criterion of $k_{eff}$ less than or equal to 0.95 for all credible flooding conditions. The cask is most reactive when filled with full density water. As can be seen in SAR Table 6.4.1, the cask reactivity decreases when filled with low density water (*i.e.*, steam).

In addition, Section 4.5.1.1.6 describes the cask cooldown and reflood analysis during fuel unloading operation. This section of the SAR states that before reflooding the cask with water, the helium inside the MPC is cooled to below 200°F which is below the boiling point of water. The procedures are outlined in Section 8.3.1 of the SAR with reference to TS 3.1.3. These procedures limit steam generation and two-phase-flow interactions with the fuel to acceptable levels, thereby preventing over pressurization of the MPC.

*E. Design*

*Comment E.1:* One commenter asked if there are three MPCs that are NRC-certified for storage and transfer because the SER states that they are evaluated and approved.

*Response:* As stated in Condition 1.b. of the CoC and in Section 1.1 of the SER, there are three types of MPCs that can be used in the HI–STORM 100 Cask System: The MPC–24, the MPC–68, and the MPC–68F. The MPC–24 holds up to 24 PWR fuel assemblies that must be intact. The MPC–68 holds up to 68 BWR fuel assemblies that may be intact or damaged (*i.e.*, with known or suspected cladding defects greater than hairline cracks or pinholes). The MPC–68F holds up to 68 BWR fuel assemblies that may be intact, damaged, or in the form of fuel debris (*i.e.*, with known or suspected defects such as ruptured fuel rods, severed fuel rods, and loose fuel pellets). All three MPCs have the same external dimensions. Section 1.2.1.1 and Table 1.2.1 of the SAR has been revised to clarify that there are three types of MPCs.

*Comment E.2:* One commenter asked how and to what the trunnion is attached, and what it is made of.

*Response:* The trunnions are attached by welds to the inner and outer shell and to the HI–TRAC top flange. The trunnions are fabricated of SB–637–N07718 steel and SA–350–LF3 steel.

*Comment E.3:* One commenter stated that the concrete for the overpack should be reinforced and asked why it is not reinforced.

*Response:* The NRC disagrees with this comment. The main function of the concrete encased between the steel shells in the HI–STORM 100 overpack is shielding. The structural strength of the HI–STORM 100 overpack is provided by the inner and outer carbon steel shells. The concrete, on the other hand, will provide an added benefit to the HI–STORM 100 overpack because it will increase the stiffness and weight of the overpack to resist external forces due to seismic, tornado, and tornado missiles.

*Comment E.4:* One commenter asked if the pedestal could shift in movement and touch the liner or if it could corrode to the carbon steel liner or baseplate. The commenter also asked what the

baseplate was made of and if a ceramic baseplate should be used.

*Response:* The pedestal consists of concrete, 17 inches thick, encased in a steel shell. This shell is welded to the steel overpack baseplate, and the weld is examined according to the ASME Code Section V. Stresses in the pedestal have safety factors exceeding 16. The pedestal will not shift. The exterior and interior surfaces of the overpack are coated with an epoxy paint to prevent corrosion. The overpack baseplate is made of carbon steel that meets the design criteria.

*Comment E.5:* One commenter stated that jamming of parts could be a problem because unjamming the parts could cause damage (during both loading and unloading). The commenter further asked if the cask had been tested for jamming and what the situation would be after 20 to 40 years in storage.

*Response:* Stainless steel shims, depicted in Detail T of drawing 1495, sheet 5, prevent the MPC from contacting the overpack interior and preclude the paint from being scraped during the operational steps. The drop accident analyses cause stresses which significantly bound the stresses that could occur during normal handling operations. Therefore, damage to the MPC during loading and unloading into the overpack is not credible.

The calculation in the SAR demonstrated that there will be no jamming of the MPC in the overpack under the most severe stack-up of tolerances. The cask has not been tested for jamming; however, a dry run of all operational steps is required before use of the system.

The license life of all overpack and MPC components is 20 years. The applicant engineered the overpack, HI–TRAC, and MPC for 40 years of design life. More detailed information regarding the service life of the overpack, HI–TRAC, and MPC can be found in Sections 3.4.11 and 3.4.12 of the SAR.

*Comment E.6:* One commenter stated that the clearances were not adequate. The commenter asked if the wet fuel would be inserted into the overpack in the same way as the dry run and what happens if the crane does not have the MPC completely vertical when inserting it in the overpack or if the HI–TRAC or pad is not level.

*Response:* There is no adverse tolerance stack-up that would prevent the insertion of the MPC into the overpack. Additionally, the dry run will verify that the MPC can be inserted into the HI–TRAC and overpack. All cell plates of the MPC are constructed of stainless steel that is not effected by immersion in water; therefore, the tolerances for the dry run would not change and the wet fuel will go in the same way as in the dry run.

*Comment E.7:* One commenter is concerned that the manufacturer's tolerances are not clear if fabrication is the minimum margin of safety or minimum clearance allowed.

*Response:* The most severe ''stack-up'' of manufacturer's tolerances provides sufficient clearance for insertion of the MPC into the HI–TRAC. The minimum clearance allowed is thus met. The cask could be manufactured to the minimum allowed clearances, but this would not reduce the minimum margin of safety.

*Comment E.8:* One commenter asked if there would be a problem if the radial clearance of the HI–TRAC MPC is at a maximum and the radial clearance of the MPC overpack is at the minimum allowed. The commenter asked how much leeway is allowed in fabrication in both of these radial clearance measurements.

*Response:* No operational problem exists if the radial clearance of HI–TRAC/MPC is at a maximum tolerance ''stack-up'' and the radial clearance of the MPC overpack is at the minimum tolerance ''stack-up.'' These tolerances have been evaluated for all manufacturer's design criteria requirements and for all design temperatures. The largest allowable radial dimension of the HI–TRAC is greater than the smallest allowable radial dimension of the overpack. Fabrication requirements, including tolerances, are stated on the drawings. These tolerances provide sufficient clearance for operations.

*Comment E.9:* One commenter expressed concern over the $^{13}/_{16}$-inch difference in the maximum MPC diameter and minimum overpack internal diameter because it was a minuscule amount for fabrication. The commenter also asked what was meant by average radial clearance of about 0.4 inches and stated that it was not a lot of clearance.

*Response:* The $^{13}/_{16}$-inches is the minimum clearance accounting for tolerances between the MPC diameter and the channels/shims that are attached to inner shell of overpack. The channels/shims provide guidance for MPC insertion, position MPC within the overpack, and allow the cooling air flow to circulate through the overpack. The minimum clearance between the MPC and overpack inner shell is approximately 5 inches without the channels. Both the clearance between the MPC and channels/shims and between the MPC and overpack inner shell are considered to be acceptable. The SER has been changed to clarify that $^{13}/_{16}$-inches is the clearance between the maximum MPC diameter and the channels/shims that are attached to inner shell of overpack rather than between the MPC and overpack inner shell. The average radial clearance is diametral clearance divided by two.

*Comment E.10:* One commenter asked what the computed decrease (page 3–9 of the SER) was related to. The commenter expressed concern that these were very small calculation amounts (0.11 inches) to depend on computer accuracy.

*Response:* The computed decrease of 0.11 inches is the calculated maximum decrease in the inner diameter of the overpack shell due to a tipover accident. The 0.11 inches decrease in the inner diameter of the overpack shell is not computed by computer simulation. Rather, it is computed by using a standard text book equation for deformation calculation. The deformation due to tipover is expected to be small. This calculation has been evaluated by the NRC staff and found to be acceptable.

*Comment E.11:* One commenter asked if the base under the pads would be the same at all sites and asked what is under the pad. The commenter is concerned that the pad evaluation has not received adequate attention because it is a crucial part of the tipover and drop evaluation.

*Response:* Each user is required to meet the site parameters in CoC, Appendix B, Section 3.4 that include specific requirements for the pad. Site characteristics will be investigated by each cask user and addressed in the cask user's 10 CFR 72.212 evaluation. The pad is a site-specific issue. Site-specific issues are beyond the scope of this rule that is focused solely on whether to add the HI–STORM 100 cask system to the list of approved casks.

*Comment E.12:* One commenter asked why there were two different weights for the transfer cask.

*Response:* As discussed in Section 1.2.1.2.2 of the SAR, the 100-ton transfer cask weighs less than the 125-ton transfer cask because it has a reduced thickness in lead and water. The 100-ton transfer cask is designed for facilities not capable of handling the heavier 125-ton transfer cask.

*Comment E.13:* One commenter asked why the bottom pool lid supported the weight of a loaded MPC plus water.

*Response:* During lifting of the transfer cask from the fuel pool there is water in the MPC and the annulus. Therefore, the structural evaluation of the bottom pool lid of the transfer cask must consider all the applicable weights

supported by the pool lid, including the water.

*Comment E.14:* One commenter stated that the cask should be up on something to air out the area under the cask to prevent rusting. The commenter questioned if the baseplate rusted if that could cause the cask to tipover or lean. The commenter is concerned that if the canister ended up leaning against the inner liner of the concrete shell, it would cause blockage of the venting annulus and create a hotspot in the concrete.

*Response:* The NRC disagrees with this comment. The baseplate is coated with an epoxy type coating to prevent corrosion. Some rusting may occur at scratches in the coating. However, even a postulated extreme case, assuming no coating present, would not result in sufficient corrosion to cause an amount of leaning that would be significant.

*Comment E.15:* One commenter asked if there is any leeway for the pressure in the concrete encasement between the two carbon steel outer and inner liners, if the concrete had room to move, and if the concrete could split the outer carbon steel encasing it, particularly at the welds.

*Response:* The coefficient of thermal expansion of steel is only slightly greater than that of concrete, and the thermal gradient through the overpack wall, experienced during the extreme temperature criteria, was calculated to be approximately 40°F. This temperature difference and thermal coefficient of expansions do not cause the inner steel to apply significant force to the concrete in the overpack. The outer steel shell expands somewhat more than the concrete; therefore, the concrete has room for expansion and exerts no force on the outer steel plates.

*Comment E.16:* One commenter asked what a bottom pool lid is and how it is replaced by the heavier shielded transfer lid and if it has been tested.

*Response:* The bottom pool lid is described in Section 1.2.1.2.2 of the SAR. The lids are interchanged with a transfer slide device as described in Section 8.1.1 of the SAR. The NRC did not require test results for lid changing operations. The NRC found the pool and transfer lid design to be acceptable for the HI–STORM 100 system.

*Comment E.17:* One commenter asked if the 17.000 inches of concrete for the overpack baseplate was a typo and if the number of significant figures was correct.

*Response:* The value in the SER has been revised to state 17.0 inches that reflects the thickness assumed in the shielding analysis.

*Comment E.18:* One commenter stated that the configuration discussion in Section 6.4.1 of the SER is not clear because the HI–STAR doesn't have a transfer cask.

*Response:* As stated in SER section 6.4.1, the HI–STORM system has a transfer cask, not the HI–STAR system. The transfer cask, the HI–STORM overpack, and the HI–STAR overpack are constructed of different materials. The effectiveness of these materials to reflect neutrons affects the criticality safety of the system; therefore, each was explicitly evaluated. The other parameters affecting the criticality safety of the HI–STORM system, including the transfer cask, are identical to the HI–STAR system.

*Comment E.19:* One commenter asked if the closure ring was a ring or a lid.

*Response:* The closure ring is a ring. In the MPC, the lid and the closure ring are two different components.

*Comment E.20:* One commenter asked how many rings are included in the design.

*Response:* There is one closure ring included in the design.

*Comment E.21:* One commenter asked why voids in the installation of the lead shield are only minimized instead of being disallowed completely, if the shield was composed of lead bricks or poured, and which was more prone to voids. The commenter asked if lead bricks could be used and then have lead poured into the cracks between the bricks, and how the lead shield is installed.

*Response:* The HI–STORM 100 must be fabricated and tested in accordance with the drawings specified in the SAR and under a quality assurance program that meets the requirements of 10 CFR Part 72, Subpart G. The proper fabrication of the lead shield, including potential voids, will be evaluated under this quality assurance program. As discussed in Section 9.1.5.2 of the SAR, effectiveness of the lead pours are verified during fabrication by performing gamma scanning on all accessible surfaces of the transfer cask in the lead-pour regions. Installation of the lead shields is discussed in Section 9.1.5.1 of the SAR. The SAR specifies the use of poured lead and does not allow the installation of lead bricks.

*Comment E.22:* One commenter asked what the relief valve was and what type of maintenance it received.

*Response:* A relief valve is a mechanical device that opens when pressure inside a system exceeds the actuation pressure of the valve (pressure that will open the valve). Relief valves are common pressure limiting devices. Relief valves are placed on water heaters in homes to ensure that the water pipes in a house will not fail due to excessive pressure. Similarly, relief valves are attached to the radiator in a car to ensure that the coolant hoses do not burst from excessive pressurization of the engine coolant system. Maintenance of the relief valves are discussed in SAR Section 9.2.4. The relief valves are calibrated annually to ensure that their pressure relief setting is correct or they are replaced with factory-set relief valves.

*Comment E.23:* One commenter asked if there were holes in the shield jacket to add and drain things and indicated that holes would be a potential sabotage threat for someone to drain the jacket or add something dangerous to the water.

*Response:* There are drain holes in the water jacket end plate. The 125-ton HI–TRAC has two 1½-inch drain holes and the 100-ton HI–TRAC has four ¾-inch drain holes. The resultant dose rate for an assumed loss of the water jacket is addressed in Section 5.1.2 of the SAR. The analysis indicates that the off-site dose at 100 meters will be below the 5 rem accident limit in 10 CFR 72.106. In addition, NRC regulations in 10 CFR Part 72 have established physical protection and security requirements for an ISFSI located in the owner-controlled area of a licensed power reactor site.

*Comment E.24:* One commenter stated that Conditions 1a and 1b of the CoC should both state that the cask system has two transfer casks.

*Response:* The NRC disagrees with the comment. Condition 1b of the certificate of compliance specifies that there are two types of transfer cask options: the 125-ton HI–TRAC and the 100-ton HI–TRAC. It is not necessary to repeat that information in Condition 1a.

*Comment E.25:* One commenter stated that there should be a drawing of the damaged fuel container in the CoC because the structure is not explained.

*Response:* The NRC disagrees with this comment. A drawing of the damaged fuel container is included in Chapter 1 of the SAR and is available to the public. This level of detail is not necessary in the CoC.

*Comment E.26:* One commenter asked what the screens are made of, how the screens are attached, if the screens can deteriorate or come loose over time, and what happens if the screens fall out.

*Response:* As shown on the drawings in Chapter 1 of the SAR, the damaged fuel container, including the screen, is constructed of stainless steel. The damaged fuel container is an additional structural component that will make the MPC fuel basket even stronger. The screen is placed between two steel plates welded together with a 0.06 inch,

continuously 360 degree, all around fillet weld. It is not considered credible for the screens to fall off or fail. However, if a screen failed, there would be no release of radioactive material because the MPC is sealed. Small amounts of loose debris in the MPC have been considered during unloading operations, as described in SAR Section 8.3.4.

*Comment E.27:* One commenter stated that damaged fuel and intact fuel should not be placed in the same cask because it can cause potential problems in unloading.

*Response:* The NRC disagrees with the comment. Damaged fuel can be stored safely with undamaged fuel. If damaged fuel is stored with undamaged fuel, then CoC, Appendix B, Section 2.1.1.c requires all fuel assemblies in the cask to meet the more restrictive heat generation requirements for the damaged fuel. Additionally, damaged fuel must be loaded into damaged fuel containers to enable safe handling during cask loading and unloading operations.

*Comment E.28:* One commenter asked what the basis is for putting the hotter fuel in the center of the cask. The commenter also asked if the doses would be accurate if the lower dose fuel is placed at the periphery positions. The commenter stated that it would be better to have a more even heat and dose distribution in the MPC and asked if dose was more important than the heat.

*Response:* The design of the HI–STORM cask considered both the thermal and radiological effects of the fuel. If one assumes the same enrichment and burnup (time that the fuel was left in the reactor to produce power), the fuel that is left longer to decay in the spent fuel pool (*e.g.*, ''cooler fuel'') will generate less heat and high-energy radiation than the fuel that is removed sooner from the pool (*e.g.*, ''hotter fuel''). For the method used in the HI–STORM design, cooler fuel assemblies are stored on the periphery of the cask for two reasons. First, the ''cooler fuel'' assemblies have lower allowable peak clad temperature limits and the temperature of the assemblies on the periphery is cooler. Second, storing the ''cooler fuel'' on the periphery of the MPC provides some additional radiological shielding from the hotter fuel assemblies in the center.

*Comment E.29:* One commenter asked if BPRAs and thimble plugs could be stored in the cask. The commenter stated that they should not be because they add weight.

*Response:* BPRAs and thimble plugs have not been analyzed for this cask system and, therefore, are not authorized for storage in the HI–STORM 100 at this time.

*Comment E.30:* One commenter asked what the cask transfer station is and whether it had been designed yet. The commenter asked if it is constructed of reinforced concrete. The commenter stated that more explanation was necessary and that a drawing should be included. The commenter asked how and why an impact limiter is used. The commenter asked what the basis is and if an evaluation had been completed. The commenter was concerned with the use of terms ''if'' and ''shall be designed'' because this implies the CTF hasn't been designed. The design should have specific criteria.

*Response:* The term ''cask transfer station'' in CoC, Appendix B, Section 3.5.1, is a typographical error and has been corrected to ''cask transfer facility.'' A cask transfer facility (CTF) is a facility used for transferring the MPC between the transfer cask and the overpack. The CTF does not include 10 CFR Part 50 controlled structures such as the fuel handling building or reactor building. The NRC disagrees that a drawing of the CTF or more design details are necessary. The HI–STORM 100 Cask System is approved for use under the general license provisions of 10 CFR Part 72. Therefore, the cask may be used in any nuclear power reactor site licensed under 10 CFR Part 50, provided that the site parameters are enveloped by the cask design bases. The specific design and operation of the CTF will be dictated by site-specific needs. Because of the varied needs of each reactor site, the NRC found it impractical and unnecessary to review and approve a specific CTF design, including the specific materials of construction. The NRC reviewed and approved the criteria for the design, construction, and operation of the CTF. These criteria are specified in CoC, Appendix B, Section 3.5, and SAR Section 2.3.3.1.

The impact limiter is a possible CTF design feature whose function would be a defense-in-depth measure because the lifting equipment used in the CTF must be designed to preclude a drop. As discussed in the response to comment J.14, the specific requirement for an impact limiter has been eliminated because other methods may be available to prevent a canister breach in case of a canister drop during transfer operations.

*Comment E.31:* One commenter stated that we should clearly state what the CTF is and make sure that every detail of the procedure is carefully analyzed because it is vague.

*Response:* The CTF is defined in SAR Section 2.3.3.1 and in CoC, Appendix B, Section 1.0. Detailed design and operational requirements for the CTF are also specified in SAR Section 2.3.3.1, as well as in CoC, Appendix B, Section 3.5. Under the provisions of 10 CFR 72.212 and CoC Condition 2, each licensee that elects to use a CTF must develop written procedures for operating the CTF. These procedures are subject to NRC review during inspection. As required by TS 5.2.h, the licensee must conduct a dry run training exercise, prior to first use of a CTF, to demonstrate that the procedures can be conducted safely and successfully.

*Comment E.32:* One commenter recommended that Design Drawing 1495, Sheets 4 and 6 and Design Drawing BM–1575, Sheet 2 be revised.

*Response:* The NRC agrees with the comment. These changes correct drafting errors or provide a level of flexibility that is acceptable to the NRC staff. The SAR drawings have been revised accordingly.

*F. Welds*

*Comment F.1:* One commenter asked how use of the trunnions puts stress on the weld at the water jacket.

*Response:* Use of the pocket trunnion does not put any stress on the water jacket. The seal weld between the pocket trunnion and water jacket shell is for retaining the water inside the water jacket. The pocket trunnion is attached to the outer transfer cask shell by full penetration welds all the way around the trunnion. When the pocket trunnion is used, the force is transferred to this weld and not to the seal weld on the water jacket. The other type of trunnion on the transfer cask is the lifting trunnion. The lifting trunnion is not connected to the water jacket and, therefore, puts no stress on the water jacket.

*Comment F.2:* One commenter asked how the welds are checked to be leakproof and whether water can enter the trunnion.

*Response:* All the structural welds have to be examined and inspected according to the applicable ASME code. The welded joint is an integral part of the structure and is leak proof. Because the trunnions are made of solid steel, water cannot leak into them.

*Comment F.3:* One commenter stated that the lid and closure ring of the MPC should be full penetration welds and should be ultrasonic tested (UT) as this is the basis for qualification as a redundant seal.

*Response:* The NRC disagrees with this comment. Full penetration welds are unnecessary from the structural and

containment boundary requirements of the design. Employing unnecessarily heavy welds leads to fabrication problems such as excessive warpage. UT of heavy section, full or partial penetration, austenitic stainless steel welds to ASME Code acceptance criteria is not feasible with current technology. The redundant seal concept is based upon the use of two welds forming the leak barrier, not the inspection method. With redundant welds, one weld could leak and the second still provide leak tight integrity.

*Comment F.4:* One commenter stated that just because there is no known plausible, long-term degradation mechanism to cause seal welds to fail doesn't mean that the welds won't fail.

*Response:* The NRC disagrees with this comment. The NRC staff has examined the plausible mechanisms that would cause failure of the seal welds and has determined that those mechanisms are inoperative under normal service and design accident conditions for HI–STORM. This gives the NRC staff reasonable assurance that the welds will not fail under design basis normal, off-normal, and accident conditions.

*Comment F.5:* One commenter asked how lid welds are removed in unloading and stated that the procedures should be in the documents before the casks are loaded.

*Response:* The NRC disagrees with this comment. Welded cask lids may be removed by one of several methods. The method of removal and the detailed procedures (as opposed to the general procedures of the SAR) are the responsibility of the ISFSI licensee, subject to NRC review and inspection. The TSs require ISFSI licensees to perform lid removal method demonstrations on full-size mock-ups as part of their pre-operational testing and training exercises. The NRC staff has reviewed and inspected several methods and their associated procedures. Inclusion of such detailed procedures in the SAR is unnecessary.

*Comment F.6:* One commenter asked what happens if the water jacket welds leak water.

*Response:* The resultant dose rate for an assumed loss of the water jacket is addressed in Section 5.1.2 of the SAR. The analysis indicates that the off-site dose at 100 meters will be below the 5 rem accident limit in 10 CFR 72.106.

*Comment F.7:* One commenter stated that the penetrant test (PT) is unacceptable, that the criteria for layers and time are ''wishy washy,'' and that PT tests should not be allowed.

*Response:* The NRC disagrees with this comment. The commenter has not specified why PT is unacceptable or why it should not be allowed. PT is a Code accepted examination method. The progressive PT technique is used and accepted in the nuclear industry when a volumetric examination by means such as UT is impractical. UT is unsuitable for heavy section austenitic stainless steel welds.

The basis for the structural lid weld examination methods is documented in the NRC's Interim Staff Guidance-4, Revision 1, that allows the use of a multi-layer (*i.e.*, progressive) PT examination in lieu of a volumetric examination.

*Comment F.8:* One commenter stated that welds need to be checked carefully.

*Response:* The NRC agrees with the comment. Welds are important which is why they are examined and inspected according to the applicable ASME code.

*Comment F.9:* One commenter stated that the leak testing procedure used to demonstrate MPC closure cannot be performed as described and that performance of the test is not generally consistent with ANSI N14.5–1997, ''Leakage Tests on Packages for Shipment.'' Consequently, containment of the radioactive material to the stated criteria cannot be demonstrated. The principal reason provided by the commenter is that the nominal concentration of helium in air is 5 parts per million. This atmospheric concentration masks any leakage from the MPC using the specified test conditions. In addition, the commenter noted that there is no direct reference to definitions, equations, formula, methodology, or criteria of the standard in the text. The commenter further noted that when terminology from the standard is given, it is (for the most part) used incorrectly.

*Response:* The NRC disagrees with the comment. These welds are multipass stainless steel welds that are dye penetrant examined multiple times during the weld process. The multiple dye penetrant examinations provide reasonable assurance of high integrity welds that will retain the inert gas and prevent leakage of radioactive material into the environment. The leakage testing of these welds provides additional insight into the leak-tightness of these welds.

The NRC staff has reasonable assurance that the leakage test procedure outlined in SAR Section 8.1 can be performed as described provided that appropriate equipment is used and the leak test method is properly qualified. The leakage testing for the lid is to be performed with a sniffer type probe; however, the test method for the port and drain covers is not specified in the SAR. There are test methods discussed in Appendix A of ANSI N–14.5 that could be used to perform the port and drain cover leakage testing. Detailed procedures are developed by the user who is responsible for ensuring that the TS limits are met and therefore, confinement is adequately maintained. The leakage testing will require a demonstration that the detector can identify an appropriate calibrated leak in the presence of background helium. Although sniffer probes detect discrete leaks rather than an integrated leakage rate, the typical sniffer probe sensitivity of $10^{-8}$ provides reasonable assurance that the TS leakage rate limit of $5\times10^{-6}$ will not be exceeded.

As stated in the SAR, the leak testing will be performed in accordance with ANSI N14.5. It is not necessary to include any more level of detail in the SAR; therefore, no change to the SAR is necessary. Appropriate detail will be included in the site procedures.

The SAR has been changed to use terminology consistent with the TS and the 1997 revision of ANSI N14.5. The terminology was changed from std cc/s to atm cc/s. SAR section 7.3.3 justifies the use of the units atm-cc/sec. Also, the SAR was revised to delete the sensitivity of the detector. The sensitivity will be addressed in the detailed site procedures.

*G. Structural*

*Comment G.1:* One commenter stated that all of the accident level events and conditions listed in the SER, particularly a transfer cask handling accident or sabotage, should be evaluated for structural analysis in a jamming condition on top of the overpack.

*Response:* All design basis normal, off-normal, and accident events have been evaluated in the structural analyses and are discussed in Section 3 of the SER. This includes an evaluation of the transfer cask under a 42-inch horizontal drop during transfer operations. A horizontal drop from a greater height is not considered because the horizontal lifting height limit for the transfer cask is 42 inches. The evaluation shows that the HI–TRAC meets all structural requirements and there is no adverse effect on the confinement, thermal, or subcriticality performance of the contained MPC.

As discussed in the response to C.15, vertical drop of a transfer cask is not considered credible because vertical lifting of a loaded transfer cask must be performed with structures and components designed to prevent a cask drop. Also, as discussed in the response to E.5, jamming is not considered to be

credible because of the design of the HI–STORM system. The threat of sabotage is beyond the scope of this rule and is discussed in the response to C.8.

*Comment G.2:* One commenter stated that bending of the web and pushing of the flanges possibly accompanied by some local weld failures sounded feasible and may not result in limited deformation as assumed. The commenter asked if a full size cask had been tested in a drop or tipover.

*Response:* The channels attached to the inner shell of the overpack are not classified as important-to-safety and serve no structural purpose. Deformation of the channels, whether limited or complete collapse, does not affect retrievability of the MPC. On the contrary, the deformation of these channels due to a tipover accident absorbs energy which reduces the deceleration loadings to the MPC and provides a greater opening in the overpack during retrieval. NRC regulations do not require full size testing of casks. The applicant can choose the method of analysis. Computer analyses have been performed to determine the responses of a cask in drop and tipover accidents.

*Comment G.3:* One commenter questioned how the structural analysis conducted for the 125-ton HI–TRAC transfer cask could bound the 100-ton version and indicated that the 100-ton version needs its own analysis.

*Response:* All the structural analyses and evaluations of the 125-ton transfer cask were repeated for the 100-ton transfer cask. However, the analytical results of the 125-ton transfer cask are greater than that of the 100-ton transfer cask. Therefore, the structural analysis of the 125-ton transfer cask bounds the 100-ton transfer cask.

*Comment G.4:* One commenter asked what would be the consequences of the deformation of the outer shell and lead and water jacket from a missile, particularly if the transfer cask was on top of the concrete shell.

*Response:* The HI–TRAC transfer cask is always held by the handling system while in a vertical orientation completely outside of the fuel building. Therefore, considerations of instability due to a tornado missile strike are not included in the evaluation. However, a structural evaluation of the damage to the HI–TRAC transfer cask from an intermediate missile strike and a large missile strike is performed. The evaluation shows that the outer shell and the water jacket would not experience any plastic deformation and will not adversely affect the retrievability of the MPC.

*H. Materials*

*Comment H.1:* One commenter questioned why carbon steel was used for the inner and outer plate instead of stainless steel because of the concern over corrosion. The commenter also asked if the carbon steel was coated.

*Response:* The materials used in the fabrication of the cask are described in Chapters 1 and 3 of the SAR and discussed in Section 3.3 of the NRC SER. These materials have been found acceptable because they meet the requirements for their respective applications in the cask system. They are suitable for the expected loading and storage in wet and dry environments, including corrosion and galvanic effects. There is no requirement for designers to select materials from a given class, *e.g.* stainless steels.

The carbon steel used in the overpack is protected from corrosion by an industrial epoxy coating commonly used for the protection of steel.

*Comment H.2:* One commenter stated that one alloy should be specified for cask fabrication instead of allowing a choice because if later problems develop, there are fewer variables.

*Response:* The NRC disagrees with the comment. The materials used in casks are selected on the basis of the needed properties. Allowing a choice of more than one material or alloy for fabrication is acceptable provided that each of the options has the appropriate properties. The materials chosen for use in the Holtec HI–STORM 100 design have a long history of favorable performance in the nuclear industry.

*Comment H.3:* One commenter questioned why plain concrete is not included in NUREG–1536 and why an exemption was being given to allow plain concrete since reinforced concrete is stronger.

*Response:* No exemption was given to allow plain concrete to be used for structural components. The plain concrete in the HI–STORM 100 overpack is for shielding only and is not a structural component of the overpack. The reinforced concrete included in NUREG–1536 is for concrete structures (concrete components that provide structural strength) only. The HI–STORM 100 overpack is a welded steel structure, not a concrete structure.

*Comment H.4:* One commenter asked if the NRC has reviewed the manufacturers direction for the carboline 890 and thermaline 450 coatings. The commenter asked how the coatings are used and applied, and if they will wash or flake off in pool water, making the water cloudy.

*Response:* The NRC staff has reviewed the manufacturer's technical information for the coatings mentioned. Both coatings are standard coatings employed in industry for immersion service and are applied using common industry tools and techniques. No performance problems would be expected during intended service.

*Comment H.5:* One commenter asked if the carbon steel caused reactions that could create loading or unloading problems such as reaction products clogging venting or draining equipment with crud or flakes or making the pool water cloudy.

*Response:* Carbon steel exposed to the cask loading environment produces very fine particulates that do not clog equipment. Turbidity that may arise from corrosion of uncoated carbon steel can be controlled with appropriate water treatment equipment.

*Comment H.6:* One commenter asked if temperature or coatings on the channel could affect the fit. The commenter also asked if flaking of the coating could clog a channel slide or if corrosion in the channels could cause problems in unloading.

*Response:* The effects of temperature on the channels have been calculated and do not affect the fit. Each coat of the epoxy paint applied to the exposed surfaces of the inner components of the overpack is, at maximum, 0.008 inches thick. Two coats result in a maximum diametral reduction in inside diameter of 0.032 inches. This reduction will not affect the fit. Both the interior and the exterior of the channels are coated to prevent corrosion.

*Comment H.7:* One commenter asked if aging was factored into the analysis of the pad and stated that the specific site should be evaluated for a full cask array.

*Response:* Concrete is resistant to environmental conditions, including air pollution and moisture. Therefore, the NRC staff expects no significant degradation of the pad during the licensed lifetime of the ISFSI facility. Each proposed site is subject to a specific evaluation to ensure that the design parameters satisfy site-specific conditions. In addition, cask users are responsible for inspecting and maintaining the pad, and for ensuring that significant degradation is not occurring over time.

*Comment H.8:* One commenter asked what the condition of the concrete is right under the shell and expressed concern that the concrete could crack where nobody would see damage needing repair.

*Response:* As discussed in the response to E.3, the main function of the concrete encased between the steel shells in the HI–STORM 100 overpack is shielding. The structural strength of

the HI–STORM 100 overpack is provided by the inner and outer carbon steel shells. Cracking of the concrete would not have a significant impact on the cask's ability to meet the regulatory dose limits. There is no credible mechanism for the concrete to undergo any significant damage. Thus, inspection of the concrete is not necessary.

*Comment H.9:* One commenter asked if concrete expanded or released water or gas when it is superheated.

*Response:* Concrete contains some traces of free water. If the water is heated, it will evaporate. Concrete will expand upon heating and contract upon cooling. The amount is governed by the temperature. These expansions/contractions are reversible and not permanent. There are no significant effects of expansions/contractions that would occur even if the temperature went considerably beyond the design temperature parameters.

*Comment H.10:* One commenter asked how the bottom face affects the supporting surfaces (heat, radiation, weight, stress, pressure etc.).

*Response:* As listed in Table 4.4.9 of the SAR, the temperature of the bottom lid plate at normal conditions is 183°F. That temperature will not have an adverse effect on the concrete. Radiation will have minimal impact on the concrete pad due to the shielding provided by the pedestal. The weight, stress, and pressure from the cask bottom have no adverse effect upon the pedestal or slab because they are specifically designed to support all the loads due to the casks.

*Comment H.11:* One commenter asked how the gas and liquid media that escapes from the damaged fuel container interacts with other materials in the MPC and if they can cause problems.

*Response:* The materials of the cask have been selected to be compatible with any constituent or reaction product of the fuel.

*I. Thermal*

*Comment I.1:* One commenter asked if hot spots in the cladding could cause lead to sag in the transfer cask if the inner canister is in place and the temperature is close to the boiling point of the water pack.

*Response:* Hot spots in the cladding would not result in sagging or melting of the lead. The bounding calculation performed by Holtec assumed all the fuel assemblies were at the design basis limit (hottest assemblies). The bounding rod cladding temperature occurs at the center of the MPC and does not have a direct impact on the lead. The assemblies on the periphery of the MPC are significantly cooler because they are located near the cooler surface of the MPC. Table 11.2.8 in the SAR provides the results from a calculation that assumes no water in the water jacket. These results bound the impact of boiling in the water pack. Based on those results, it can be concluded that the lead temperature remains well below the melting temperature.

*Comment I.2:* One commenter asked what happens if the water in the transfer pack boils and the steam pressure builds up, and stated that this situation should be evaluated.

*Response:* As the pressure builds up, the pressure is relieved through a safety valve. As water is removed through the safety valve, the temperature of the water remains at the saturation temperature. The case of water boiling in the HI–TRAC water jacket is bounded by the event that assumed no water in the water jacket. This event leads to a temperature in the water jacket that is higher than the saturation temperature of the water. The impact of loss of water in the water jacket is summarized in Table 11.2.8 of the SAR.

*Comment I.3:* One commenter asked how, during normal conditions, the temperature of the outer shell could be higher than the temperature of the concrete because the carbon steel would breathe less than the concrete, causing the heat to be retained in the concrete. The commenter also asked how the temperature of the concrete could be measured since it is encased in the carbon steel.

*Response:* The question raised by the commenter is not clear. The temperature of the concrete is higher than the temperature of the outer shell under normal conditions. Reviewing Table 4.4.9 in the SAR, the temperature at the overpack outer shell is not higher than the concrete cross sectional average temperature. The temperature distribution through the overpack under normal conditions is listed in Table 4.4.9 of the SAR (*e.g.*, 149 °F for the concrete and 131 °F for the outer shell).

With regard to the question of measuring the temperature of the concrete, the applicant does not measure the temperature of the concrete. Bounding calculations are used to assure that the concrete temperature limits will not be exceeded.

*Comment I.4:* One commenter asked how the pad reacts to the bottom plate of a cask from a temperature differential standpoint. The commenter asked if the pad would crack and sink under each cask and form a concave area that could then collect moisture. The commenter further asked if the collected moisture could boil and if the moisture could cause the bottom plate to rust.

*Response:* The heat transfer between the bottom plate of the overpack and the concrete pad is modeled in the thermal computer code for the HI–STORM cask system. As listed in Table 4.4.9 of the SAR, the temperature of the bottom lid plate at normal condition is 183 °F. That energy is transmitted to the concrete pad down to the ground, which is at the normal soil annual average temperature of 77 °F. Therefore, the concrete will not experience temperatures above boiling (no superheating will occur). In the winter, the concrete will not reach freezing temperatures below the cask because it generates heat. If the concrete reaches or exceeds boiling or freezing temperatures, there is no detrimental effect on the strength or condition of the concrete. The pad is specifically designed to support the weight of the casks without any cracking or sinking of the pad. The bottom plate of the cask is stainless steel and will not rust.

*Comment I.5:* One commenter questioned the basis and validity of simulating the heat effect of adjacent casks radiating heat back to an interior cask and if an analysis of the real situation had been conducted.

*Response:* The impact of radiation heat transfer from neighboring casks was calculated in the HI–STORM thermal evaluations. The method used by the applicant was to assume that all of the radiated heat is reflected back to the cask. This modeling assumption is equivalent to assuming that the cask was totally encircled by other casks. In reality, less heat will be radiated back to the cask; therefore, the calculations bounded the effects of neighboring casks. The impact of neighboring casks was shown to be minimal. The NRC staff does not require validation of the analytic method with actual experimental data.

*Comment I.6:* One commenter asked why the analysis assumed that the soil below the overpack was at a constant temperature because the casks could cause hot spots.

*Response:* The analyses did model the hot spots below the overpack. The computer simulation of the overpack modeled the concrete pad that the overpack is placed on and the temperature of the soil below the concrete pad. The soil is one of several paths for heat to leave the cask. The most significant path for heat dissipation is through the air passage between the MPC and the overpack. The applicant used the highest annual average soil temperature found in the USA. The purpose for using the highest average temperature for the soil and air

in the thermal analyses is to demonstrate fuel retrievability and that the cladding is protected during storage against degradation that leads to gross ruptures (10 CFR Part 72.122). One acceptable method for demonstrating that the cladding will not undergo gross rupture is to place a limit on the allowable cladding temperature such that reasonable assurance exists that the cladding will not significantly degrade. A report by the Pacific Northwest National Laboratory, PNL–6189, dated May 1987, provides one acceptable approach for establishing a temperature limit. The PNL method is conservative when compared to the maximum allowable degradation permitted in Part 72 of the regulations. This method, in conjunction with the maximum annual average temperature, solar heating (*e.g.*, insulation), analytic assumptions, etc., provide reasonable assurance that the requirements of Part 72 will be met.

*Comment I.7:* One commenter asked why an exception was allowed for exceeding the short term temperature limit for the fire accident scenario and stated that an exception should not be allowed.

*Response:* The American Concrete Institute (ACI) establishes temperature criteria for concrete. One, but not the only, acceptable demonstration that the concrete overpack will maintain its intended function is to meet the temperature criteria in ACI 349. However, as stated in the NRC staff's Standard Review Plan (NUREG–1536), ''a small amount of exterior concrete spalling may result from a fire, the application of fire suppression water, rain on heated surfaces or other high-temperature condition. The damage from these events is readily detectable, and appropriate recovery or corrective measures may be presumed. Therefore, the loss of such a small amount of shielding material is not expected to cause a storage system to exceed the regulatory requirements in 10 CFR 72.106 and, therefore, need not be estimated or evaluated in the SAR. The NRC accepts that concrete temperatures may exceed the temperature criteria of ACI 349 for accidents if the temperatures result from a fire.'' The Holtec analysis demonstrated that the amount of concrete that exceeds the ACI temperature limit is very limited and would not pose a significant safety hazard.

*Comment I.8:* One commenter asked for the basis of using an average temperature of the gas in the gap and plenum of the limiting rod and questioned the validity of the assumption.

*Response:* The purpose for evaluating the average of the gas temperature in the fuel rod is to calculate the pressure within the fuel rod. The computer code used in the analysis calculates the temperature profile of the fuel rod, but does not calculate the corresponding pressure for that rod. To calculate the pressure, the average temperature of the gas is calculated and from the ideal gas law, the corresponding pressure is established.

*Comment I.9:* One commenter asked what is in the water used for forced water circulation under wet transfer of the fuel from the spent fuel pool to the location for vacuum drying and if the water could chemically affect other materials in the cavity. The commenter asked how fast the water flows, if steam could be formed, and if the water could physically affect other materials in the cavity, movement of rods, flaking of paint, etc.

*Response:* The licensee can either use demineralized water or water from the spent fuel pool. Neither demineralized nor spent fuel pool water would adversely interact with the system. The flow rate of the water is based on the heat output of the fuel assemblies and is a site-specific issue.

*Comment I.10:* One commenter asked what the water chiller is used for and what material is used as the chilling medium.

*Response:* The water chiller is used as the heat sink for cooling the helium inside the MPC to below 200°F. The type of water chiller used is a site-specific issue and not part of this rulemaking activity.

*Comment I.11:* One commenter asked for specific criteria that defines clearance around the cask for cooling purposes instead of stating a reasonable amount. The commenter also asked how close other heat sources may be located and what is considered to be a significant heat source.

*Response:* The actions identified by the commenter are only valid when a breakdown occurs in the helium coolers (LCO 3.1.3). Section B3.1.3 of the technical specification bases states that ''if the TRANSFR CASK is located in a relatively open area such as a typical refuel floor, no additional actions are necessary.'' However, a licensee may elect to perform the cooling with the cask located in a pit or vault. This is a site-specific activity. The bases identify three acceptable options for ensuring adequate heat transfer for the TRANSFER CASK. The user may develop other alternatives on a site-specific basis, considering actual fuel loading and decay heat generation within the cask. One of the options is to fill the annulus between the MPC and the TRANSFER CASK with water. The second option is to remove the TRANSFER CASK from the pit or vault and place it in an open area such as the refueling floor with a reasonable amount of clearance around the cask and not near a significant source of heat. The third option is to supply nominally 1000 SCFM of ambient air to the space inside the confined space (*e.g.*, pit or vault). With respect to defining an acceptable distance, the licensee could use the analyzed event of 15 feet center-to-center storage spacing that corresponds to a four foot clearance. Smaller clearances would also be acceptable, given the heat load rating of the cask and ambient conditions. With regard to defining a significant heat source, this is a site specific consideration. For example, if the plant is using a bank of radiant heaters near the cask, then an evaluation needs to be performed to ensure that those heaters pose no adverse impact on the cask. These options are only guidelines to an LCO that a user would have to consider.

*Comment I.12:* One commenter asked how cool air was provided to the space inside the vault at the bottom of the overpack. The commenter stated that this needs to be planned out ahead of time for ALARA considerations and equipment availability.

*Response:* This is a site-specific issue and not part of this rulemaking activity. The NRC staff agrees with the comment that the user needs to plan this activity considering ALARA and equipment availability.

*Comment I.13:* One commenter stated that fuel should be adequately cooled before it goes into the transfer cask.

*Response:* The NRC agrees with the comment that adequate planning is needed when performing cask cooldown and reflooding. The purpose of the analyses performed in the SAR is to maintain the integrity of the fuel. The requirements on the burnup and minimum cooling time serve that purpose.

*Comment I.14:* One commenter asked if the temperature of the helium accurately reflects the internal temperature of the MPC and stated that this should be tested.

*Response:* The exit temperature of the helium reflects the conditions of the fuel rods. After the helium temperature is reduced below 200°F, the bulk of the fuel will be at low temperatures, minimizing the potential for excessive steaming. Reflooding of a canister has been demonstrated without pre-cooling the helium. No additional tests are needed.

*Comment I.15:* One commenter objected to the addition of ethylene glycol solution to the demineralized water in the water jacket to prevent freezing and asked where this had been tested. The commenter also asked why the antifreeze was used, how the solution would mix, how the NRC knows it will work, what types of effects it could have on the inside of the water jacket and the channel walls, if it would add weight, and how it is added to the water if the jacket is welded shut.

*Response:* Ethylene Glycol is the chemical name for ordinary antifreeze. Adding antifreeze to the water jacket, located on the outside of the HI–TRAC transfer cask, is an option if the user elects to move a loaded MPC in cold weather, down to 0°F. The use of antifreeze in the water jacket does not add appreciable weight to the HI–TRAC cask. Although the water jacket is a welded system, openings are designed to add and remove water from the water jacket. Antifreeze has been used in many applications to keep water from freezing. The NRC staff believes that the industry has ample experience with antifreeze that additional testing and validity is not necessary. Mixing of the antifreeze is a site-specific issue that will ensure that the proper amount of antifreeze is added to prevent the water from freezing at temperatures down to 0°F.

*Comment I.16:* One commenter recommended the addition of a note to Tables 4.4.20 and 4.4.21 of the SAR to provide clarification for the heat loads.

*Response:* The NRC disagrees with the comment. SAR Tables 4.4.20 and 4.4.21 refer to loading the MPC with uniformly aged fuel assemblies emitting heat at the design basis maximum rate. Section 4.4.2 identifies these assemblies as the limiting design basis fuel assemblies.

*Comment I.17:* One commenter stated that Holtec's use of a two-by-four block array to be equivalent to an infinite array assumed a center-to-center distance between casks of 18.6 feet. The commenter stated that this equivalency determination between an infinite array and a two-by-four array is invalid where the differences in cask spacing do not meet the 18.6-feet center-to-center assumption underlying the analysis. The commenter noted that the PSF facility design uses a 15-foot center-to-center distance. The commenter stated that any CoC issued for this cask system must address this shortcoming.

*Response:* The NRC disagrees with the comment. First, the PFS facility is outside the scope of this rulemaking activity. Second, as identified in Table 1.4.1 of the SAR, the analysis of a 2 by N array was performed using a pitch of 13.5 feet, not 18.6 feet. The 18.6-feet pitch is used for a square array. When calculating an equivalent hydraulic diameter for the square array and taking into account that the center-to-center spacing of neighboring casks between the pads is 38 feet, as described in Figure 1.4.1 of the SAR, the hydraulic diameters for the two cases (square array versus 2 by N array) is the same.

*Comment I.18:* One commenter stated that thermal interaction of casks through radiative heat transfer should be considered. The commenter also stated that the assumption that individual casks will not interfere with cooling air supply of each other may not be correct.

*Response:* The NRC agrees that neighboring casks can have an influence on each other. However, these influences have a second order impact on the results. The analyses performed by Holtec did credit radiation heat transfer between the neighboring casks. A bounding calculation was performed with an ambient temperature of 125°F. That calculation accounted for heat reflected by the hot concrete pad and heat generated by neighboring casks. Although not required by the NRC staff's review of the SAR submittal, Holtec, in response to other inquiries, performed a sensitivity study to quantify the impact of neighboring casks and the impact of the sun heating the concrete pad.

The impact of increasing the spacing between casks by a factor of five in the radial direction resulted in a decrease in the peak cask surface temperature of 16 oF for an ambient temperature of 100°F and 17°F for an ambient temperature of 125°F. The impact on peak clad temperature resulted in a decrease of 6°F for an ambient temperature of 100°F and a decrease of 8°F for an ambient temperature of 125°F. Because the peak clad temperature is on the order of 760+°F, the impact of neighboring casks is minimal.

*Comment I.19:* One commenter stated that the temperature of the reflecting boundary should be taken as the temperature of the cask in interaction with the other casks and not the temperature of an isolated cask.

*Response:* The NRC agrees that one method for calculating the impact of neighboring casks is to model the neighboring casks in the array. Another acceptable method, that was used by the applicant, is to model the limiting (highest temperature) cask and assume that all the radiation it emits is reflected back. This analysis bounds the amount of radiation that neighboring casks can impose on the center cask. This bounding analysis is acceptable. As noted in the response to comment I.18, above, the impact of neighboring casks is minimal, given the significant margins between the allowable temperatures and the bounding calculated temperatures.

*Comment I.20:* One commenter stated that the Holtec model does not appear to take into account that the heating of the concrete pad is likely to diminish the ''chimney effect'' of the intake and outlet vents. The commenter stated that if Holtec had taken this effect into account, the calculated temperature would be higher in Revision 9 of the SAR.

*Response:* In a response to other inquires, Holtec performed calculations to quantify the effect of concrete pad heating on the cask performance. For the bounding 125°F ambient temperature event, neglecting the heat reflected by the pad resulted in a reduction of cask surface temperature of 10°F and a reduction in peak clad temperature of 6°F. These temperature differences illustrate that the concrete pad has negligible impact on the cask.

*Comment I.21:* One commenter stated that ambient temperature should be defined due to the importance of the term. The commenter noted that ambient temperature is an important assumption in the thermal calculations and an important design element in the CoC. The commenter stated that the gross oversimplification of the concept of ambient temperature renders the Holtec thermal analysis completely useless. The commenter noted that Holtec assumes that the ambient temperature at the intake and outlet vents is the same; however, the temperature at ground level will be significantly higher than it will be some distance above due to the ground absorbing solar energy. The commenter stated that a desert may have a surface temperature of 180°F, much higher than the 80°F assumed by Holtec as an intake temperature. This would reduce the effective buoyancy and air velocity through the cooling ducts and result in a higher fuel cladding temperature.

*Response:* The NRC disagrees with the comment. The thermal response of a cask is very slow. This is due to the large mass of the system. An analogy can be reached by observing the buildings constructed in the desert. Massive concrete is used to maintain the indoor temperatures at reasonable conditions where air conditioners do not exist. The temperature in those regions fluctuates over each day. For these structures, an estimate of the average conditions can be assessed by assuming a bounding average daily temperature. Holtec used such a method. In addition, the method

assumed the maximum solar heating specified in 10 CFR Part 71 averaged over a 24-hour period. Holtec used bounding assumptions approved in the NRC staff's SER.

*Comment I.22:* One commenter stated that NRC should have reviewed the inputs and outputs of the FLUENT calculation. The commenter also stated that the NRC should have conducted an independent analysis and validation of the thermal model employed by Holtec. The commenter stated that the HI–STAR analysis cannot be extrapolated to the HI–STORM cask because the casks are constructed of different materials, with different methods of heat dispersion. The commenter stated that the NRC performed a superficial review and had abdicated its role as independent regulator and should not issue a CoC for the HI–STORM 100 cask system because there is no lawful basis.

*Response:* The NRC disagrees with the comment. The NRC staff's review of the HI–STORM system was not superficial. This is clearly demonstrated by the NRC staff's requests for additional information, the applicant's many revisions to the SAR to address NRC staff concerns, and commitments made by the applicant as outlined in Appendix 12B of the SAR. The NRC staff does not perform independent confirmatory calculations for every analysis submitted in an application, nor does the NRC staff routinely review the inputs and outputs of the computer calculations without cause. Independent analyses that duplicate the extensive computer calculations performed by an applicant may, at times, be performed for various reasons. Some reasons include, but are not limited to, concern that a major error exists in the calculations; allegations that calculations were improperly performed; use of new modeling techniques not previously reviewed by the NRC staff; crediting heat transfer mechanisms not previously reviewed by the NRC staff; concern that the margin in a complex analysis is small; and concern that little conservatism exists in the modeling approach.

For the HI–STORM application, the NRC staff reviewed the basic assumptions used in the calculations, as identified in the SAR and in the NRC's requests for additional information. A detailed review of every number is not warranted. As for performing independent analysis and validation, the NRC staff was able to reach its safety findings without the need for such calculations. The need for these calculations is case specific, as addressed above. For HI–STORM, the applicant used computer codes that are employed by the NRC and have been found acceptable. The applicant demonstrated its knowledge of the code by benchmarking its methodology with a full-scale spent fuel cask instrumented with thermocouples, validating its thermal model and providing reasonable assurance that its analysts have good working knowledge of the code to perform the required calculations. The NRC staff's review of the applicant's methods and assumptions indicate ample margin and conservatism in the analyses.

The HI–STORM application review process was conducted under NRC policy and guidance, and as required by the regulations in 10 CFR Part 72. Regarding the reference to the HI–STAR analysis in Section 4.5.4 of the preliminary SER, the NRC staff intended to indicate that it was aware that Holtec's use of the FLUENT code had been previously found acceptable for the HI–STAR application. This reference was not intended to imply that the NRC staff relied on the HI–STAR calculations or the prior evaluation in its evaluation of the HI–STORM cask. Section 4.5.4 of the SER has been modified to clarify the description of the NRC staff's review. Also, to better illustrate the NRC staff's review of the applicant's submittal, Section 4 of the SER was supplemented with additional information.

*Comment I.23:* One comment indicated that the SER states that the ambient temperature under normal conditions must be less than 80°F. In addition, the commenter believed Holtec assumed that the ambient temperature at the inlet and outlet vents is the same and did not consider warming of the air by heat generated by neighboring casks and the concrete pad. The commenter stated that calculations indicated that a desert may have a surface temperature of 180°F and that the temperature 0.5 m above the ground would be 130°F.

*Response:* The NRC disagrees with the comment. The SER does not state that the ambient temperature under normal conditions must be less than 80°F. The applicant evaluated the cask conditions with an *annual* average ambient temperature of 80°F. The use of an annual average ambient temperature is used in conjunction with the method described in a Pacific Northwest National Laboratory report PNL–6189. The method provides one acceptable means for obtaining reasonable assurance that the requirements in 10 CFR Part 72 will be met. These requirements include protecting the cladding from degradation that leads to gross ruptures and designing the storage system to allow ready retrieval of the spent fuel or high-level radioactive waste. With respect to the 180°F surface temperature in the desert, the SAR assumptions used in the 125°F ambient temperature calculation credits solar heating (also referred to as solar insolation) and heat generated by the casks. Holtec calculated a concrete pad surface temperature of 206°F (surrounding the concrete overpack), an ambient temperature just above the inlet vent of the overpack of 136°F, and a concrete temperature at the outlet vent of the overpack of 182°F. The NRC staff finds that the Holtec calculation adequately models the thermal responses of the cask and its environment.

*J. Technical Specifications*

*Comment J.1:* One commenter asked for clarification on the conditions for use and the TSs, and if they could be changed without an amendment.

*Response:* The conditions for cask use are specified in the CoC, and includes Appendix A (TSs) and Appendix B (Approved Contents and Design Features). These conditions cannot be changed without an amendment to the certificate.

*Comment J.2:* One commenter stated that the Use and Application section of the TSs is confusing and allows too much flexibility for completion times and frequencies, and that the TSs should be simple to understand and done on time.

*Response:* The NRC disagrees with the comment. The Section 1.0, ''Use and Application'' of the HI–STORM 100 TSs are modeled on the Improved Standard Technical Specifications (ISTS) for power reactors. The ISTS were developed as the result of extensive technical meetings and discussions between the NRC staff and the nuclear power industry in the early 1990s in an effort to improve clarity and consistency of the power reactor TSs and to make them easier for operators to use. The most likely users of the HI–STORM 100 Cask System TSs are power reactor licensees familiar with the format of the ISTS. The NRC staff believes that the format of the HI–STORM 100 TSs will make them easier for operators to use and will help to achieve consistency between power reactor and spent fuel dry cask storage TSs. The NRC staff disagrees that there is too much flexibility for completion times and frequency. The NRC staff believes that the specific wording of the TSs clearly specifies the allowable time to complete a required action and the frequency of any surveillance requirements.

*Comment J.3:* One commenter objected to the use of the term ''TRANSPORT'' in TS 3.2.2 and indicated that movement to the pad should be used because this CoC is for storage only.

*Response:* The NRC disagrees with the comment. The term TRANSPORT OPERATIONS is specifically defined in Section 1.1 of the Technical Specifications and includes all activities involved in moving a loaded overpack or transfer cask to and from the ISFSI pad. Further clarification of the term is not warranted.

*Comment J.4:* One commenter stated that ''Each'' should be in large letters in LCO 3.2.2. The commenter also asked why all the removable contamination is not removed instead of setting a limit.

*Response:* The NRC disagrees with the comment. The capitalization of ''each'' is consistent with the format of the TSs. As discussed in the TS Bases, Section B.3.2.2, the contamination limits for the transfer cask are established from guidance in NRC IE Circular 87–01. The limits are based on minimum level of activity that can be routinely detected under a surface contamination control program using direct survey methods. These limits are consistent with levels that prevent the spread of contamination to clean areas and are significantly less than the levels associated with significant occupational exposure.

*Comment J.5:* One commenter stated that the dry run should be conducted in sequence and not an alternate step sequence as permitted by TS 5.2.

*Response:* The NRC disagrees with the comment. The dry runs are performed in discrete functional areas to demonstrate the ability to perform certain activities as anticipated. The order of performance of the functional areas, for the purpose of a dry run, is not directly pertinent to a demonstration of a user's capability. The operating procedures and technical specifications already control, as necessary, functional areas that must be performed sequentially for safe storage. The NRC staff considers it important to allow the cask user the necessary flexibility to allocate the appropriate resources and oversight to the performance of dry runs thatmay involve performing and concentrating on certain activities that would be out of sequence with a cask loading.

*Comment J.6:* One commenter asked why no lifting height limit was established for the vertical orientation of the transfer cask in TS 5.5 and stated that there should be a limit established.

*Response:* In the SAR, the design basis drop event analysis is based on the horizontal lifting height of 42 inches. Therefore, TS 5.5 only specifies the lifting height of the horizontal lifting limit. TS 5.5.c permits vertical lifting of loaded transfer cask to any height necessary to perform cask handling operations, including the MPC transfer. However, the lifts must be made with structures and components designed to prevent a drop and in accordance with the criteria specified in CoC, Appendix B, Section 3.5 and SAR Section 2.3.3.1. Therefore, a vertical lift height limit was not established.

*Comment J.7:* One commenter asked if the diamond-shaped water rod mentioned in note 10 of TS Table 2.1–3 had been completely analyzed.

*Response:* The shape (geometry) of water rods that are part of the fuel assembly, is considered in the evaluation.

*Comment J.8:* One commenter recommended deleting the words ''For OVERPACKS with installed temperature monitoring equipment'' at the beginning of the second option under SR 3.1.2.1 because users should have the option of using temporary equipment.

*Response:* The NRC agrees with the comment. Temperature monitoring, a surveillance option permitted in SR 3.1.2.1, could be conducted with either temporary or permanently installed equipment. The term ''installed'' could be interpreted as a requirement that the temperature monitoring equipment be permanently fixed. Therefore, the beginning of the second option under SR 3.1.2.1 has been reworded as follows: ''For OVERPACKS with temperature monitoring equipment'' (*i.e.*, the word ''installed'' has been deleted).

*Comment J.9:* One commenter recommended several miscellaneous editorial changes to the appendices to the CoC.

*Response:* The NRC agrees with the comment. The appendices to the CoC have been revised to correct typographical errors and incorporate minor editorial changes.

*Comment J.10:* One commenter recommended that Items 5.2.f and 5.2.j in Section 5 of the TSs be revised to insert the phrase ''(for which a mock-up may be used)'' at the end of the items for consistency with SAR Section 12.2.2.

*Response:* The NRC agrees with the comment. Items 5.2.f and 5.2.j of the TSs have been revised to indicate that a mock-up may be used for those specific dry-run evolutions.

*Comment J.11:* One commenter recommended that item 5.5.c in Section 5 of the TSs be revised to replace the words ''and MPC'' with ''or OVERPACK'' because some utilities plan to implement an MPC transfer scheme that requires temporary lifting of the loaded OVERPACK above its lift height limit.

*Response:* The NRC disagrees with the comment. There are no evaluations, equipment design criteria, or other information in the SAR that support lifting a loaded overpack above its lift height limit.

*Comment J.12:* One commenter recommended revising the definitions of DAMAGED FUEL ASSEMBLY and PLANAR–AVERAGE INITIAL ENRICHMENT in Section 1 of Appendix B to the CoC to reflect the evolution of these terms and for consistency with those in the HI–STAR 100 CoC.

*Response:* The NRC agrees with this comment. The CoC, Appendix B, Section 1 has been revised to reflect the new definitions.

*Comment J.13:* One commenter recommended revising CoC, Appendix B, Section 3.4.6.c to replace the specified yield strength with the equivalent ASTM Grade specification.

*Response:* The NRC agrees with the comment in part. Storage pad design is a site-specific issue that needs to be addressed in the cask user's 10 CFR 72.212 evaluation. CoC, Appendix B, Section 3.4.6.c lists the design parameters for the storage pads. It is not a list of components for fabrication. By using the specific ASTM Grade specification as recommended by the commenter, namely, ASTM A615, Grade 60, the designer of the pad will not have the flexibility to choose other reinforcing steels that could also be used (*e.g.* ASTM A616 or A617, Grade 60, etc.). To allow flexibility for the design and still ensure adequate reinforcement in the pad CoC, Appendix B, Section 3.4.6.c has been changed to state that reinforcement shall be 60 ksi yield strength ASTM material.

*Comment J.14:* One commenter recommended eliminating the requirement for impact limiters at the cask transfer facility contained in CoC, Appendix B, Item 3.5.2.2.

*Response:* The NRC staff assumes that the commenter's reference to Section 3.5.2.2 is a typographical error because the requirement for an impact limiter is in CoC, Appendix B, Item 3.5.2.1. The NRC agrees in part with the comment. The specific requirement for an impact limiter has been eliminated from CoC, Appendix B, Section 3.5.2.1.4. The NRC determined that this requirement is too restrictive because other methods may be available to prevent a canister breach in the event of a canister drop during transfer operations. Instead, Item 3.5.2.1.4 has been revised to require that

the CTF be designed, constructed, and evaluated to ensure that if the MPC is dropped during an inter-cask transfer operation, its confinement boundary would not be breached.

However, the NRC disagrees with the underlying reason for the comment which is: Because a single failure proof crane (or equivalent) is required in the CTF, the design features to mitigate the consequence of a drop should not be necessary. The NRC staff acknowledges that the use of a single-failure proof crane precludes the possibility of a heavy load drop event. The requirement for a mitigating feature in the CTF design is a defense-in-depth measure that is consistent with the overall philosophy and approach of NUREG–0612. This philosophy encompasses an intent to prevent as well as to mitigate the consequences of postulated accidental load drops. The NRC staff notes that, even with a single-failure proof crane, NUREG–0612 still imposes a requirement for a safe load travel path ''to minimize the potential for heavy loads, if dropped, to impact irradiated fuel in the reactor vessel and in the spent fuel pool, or to impact safe shutdown equipment.'' The NRC staff views the mitigating feature in the CTF as a defense-in-depth measure equivalent to the safe load path. Its function is to protect the MPC confinement boundary and the integrity of the spent fuel in the MPC in case of a postulated drop.

*Comment J.15:* One commenter recommended that CoC, Appendix B, Item 3.5.2.1.4 be clarified to indicate that the acceptance criterion for the impact limiter also applies to the use of mobile cranes.

*Response:* The NRC agrees with the comment. As discussed in the response to J.14, CoC, Appendix B, Item 3.5.2.1.4 has been revised to require that the CTF be designed and evaluated to ensure that if the MPC is dropped during an inter-cask transfer operation, its confinement boundary would not be breached. Section 3.5.2.1.4 has also been revised to specify that this requirement and acceptance criterion apply to both stationary and mobile cranes.

*Comment J.16:* One commenter recommended that CoC, Appendix B, Item 3.5.2.1.4 be revised to clarify the scope of drops that require evaluation in designing the impact limiter.

*Response:* The NRC agrees with the comment. CoC, Appendix B, Item 3.5.2.1.4 has been revised to clarify that the potential drops that require evaluation are those that may occur during inter-cask transfer operations.

*Comment J.17:* One commenter recommended that the TSs be removed from Appendix 12.A of the SAR because they are included in the appendices to the CoC.

*Response:* The NRC agrees with the comment. The TSs have been removed from the SAR.

*K. Miscellaneous*

*Comment K.1:* One commenter expressed approval that movement could be conducted at 0°F and above.

*Response:* No response is necessary.

*Comment K.2:* One commenter stated that the HI–TRAC transfer cask must be as safe as the HI–STORM overpack if it is to be used outside the reactor security fence.

*Response:* The NRC staff reviewed the HI–TRAC transfer cask and determined that, like the HI–STORM overpack, it will perform its intended safety functions under the design basis normal, off-normal, and accident events. It should be noted that the CoC authorizes use of the HI–TRAC only within the owner-controlled areas of a licensed power reactor.

*Comment K.3:* One commenter asked if the inner canister could be dropped through, if water could spill out of the overpack, and if the water helped to disperse the fuel particles.

*Response:* During a canister transfer operation, the transfer cask is placed on top of the storage overpack. The canister is then lowered through the bottom of the transfer cask into the overpack. It is unlikely that a canister drop would occur during this operation because the canister must be lifted with equipment (*i.e.*, a single failure proof crane or equivalent) that are designed to prevent a drop. In addition, the overpack contains only traces of water that is part of the concrete material and the canister is dry during cask transfer operations.

*Comment K.4:* One commenter questioned the assumption that the HI–TRAC remains static because there are a number of man-made or natural causes that could put it in motion, drop, tipover, roll, etc.

*Response:* The HI–TRAC is required to be independently secured on top of the overpack during the transfer of the MPC.

*Comment K.5:* One commenter asked when the measuring equipment (for checking tolerances) is calibrated.

*Response:* The timing of calibration at the fabricator's facility is beyond the scope of this rule. However, the implemented QA program at the fabricator's facility provides reasonable assurance that the measuring equipment for checking tolerances of fabrication will be appropriately calibrated.

*Comment K.6:* One commenter asked if the restraint of 11 inches in vertical height for overpack handling would actually preclude a corner drop situation. The commenter asked how a corner drop could be initiated, such as a defective trunnion or lifting lug, etc.

*Response:* The 11-inch restriction on lifting height for the overpack was calculated to ensure that deceleration loading to the loaded MPC would not exceed the design criteria for the confinement boundary of the basket. A tipover of the overpack cannot occur if the baseplate is limited to 11 inches above a receiving surface.

*Comment K.7:* One commenter asked what happens to the inside of the cask during a horizontal drop of 50 inches.

*Response:* The effect of a 50-inch horizontal drop of a cask was not evaluated because the horizontal lifting height limit for the transfer cask is 42 inches. The 50-inch carry height specified in the SER was a typographical error and has been corrected to 42 inches. There is no effect on the confinement function of the MPC as a result of a horizontal drop of 42 inches. The structural evaluation shows that all stresses are within allowable values and that the confinement boundary integrity of the MPC is not impaired.

*Comment K.8:* One commenter requested that the SER define what is meant by cladding oxide thickness on page 4–1 of the SER.

*Response:* The NRC disagrees with the comment. Cladding oxide thickness is a measure of corrosion at the clad surface. As water interacts with the zirconium clad, the zirconium can interact with the oxygen molecules to create zirconium oxide ($ZrO_2$). The terminology is commonly used in the spent fuel storage arena and a definition in the SER is not necessary.

*Comment K.9:* One commenter asked why the internal rod pressure is assumed to remain the same. The commenter asked how the gas behaves in a dry cask and if it can leak from pinhole leaks and hairline cracks over the storage period. The commenter further asked how the lower pressure in the rods affects the analysis and heat transfer.

*Response:* The internal rod pressure is derived from the initial gas inserted during fabrication plus the fission product gases that develop during power production within the reactor core. In a closed system (*e.g.,* the fuel pin), the pressure is a function of the gases in the fuel rod and the average temperature of the gas. As the decay heat decreases with time, so does the temperature and the pressure.

Therefore, the rod temperature does not remain the same. This is similar to inflating a balloon with hot air and placing the balloon in the refrigerator. As the gases cool, the pressure decreases, as is implied by the smaller diameter of the balloon. The lower pressure reduces the stress on the cladding and permits a higher allowable temperature limit. If the rod experiences a pinhole leak or a hairline crack, the gases inside the rod will mix with the helium gas in the cask and reduce the internal pressure within the rod.

Reduction of the internal fuel rod pressure results in added assurance that the cladding will remain stable because the internal pressure will have equilibrated with that of the cask. The gases from the fuel pin mix with the gases in the cask and decreases the thermal conductivity of the helium, while at the same time increasing the density of the gas. The analyses for accident conditions incorporate the impact of reduced conductivity of the helium gases. This impact is reduced when crediting cooling that results from natural circulation of the gases inside the cask. The use of a maximum allowable temperature limit provides assurance that the fuel pins will remain intact throughout the storage period. For conservatism, the applicant assumed that 1 percent of the cladding experiences a leak under normal conditions, a 10-percent leak under off-normal conditions, and a 100-percent leak under accident conditions.

*Comment K.10:* One commenter asked what cask design was tested at INEEL (page 4–3 of the SER).

*Response:* Several full scale cask designs were tested at the Idaho National Engineering and Environmental Laboratory. The cask used by Holtec to validate the FLUENT computer code was the TN–24P. The heat output of the cask was 23 kW. The NRC staff found the FLUENT computer code acceptable for calculating the thermal response of a spent fuel cask.

*Comment K.11:* One commenter expressed concern over water and debris going into cracks on the pad and then freezing and thawing causing concrete upheaval and subsequent cask tipover.

*Response:* Issues related to cask storage pad will be addressed in the cask user's evaluation under 10 CFR 72.212 and is beyond the scope of this rule.

*Comment K.12:* One commenter asked how moisture and pollution in the air could affect the casks and pad over time and if the pad would ever need to be replaced.

*Response:* The cask can withstand the ambient environmental conditions over its 20-year license period with no significant degradation. The adequacy of the pad must be addressed by the cask users in their 10 CFR 72.212 evaluation and is beyond the scope of this rule. Cask users are responsible for inspecting and maintaining the pad. With appropriate maintenance, air pollution or moisture would not cause significant degradation to the pad.

*Comment K.13:* One commenter asked if both the helium and fission gases created the pressure inside the rods and for an explanation of the fission gases. The commenter also asked why only 30 percent of the fission product gas was assumed to be released instead of 100 percent because over time 100 percent would likely leak out.

*Response:* Fission gases are byproducts of uranium splitting in a reactor. These include gases such as hydrogen, krypton, and iodine. The gases are contained inside the fuel rod. Data have shown that a conservative estimate of 30 percent of the gases generated inside the fuel pellet can escape to the gap that exists between the fuel pellet and the cladding. This is a conservatively large number used for calculating dosage. Experimental data has shown this number to be significantly less. The rest of the gases are trapped inside the fuel pellet. Therefore, assuming that 100 percent of the gases are released from the fuel pellet is not realistic. Helium gas is added to the MPC to keep the environment inside the cask inert so it does not promote corrosion and to help cool the fuel by transferring heat from the fuel rods to the wall of the cask. The impact of helium gas on the pressure within a fuel rod is not as significant as the temperature of the gas within the fuel rod.

*Comment K.14:* One commenter asked what is in the water of the water jacket and if the water could affect the carbon steel channels or get into the pool through a weld crack or leak and affect the pool. The commenter also asked how hot the water and the lead get, and if the water could cause pressure buildup in the channels.

*Response:* The water used in the water jacket is demineralized water as is used in the loading pool, but without boron addition because the boron is unnecessary for loading/unloading operations. Carbon steel corrodes very slowly in demineralized water; thus, its effect may be ignored for the durations experienced in loading operations. If the cask is to be loaded in cold weather, antifreeze may be added to the jacket water. Antifreeze contains an inhibitor to prevent corrosion. There would be no significant effect if the jacket water or water with antifreeze leaked into the pool. With regard to the water and lead temperatures and pressure buildup in the water jackets, see the response to comment I.2.

*Comment K.15:* One commenter asked if there was a recent study on cladding degradation from creep cavitation.

*Response:* Studies on cladding degradation were performed several years ago. These studies led to the development of analytic methods to calculate the maximum allowable peak clad temperature limits. A report developed by the Pacific Northwest National Laboratory (PNL) in May 1987, PNL–6189, ''Recommended Temperature Limits for Dry Storage of Spent Light Water Reactor Zircaloy-Clad Fuel Rods in Inert Gas'' provides an acceptable method for assessing cladding temperature limits.

*Comment K.16:* One commenter stated that the 100-ton transfer cask should not be included in the certification because it is site-specific and not made the same as the 125-ton cask.

*Response:* NRC disagrees with the comment. The 100-ton and 125-ton transfer cask designs have been evaluated and found to meet the regulatory requirements of 10 CFR Part 72. The 100-ton transfer cask design is not considered site-specific and is approved under this rule for use by any general licensee as part of the HI–STROM 100 system as described in the SAR. Section 2.0.3 of the SAR provides guidance regarding site-specific ALARA objectives that should be considered by each user when using either transfer cask design.

*Comment K.17:* One commenter asked what does reasonable assurance mean in Section 5.1.2 of the SER regarding acceptability of the shielding design criteria.

*Response:* The finding in Section 5.1.2 is intended to mean that the NRC staff believes that the dose rate criteria presented in the SAR are acceptable values and that a cask system operating at these values can meet the applicable radiological requirements of 10 CFR Parts 20 and 72. The SAR subsequently demonstrates that the dose rates calculated for the HI–STORM system meet the regulatory requirements.

*Comment K.18:* One commenter asked if the MOX (mixed oxide) fuel was covered by the sabotage report. The commenter asked if MOX fuel had been tested and verified to be safe for this design. The commenter further questioned how the NRC could include MOX fuel in the SER evaluation and stated that storage of MOX fuel should

not be allowed by the certification. The commenter also asked how we know that storage of MOX fuel will work as expected because it has not yet been tested in Canada.

*Response:* The sabotage report is beyond the scope of this rule. However, the design and physical characteristics of a MOX fuel assembly are very similar to those of a uranium fuel assembly. The primary difference is the fuel pellet constituents and its effects on the radiological source term. Testing of MOX fuel is also beyond the scope of this rule.

The HI–STORM design was evaluated for storage of the MOX fuel assemblies listed in the Appendix B to the CoC using computer codes and models. In lieu of testing, the NRC finds analytic conclusions that are based on sound engineering methods and practices to be acceptable. Testing is only required if the analytic methods have not been validated or assured to be appropriate and/or conservative. The NRC staff reviewed the applicant's analyses and found them acceptable. The basis of the safety review and findings are identified in the SER and the CoC.

*Comment K.19:* One commenter asked if all the analysis was based on the 100-ton transfer cask or did HI–STORM 100 refer to something else.

*Response:* The shielding analysis presented in the SAR evaluated both the 100-ton and 125-ton transfer cask designs as part of the HI–STORM 100 cask system.

*Comment K.20:* One commenter asked how the NRC could base its evaluation on historical statements when reference documents indicate Inconel impurity may be higher than 1000 ppm. The commenter further asked what the historical statements were and how we know if the statements are valid.

*Response:* The applicant's analysis of cobalt impurities are discussed in Section 5.2.1 and 5.2.3 of the SER. The applicant showed that the cobalt impurity value of 1000 ppm assumed in the shielding analyses was appropriate based on industry data and analyses of post-irradiation cooling of older fuel types that may have had higher cobalt impurities for the HI–STORM 100 cask system. As discussed in Section 5.2.1 of the SAR, historical statements included industry data gathered by the applicant from utilities and vendors.

Cobalt impurities were not necessarily controlled for older fuel designs. However, the applicant showed that the post-irradiation cooling time that is inherent to these older fuel types significantly reduces the HI–STORM 100 dose rates. Therefore, the effects of higher impurities are mitigated. Based on historical knowledge of recent cobalt reduction programs, the decay effects on older fuel, and its own independent evaluations, NRC has reasonable assurance that the historical statements referenced in the application are used appropriately for the HI–STORM 100. Furthermore, each cask user will operate the HI–STORM 100 under a 10 CFR Part 20 radiological protection program and will be required to verify dose rates that are specified in the TSs. This defense-in-depth approach will mitigate potential hardware activation anomalies and ensure compliance with radiological requirements.

*Comment K.21:* One commenter asked if the steel transport overpacks could be reused, how contaminated the overpacks would be after use, the number of times an overpack could be reused, and if they would be checked after each use.

*Response:* This comment that concerns the HI–STAR steel transport overpack, is beyond the scope of this rule on the Holtec HI–STORM 100 cask system.

*Comment K.22:* One commenter was pleased that the NRC had evaluated uneven flooding.

*Response:* No response is necessary.

*Comment K.23:* One commenter asked about the chance of one of the screens being damaged or loosened in unloading and the debris floating out with the cooling water into the pool.

*Response:* The damaged fuel container that is placed in the MPC is stainless steel and is designed to retain damaged fuel and debris in a safe configuration under all normal, off-normal, and accident conditions. The damaged fuel container also provides a means to safely handle the damaged fuel and debris during loading and unloading. It is not considered credible that the screens will fall off or fail. However if a screen failed, there would be no release of radioactive material during storage since the MPC is sealed. Consideration of loose debris during unloading is addressed in SAR Section 8.3 which outlines the MPC unloading operations in a spent fuel pool and specifically considers loose debris in the MPC. Additionally, the spent fuel pool filtration system would capture any debris that remained in the pool.

*Comment K.24:* One commenter asked why the volume of water removed from the cask is recorded and why this is not done for other cask designs.

*Response:* The purpose of recording the volume of water removed from the canister is to identify the open volume in the canister. This open volume is used to calculate the amount of helium to be added to the cask following vacuum drying. The procedure and equation used for this procedure is discussed on page 8.1–21 in the HI–STORM SAR. The comment concerning other cask designs is beyond the scope of this rule.

*Comment K.25:* One commenter stated that a detailed procedure on mitigating the possibility of fuel crud particulates dispersal should be included in the documents and that the procedure should not be site-specific.

*Response:* NRC disagrees with the comment. The generic unloading procedures for the HI–STORM 100 system are designed to mitigate crud dispersal. However, each cask user will need to develop detailed unloading procedures that incorporate the ALARA objectives of its site-specific radiation protection program. NRC expects the cask user to consider the specific characteristics of its fuel, including crud phenomena, when developing these procedures.

*Comment K.26:* One commenter asked how the utilities are required to document that they will not lift the overpack any higher than 11 inches and that the receiving surface hardness does not exceed that analyzed in the SAR. The commenter stated that the criteria should be clarified and which surface should be indicated.

*Response:* The receiving surface is the top of the storage pad as clearly stated in Sections 3.4.2 and 11.2.3.2 of the SER and described in Section 3.4.10 of the SAR. Users of the HI–STORM 100 system are required to meet Appendices A and B of the CoC that list the design parameters for surface hardness and the restriction for lifting height. Furthermore, the cask users are required to develop detailed written operating procedures. The restriction on lifting height must be incorporated into the operating procedures subject to NRC inspection.

*Comment K.27:* One commenter stated that Condition 8 should remain in the CoC.

*Response:* The NRC agrees with the comment. Condition 8 has not been removed from the CoC. Under Condition 8, Certificate holders who wish to make changes to the CoC, including Appendices A and B, must submit an application for amendment of the Certificate.

*Comment K.28:* One commenter asked how upending/downending of the transfer cask affected the water in the neutron shield, how the licensee knows the shield is full, what happens to the contents of the cask when the position changes, what are the stresses and pressures, and if the debris in damaged fuel containers goes through the screen.

*Response:* The structural, shielding, and confinement functions of the transfer cask are not affected during movement of the cask. The neutron shield will normally be filled through the drain valve at the bottom of the water jacket and is considered full as water exits the vent port at the top of the water jacket. The vent plug is then installed to retain the water in the jacket. During the upending and downending of the transfer cask, water remains within the neutron shield and fuel debris remains within the confinement boundary of the MPC. The structural evaluation in the SAR showed all the stresses and pressures to remain within allowable values.

*Comment K.29:* One commenter stated that exceptions to the codes should not be allowed and that the NRC should demand full code requirements.

*Response:* The NRC disagrees with this comment. Exceptions (alternatives) to the ASME Code specifications may be granted by the NRC staff on a case-by-case basis. During the NRC staff review of a proposed alternative, the applicant must demonstrate that the proposed alternative to the Code satisfies one of the following criteria: (1) The alternative provides an acceptable level of quality and safety, or, (2) compliance with a specific Code requirement would result in hardship or unusual difficulty without a compensating increase in the level of quality or safety.

*Comment K.30:* One commenter stated that videos should not be used as a permanent record. The commenter stated that black and white photos and negatives should be used and that the negatives should be kept in museum qualified storage. The commenter asked what method is best to document weld integrity and how the records are stored. The NRC should have specific criteria for record keeping requirements.

*Response:* The NRC disagrees with the comment. The NRC's regulations do not explicitly require specific criteria for record keeping to document weld integrity by the applicant. A permanent record of completed welds will be made using video, photographic, or other means that can provide a retrievable record of weld integrity. As per accepted industry practice, the record is typically in color format, in order to capture the red dye typically used for PT examinations. The general licensee's QA program will specify the types of records and how the records are to be stored.

*Comment K.31:* One commenter stated that even if the overpack baseplates, shell, pedestal shell, and radial plates have large margins of safety in the design, they should still be examined to code.

*Response:* Holtec has committed to inspect the welds of the overpack baseplate to the shell, pedestal shell, and radial plates under ASME Code Section V, Article 9. Weld inspection acceptance criteria meet the requirements in ASME Section III, Subsection NF–5360.

*Comment K.32:* One commenter asked why a mobile lifting device is used and why it is not required to meet the requirements of NUREG–0612, Section 5.1.6(2) for new cranes. If a new crane is necessary to meet the requirements, the utilities should get one and not be allowed to lower requirements.

*Response:* A mobile lifting device is an alternative option to a stationary lifting device that may be used in a CTF. The decision to use either a mobile or stationary lifting device would be made by the cask users and would be based on their plant's site-specific needs. NUREG–0612, Section 5.1.6(2) specifies that new cranes should be designed to meet NUREG–0554, ''Single-Failure-Proof Cranes for Nuclear Power Plants.'' These requirements are not applicable to mobile lifting devices which are not single-failure-proof; therefore, mobile lifting devices are exempted from this particular requirement in NUREG–0612. To ensure that the mobile lifting device has the equivalent level of safety as a single-failure-proof crane, additional conditions in CoC, Appendix B, Sections 3.5.2.2.1, 3.5.2.2.2, and 3.5.2.2.4 were imposed.

*Comment K.33:* One commenter stated that a discussion on the cask transfer facility should be included in the SER, and that the public should not have to read the SAR to understand the generic design. The commenter requested that this part of the cask transfer facility be resubmitted with a complete clear design with specific criteria.

*Response:* The NRC disagrees with the comment. SER Section 1.1 discusses the CTF in a level of detail appropriate for an SER. The detailed design and operating criteria for the CTF are given in SAR Section 2.3.3.1. This satisfies 10 CFR 72.24, which requires that the SAR contain information on structures, systems, and components important to safety in sufficient detail for the NRC staff to make its regulatory finding. Repeating this information in the SER is not necessary. The NRC disagrees that cask transfer facility should be resubmitted with a complete clear design with specific criteria. The specific criteria for the CTF are already given in CoC, Appendix B, Section 3.4, and SAR Section 2.3.3.1. As discussed in the response to E.30, NRC found it unnecessary to approve a specific CTF design.

*Comment K.34:* One commenter recommended that Section 3.5.7 of the SER be revised to reflect that transport of the HI–TRAC transfer cask in the vertical orientation is permitted. The comment also recommended that ''50 inches'' be changed to ''42 inches'' to be consistent with TS Table 5–1.

*Response:* The NRC agrees with the comment. The SER has been modified to reflect that transport of the HI–TRAC transfer cask in the vertical orientation is permitted. The horizontal lifting height per TS Table 5–1 will be corrected to 42 inches to correct the typographical error.

*Comment K.35:* One commenter recommended that Section 9.1.2.2.b of the SER be revised to delete ''(either to the fuel pool or the site licensee's off-gas system)'' because users may or may not have these systems at their plants.

*Response:* The NRC agrees with the comment. It is up to the cask users to develop the specific procedures for venting the MPC and to determine the appropriate location under their plant's waste gas handling system design and radiation protection program. Section 9.1.2.2.b of the SER has been modified as recommended.

**Summary of Final Revisions**

As a result of the NRC staff's response to public comments, or to rectify issues identified during the comment period, TSs 5.2.f and 5.2.j have been modified (see comment J.10). The NRC staff has also updated the CoC, including Appendix B, and has removed the bases section from the TSs attached to the CoC to ensure consistency with NRC's format and content. The NRC staff has also modified its SER. In addition, the NRC staff has modified the rule language by changing the word ''Certification'' to ''Certificate'' to clarify that it is actually the Certificate that expires.

**Agreement State Compatibility**

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program

elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

**Finding of No Significant Environmental Impact: Availability**

Under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required. This final rule adds an additional cask to the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites without additional site-specific approvals from the Commission. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–8126, e-mail mlh1@nrc.gov.

**Paperwork Reduction Act Statement**

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0132.

**Public Protection Notification**

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

**Voluntary Consensus Standards**

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is adding the Holtec International HI–STORM 100 cask system to the list of NRC-approved cask systems for spent fuel storage in 10 CFR 72.214. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

**Regulatory Analysis**

On July 18, 1990 (55 FR 29181), the Commission issued an amendment to 10 CFR Part 72. The amendment provided for the storage of spent nuclear fuel in cask systems with designs approved by the NRC under a general license. Any nuclear power reactor licensee can use cask systems with designs approved by the NRC to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. In that rule, four spent fuel storage casks were approved for use at reactor sites and were listed in 10 CFR 72.214. That rule envisioned that storage casks certified in the future could be routinely added to the listing in 10 CFR 72.214 through the rulemaking process. Procedures and criteria for obtaining NRC approval of new spent fuel storage cask designs were provided in 10 CFR Part 72, Subpart L.

The alternative to this action is to withhold approval of this new design and issue a site-specific license to each utility that proposes to use the casks. This alternative would cost both the NRC and utilities more time and money for each site-specific license. Conducting site-specific reviews would ignore the procedures and criteria currently in place for the addition of new cask designs that can be used under a general license, and would be in conflict with NWPA direction to the Commission to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site reviews. This alternative also would tend to exclude new vendors from the business market without cause and would arbitrarily limit the choice of cask designs available to power reactor licensees. This final rule will eliminate the above problems and is consistent with previous Commission actions. Further, the rule will have no adverse effect on public health and safety.

The benefit of this rule to nuclear power reactor licensees is to make available a greater choice of spent fuel storage cask designs that can be used under a general license. The new cask vendors with casks to be listed in 10 CFR 72.214 benefit by having to obtain NRC certificates only once for a design that can then be used by more than one power reactor licensee. The NRC also benefits because it will need to certify a cask design only once for use by multiple licensees. Casks approved through rulemaking are to be suitable for use under a range of environmental conditions sufficiently broad to encompass multiple nuclear power plants in the United States without the need for further site-specific approval by NRC. Vendors with cask designs already listed may be adversely impacted because power reactor licensees may choose a newly listed design over an existing one. However, the NRC is required by its regulations and NWPA direction to certify and list approved casks. This rule has no significant identifiable impact or benefit on other Government agencies.

Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the final rule are commensurate with the Commission's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

**Small Business Regulatory Enforcement Fairness Act**

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

**Regulatory Flexibility Certification**

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Holtec International. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

**Backfit Analysis**

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit

rule. Therefore, a backfit analysis is not required.

**List of Subjects in 10 CFR Part 72**

Administrative practice and procedure, Hazardous waste, Nuclear materials, Occupational safety and health, Penalities, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR part 72.

## PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

**Authority:** Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In Section 72.214, Certificate of Compliance 1014 is added to read as follows:

**§ 72.214 List of approved spent fuel storage casks.**

* * * * *

*Certificate Number:* 1014.

*SAR Submitted by:* Holtec International.

*SAR Title:* Final Safety Analysis Report for the HI–STORM 100 Cask System.

*Docket Number:* 72–1014.

*Certificate Expiration Date:* June 1, 2020.

*Model Number:* HI–STORM 100.

Dated at Rockville, Maryland, this 12th day of April, 2000.

For the Nuclear Regulatory Commission.

**Frank J. Miraglia, Jr.,**

*Acting Executive Director for Operations.*

[FR Doc. 00–10393 Filed 4–28–00; 8:45 am]

BILLING CODE 7590–01–P

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### 10 CFR Part 420

**[Docket No. EE–RM–96–402]**

**RIN 1904–AB01**

## State Energy Program

**AGENCY:** Office of Energy Efficiency and Renewable Energy, DOE.

**ACTION:** Final rule.

**SUMMARY:** Today the Department of Energy (DOE or Department) adopts an interim final rule published on August 24, 1999 revising the regulations for its State Energy Program. Because there were no comments received in response to the program's interim final rule, that rule is being adopted as a final rule without change.

**EFFECTIVE DATE:** May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Thomas P. Stapp, Office of Building Technology, State and Community Programs, Department of Energy, Mail Stop 5E–080, EE–42, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–2096.

**SUPPLEMENTARY INFORMATION:**

I. Introduction and Description of the Program
II. Review Under Executive Order 12866
III. Review Under Executive Order 12988
IV. Review Under Executive Order 13132
V. Review Under the Paperwork Reduction Act
VI. Review Under the National Environmental Policy Act
VII. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996
VIII. Review Under the Unfunded Mandates Reform Act of 1995
IX. Review Under the Regulatory Flexibility Act
X. The Catalog of Federal Domestic Assistance

### I. Introduction and Description of the Program

On August 24, 1999, the Department published in the **Federal Register** an interim final rule (64 FR 46111) revising the regulations for its State Energy Program (SEP or program). This rule provides for the possibility of certain activities being funded under the Special Projects part of the program that are not permitted under the formula grant part of the program. The rule also provides for the specification of any Special Projects funding limitations by the sector specific program offices providing the Special Projects funding, and clarifies the applicability of Subpart B to the formula grant part of the program and of Subpart C to the Special Projects part of the program.

The program provides formula grants to States for a wide variety of energy efficiency and renewable energy initiatives, and, in years when funding is available, may also offer financial assistance for a number of State-oriented competitively awarded Special Projects activities with funding contributed by the Office of Energy Efficiency and Renewable Energy's End-Use Sector Programs. Special Projects have been funded in every fiscal year since SEP was established in 1996. DOE expects the Special Projects part of SEP to continue in future years.

Among the goals of the SEP Special Projects activities are to assist States to: accelerate deployment of energy efficiency and renewable energy technologies; facilitate the acceptance of emerging and under utilized energy efficiency and renewable energy technologies; and increase the responsiveness of Federally funded technology development efforts to private sector needs.

The interim final rule published on August 24, 1999 announced a 30-day public comment period that closed on September 23, 1999. We received no comments regarding the changes made under 10 CFR part 420, and those changes are made final. Therefore, this rule is adopted as it was published in the program's interim rule on August 24, 1999 (64 FR 46111).

### II. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA).

**III. Review Under Executive Order 12988**

Section 3 of Executive Order 12988, 61 FR 4729 (February 7, 1996), instructs each agency to adhere to certain requirements in promulgating new regulations. These requirements, set forth in Section 3(a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation describes any administrative proceeding to be available prior to judicial review and any provisions for the exhaustion of administrative remedies. The Department has determined that today's regulatory action meets the requirements of Section 3(a) and (b) of Executive Order 12988.

**IV. 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 necessity for such actions. DOE has examined today's rule and has 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.

**V. Review Under the Paperwork Reduction Act**

No new information collection or record keeping requirements are imposed on the public by today's rules.

**VI. Review Under the National Environmental Policy Act**

A programmatic environmental assessment has been prepared covering the grant program under the final rule published today which was sent to the States for comment on March 27, 1996. No comments were received by the end of the 14-day comment period. This programmatic environmental assessment resulted in a finding of no significant impact (FONSI). A FONSI was issued on June 7, 1996. The documents relating to this programmatic environmental assessment are available in the DOE Freedom of Information Reading Room, United States Department of Energy, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142.

**VII. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996**

The final rule published today is subject to the Congressional notification requirements of the Small Business Regulatory Enforcement Fairness Act of 1996 (Act), 5 U.S.C. 801. DOE will report to Congress on the promulgation of the final rule prior to the effective date set forth at the beginning of this notice.

**VIII. Review Under the Unfunded Mandates Reform Act 1995**

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) places a variety of review and consultative obligations on Federal agencies proposing regulatory actions for Federal intergovernmental mandates. Today's rule does not involve such a mandate because the Unfunded Mandates Reform Act excludes from the definition of ''Federal intergovernmental mandate'' provisions in a regulation that would impose conditions incident to a financial assistance program (not involving an entitlement) or a duty arising from participation in a voluntary Federal program 2 U.S.C. 658(5). This program is a standard non-entitlement financial assistance program and States are not obligated to participate in it.

**IX. Review Under the Regulatory Flexibility Act**

The regulatory flexibility analysis requirements in the Regulatory Flexibility Act, 5 U.S.C 601 *et seq.*, do not apply to this final rule because a general notice of proposed rulemaking was not required by law.

**X. The Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number for the State Energy Program is 81.041. The Catalog of Federal Domestic Assistance number for the State Energy Program Special Projects is 81.119.

**List of Subjects in 10 CFR Part 420**

Energy conservation, Grant programs—energy, Incorporation by reference, Reporting and record keeping requirements, Technical assistance.

Issued in Washington, DC, on April 25, 2000.

**Dan W. Reicher,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

Accordingly, the interim rule amending 10 CFR part 420 which was published at 64 FR 46111 on August 24, 1999 is adopted as a final rule without change.

[FR Doc. 00–10753 Filed 4–28–00; 8:45 am]

BILLING CODE 6450–01–P

## NATIONAL CREDIT UNION ADMINISTRATION

## 12 CFR Part 790

## Federal Credit Unions; Miscellaneous Technical Amendment

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Final rule.

**SUMMARY:** The National Credit Union Administration (NCUA) is renaming its Office of Technology and Information Services to make it more consistent with other government agencies. This amendment is technical rather than substantive.

**DATES:** This rule is effective May 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Chrisanthy J. Loizos, Staff Attorney, Division of Operations, Office of General Counsel, (703) 518–6540, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

**SUPPLEMENTARY INFORMATION:** In 1994, NCUA changed the name of its Office of Information Systems to the Office of Technology and Information Services. 59 FR 47072, Sept. 14, 1994. On November 18, 1999, the NCUA Board voted to rename this office as the Office of the Chief Information Officer (OCIO). This name is more consistent with similar offices within other government agencies and private industry. Additionally, the name is comparable to the offices of other NCUA executive staff, such as the Office of Chief Financial Officer, Office of the Executive Director, Office of General Counsel, and Office of the Inspector General. 12 CFR 790.2(b). The name change does not alter the description or responsibilities of the OCIO.

**Regulatory Procedures**

*Final Rule Under the Administrative Procedure Act*

The amendment to the final rule is technical rather than substantive. NCUA

finds good cause that notice and public comment are unnecessary under section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B).

*Effective Date*

NCUA also finds good cause to dispense with the 30-day delayed effective date requirement under section 553(d)(3) of the APA. The rule is technical rather than substantive. The rule will, therefore, be effective immediately upon publication of this notice.

*Regulatory Flexibility Act*

An initial regulatory flexibility analysis under the Regulatory Flexibility Act is required only when an agency is required to publish a general notice of proposed rulemaking for any proposed rule. 5 U.S.C. 603. As noted previously, NCUA has determined that it is unnecessary to publish a notice of proposed rulemaking for this rule. Accordingly, an initial regulatory analysis is not required. Moreover, since this final rule imposes no new requirements and makes only a technical amendment, NCUA has determined and certifies that this rule will not have any significant economic impact on a substantial number of small credit unions (primarily those under $1 million in assets).

*Small Business Regulatory Enforcement Fairness Act*

Title II of the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121) provides, generally, for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and has determined that for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 it is not a major rule.

*Paperwork Reduction Act*

NCUA has determined that the final rule does not increase paperwork requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and regulations of the Office of Management and Budget.

*Executive Order 13132 Statement*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

**List of Subjects in 12 CFR Part 790**

Credit unions.

By the National Credit Union Administration Board on April 13, 2000.

**Becky Baker,**

*Secretary of the Board.*

For the reasons stated in the preamble, NCUA amends 12 CFR chapter VII as set forth below:

## PART 790—DESCRIPTION OF NCUA; REQUESTS FOR AGENCY ACTION

1. The authority citation for part 790 continues to read as follows:

**Authority:** 12 U.S.C. 1766, 1789, 1795f.

**§ 790.2 [Amended]**

2. Amend § 790.2 as follows:

a. In paragraph (b)(7), remove ''Technology and Information Systems'' and add, in its place, ''Chief Information Officer''.

b. In paragraph (b)(10), remove ''Office of Technology and Information Services'' in the heading and add, in its place, ''Office of the Chief Information Officer''.

c. In paragraph (b)(10), remove ''Director of the Office of Technology and Information Services'' in the first sentence and add, in its place, ''Chief Information Officer''.

[FR Doc. 00–10616 Filed 4–28–00; 8:45 am]

BILLING CODE 7535–01–U

## FEDERAL HOUSING FINANCE BOARD

## 12 CFR Parts 900, 917 and 940

**[No. 2000–14]**

**RIN 3069–AA90**

## Powers and Responsibilities of Federal Home Loan Bank Boards of Directors and Senior Management

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Board (Finance Board) is promulgating new regulations to set forth the responsibilities of the boards of directors and senior management of the Federal Home Loan Banks (Banks) as a means of ensuring that they fulfill their duties to operate the Banks in a safe and sound manner and in furtherance of the Banks' housing finance and community lending mission.

**EFFECTIVE DATE:** This final rule is effective on May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** James L. Bothwell, Director and Chief Economist, (202) 408–2821; Scott L. Smith, Deputy Director, (202) 408–2991; Julie Paller, Senior Financial Analyst (202) 408–2842; Office of Policy, Research and Analysis; Eric M. Raudenbush, Senior Attorney-Advisor, (202) 408–2932; Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

**SUPPLEMENTARY INFORMATION:**

### I. The Proposed Rule

On January 3, 2000, the Finance Board published for comment a proposed rule to add to its regulations a new part 917, setting forth a state-of-the-art corporate governance framework for the Banks' boards of directors and senior management. *See* 65 FR 81 (2000). The 30-day public comment period closed on February 2, 2000. The Finance Board received a total of sixteen comment letters: eleven from Banks, three from trade associations and one from a Bank director.

### II. Comments on the Proposed Rule and Analysis of Changes Made in the Final Rule

*A. General*

While all commenters suggested modifications to the proposed rule, six expressed general support for the overall purpose of the rule. No commenters expressed general opposition to the rule, but two commenters believed that the rule as a whole was too detailed. Specifically, one commenter (a Bank) opposed the proposed rule's detailed allocation of responsibilities between Banks' boards of directors and senior management and recommended that each Bank's board of directors be permitted to determine the appropriate allocation of responsibilities between itself and the Bank's senior management. Another commenter (a trade association) stated that the rule would create unnecessary administrative burdens and operational complexities.

It is the opinion of the Finance Board that an active and informed board of directors is one of the cornerstones of safe and sound Bank operation. The agency understands that, as is the case with any bank or corporation, most of a Bank's day-to-day operational functions will be undertaken by management and other Bank personnel. However, while a

Bank's board of directors may the delegate the execution of managerial functions to Bank employees, the responsibility for seeing that these functions are properly executed may not be delegated. Part of the reason for the detailed nature of the rule is to make these responsibilities clear.

Now that the Banks have been given full responsibility for their own corporate governance, the ability of the Finance Board to ensure the safety and soundness of the Banks lies primarily in its ability to examine the Banks and to take action pursuant to Bank examinations. The material set forth in part 917 also is intended in part to make clear the standards against which Banks will be examined. Although the rule is detailed in some respects, the Finance Board believes that it is preferable to state explicitly the standards to which the Bank's boards of directors and management will be held than to promulgate a more general governance rule the application of which would remain ambiguous until specific examination concerns arise.

*B. Renumbering of Certain Provisions*

As part of a proposed rule to amend its advances regulation, 12 CFR part 950, the Finance Board will be proposing to add to part 917 a requirement that each Bank have in place at all times a member products policy to address various aspects of the financial products that the Bank provides to its members and associates. In this final rule, the Finance Board has reserved § 917.4 for the member products policy provision.

In addition, the strategic planning provision, which appeared in the proposed rule as § 917.9, has been moved to § 917.5 in the final rule. This was done in order to give part 917 a more logical structure by placing the provisions requiring Banks' board of directors to adopt major written policies or plans (*i.e.,* the risk management policy, the member products policy and the strategic plan) in consecutive sections. Consequently, the sections numbered as 917.4 through 917.8 in the proposed rule have been redesignated as §§ 917.6 through 917.10 in the final rule.

*C. Definitions—§§ 900.1 and 917.1*

As reflected in the proposed rule, the Finance Board has begun the process of revising its regulations to refer to nonmember mortgagees who are eligible under section 10b of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1430b, to obtain advances from the Banks as ''associates.'' In addition to a desire to use less cumbersome terminology, this change arises from the Finance Board's concern that, to those not familiar with the nuances of the Bank System, the use of the term ''nonmember mortgagee'' could imply that the Banks are transacting business with entities beyond those authorized by statute. The term ''associate'' more accurately reflects the fact that these entities have a Congressionally-sanctioned relationship with the Banks, albeit one that falls short of full Bank membership.

In its recent regulatory reorganization rulemaking, the Finance Board established in its regulations a new part 900, to contain definitions of terms that are used often throughout the Finance Board's regulations. *See* 65 FR 8253 (2000). By creating this part, the Finance Board intended both to standardize common terms used in the regulations and to eliminate repetitive definitions and excessive definitional cross-references throughout the regulations. Although this is the first rulemaking in which the term ''associate'' has been used, the Finance Board intends eventually to use the term throughout its regulations. Accordingly, the term, which appeared in § 917.1 of the proposed rule, has been moved to part 900 (§ 900.1) in the final rule.

Section 917.1 of the rule continues to contain definitions of terms that are used in the substantive provisions of part 917, but that are not used frequently enough throughout the Finance Board's regulations to warrant inclusion in part 900. Changes made to, and comments regarding, these definitions are discussed below in the context of the substantive provisions to which the definitions relate.

*D. General Authorities and Duties of Bank Boards of Directors—§ 917.2*

Section 917.2(b)(1) of the rule requires that each director carry out his or her duties in good faith, in a manner such director believes to be in the best interests of the Bank, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. One commenter (a Bank), while supporting this regulatory statement of the standard of care, suggested that the Finance Board state explicitly in the final rule that Bank directors and management are subject to the same standard of care as directors of ordinary corporations are under state law.

Overall, part 917 charges Bank directors and management with many specific duties and responsibilities in connection with the operation of the Banks. In addition, § 917.2(b)(1) sets forth a general standard of care with which the specific duties are to be executed. While the Finance Board believes that this regulatory standard of care is equivalent to the legal standard that normally applies to officers and directors of state-chartered corporations under state law, the Finance Board declines to make explicit reference to state law in the regulation. Part 917 specifically enumerates both the specific and general standards that the Finance Board has determined are appropriate, and it is by these express standards—and not by any ambiguous reference to state law—that the actions of Bank directors and management will be measured by the Finance Board.

In addition, several commenters expressed their opinion that, while § 917.2(b)(1) sets forth a standard of care identical to that which exists under the law of most states, various specific provisions in proposed part 917 appeared to impose a greater duty upon directors and management by essentially requiring them to guarantee the outcome of actions taken by other parties. The Finance Board has reviewed the provisions in question and has made amendments to several of them (specifically, final rule §§ 917.3(a)(2)(iv), 917.3(c), 917.6(b)(2) and 917.7(e)(2), all discussed in greater detail below) in order to make clear that, while a Bank's board of directors and senior management are required to adopt certain policies and order certain actions that are ''reasonably designed'' to achieve a particular result, the officers and directors do not have the responsibility to guarantee that, in executing these policies or orders, Bank employees will achieve the precise result specified. However, by requiring that policies and orders be ''reasonably'' designed to achieve the desired result, the Finance Board does intend to require that officers and directors take all objectively reasonable measures necessary to design the policy or order, and oversee its implementation, in such a way as to maximize the chances of the desired result being achieved.

Section 917.2(b)(3) of the proposed rule would have required that every Bank director ''be financially literate, or become financially literate within a reasonable time after appointment or election.'' One commenter (a Bank) suggested that the Finance Board explicitly define the term ''financially literate'' in the final rule, using the explanation of the term set forth in the preamble to the proposed rule. The Finance Board agrees that the meaning of the term ''financially literate'' was unclear in the proposed rule. However, instead of defining the term, the Finance

Board has opted in the final rule to eliminate its use altogether and to require, more plainly, that at the time of his or her election, or within a reasonable time thereafter, each director have a working familiarity with basic finance and accounting practices, including the ability to read and understand the Bank's balance sheet and income statement and to ask substantive questions of management and the internal and external auditors.

Three commenters (two Banks and one trade association) opposed this requirement on the grounds that elected directors—who are primarily chief executives or senior officers of financial institutions—are likely to meet the standard, while appointed directors are chosen by the Finance Board, thereby giving the agency plenary power to select only those individuals who have a working familiarity with basic finance and accounting practices. Similarly, two other Banks questioned the requirement, given that the Banks have no power to lobby for the appointment or election of any director.

The Finance Board agrees that elected directors, as representatives of member financial institutions, would presumably meet the requirement of § 917.2(b)(3) with ease. The agency does not agree that this fact logically leads to the conclusion that the requirement should not be included in the rule.

The Finance Board also agrees that, because it is responsible for the appointment of each Bank's public interest directors, it has the power to use financial literacy as a criterion in the appointment process. However, the intent of the requirement set forth in § 917.2(b)(3) is not to eliminate from consideration for Bank directorships individuals who do not currently possess a working familiarity with basic finance and accounting practices, regardless of any other relevant qualifications they may possess. Instead, the purpose of § 917.2(b)(3) is to require that those who do not possess such familiarity become so educated to the extent that they can effectively carry out their duties as directors. The Finance Board trusts that any individual who merits consideration as either an elected or appointed Bank director would be capable of learning in a very short period of time how to read the Bank's income statement and balance sheet and how the data set forth therein relate to the general operations of the Bank. The Finance Board also believes that this requirement will impose little burden on the Banks, especially if the option of such education is made a part of existing director orientation programs.

*E. Risk Management—§ 917.3*

Section 917.3(a)(1) of the rule requires that, within 90 days of the effective date of the final rule, each Bank have in effect at all times a risk management policy. Section 917.3(b) of the rule sets forth the requirements for this policy. As it appeared in the proposed rule, § 917.3(b)(1) required that the risk management policy ''describe how the Bank will comply with its capital structure plan, after such plan is approved by the Finance Board.''

Four commenters (two Banks and two trade associations) stated that the proposed rule was unclear as to whether the risk management policy must immediately state how the Bank will comply with capital requirements that will not be known until after the 90-day implementation period, or whether the policy is to be amended after the Finance Board issues a final rule on capital and subsequently approves that Bank's capital structure plan. Three of these commenters (one Bank and two trade associations) stated that the Finance Board should not require a Bank to adopt its risk management plan until 90 days after that Bank's capital structure plan has been approved by the Finance Board. The remaining Bank stated that the Finance Board should allow the Banks 180 days after the publication of the final rule to adopt their risk management policies.

Of course, the Finance Board does not intend to require that the Banks describe how they will comply with a capital regulation or a capital structure plan that will not yet exist at the end of the 90-day implementation period. In the final rule, § 917.3(b)(1) has been revised to more clearly state that this risk management policy requirement will apply only after the Finance Board has adopted its new capital regulations and has approved the Bank's capital structure plan. At that time, a Bank will need to amend its existing policy to add the material required under this provision.

The Finance Board declines to extend the risk management policy implementation period beyond 90 days after the effective date of the final rule. It is the agency's view that, pursuant to the Federal Home Loan Bank System Financial Management Policy (FMP) (which is the Finance Board policy that currently addresses Bank risk management), Banks should already have in place policies that largely conform to the requirements of § 917.3(b). The rule does not require that a Bank adopt a new risk management policy if one is already in place that meets the requirements of § 917.3(b), but requires merely that the Bank have such a policy ''in effect at all times'' after the end of the 90-day period.

Even if a Bank must amend its existing policy, or adopt an entirely new risk management policy, in order to conform to new § 917.3(b), the necessary changes should be easily accomplished by the close of the 90-day implementation period given that, under the FMP, the Banks have very little discretion regarding the management of the risk components that must be addressed in the risk management policy. As the substantive requirements of the FMP are gradually superceded in the coming year by new regulations that are likely to give the Banks more discretion in the area of risk management and capital structure, each Bank will need to make appropriate amendments to its risk management policy.

Proposed § 917.3(a)(2)(iv) would have required each Bank's board of directors to ensure that policies and procedures are in place to achieve Bank compliance at all times with its risk management policy. Four commenters (all Banks) opposed this language on the ground that it would be unreasonable to require the Bank's board of directors to act as a guarantor that the Bank would always be in compliance with the risk management policy. The Finance Board recognizes that a Bank's board of directors typically is not involved in the day-to-day operations of the Bank and, therefore, would not be in a position constantly to monitor and enforce employee compliance with Bank policies and procedures. Accordingly, the Finance Board has revised the language of § 917.3(a)(2)(iv) to require only that the board ensure that policies and procedures are in place ''that are reasonably designed'' to achieve ''continuing'' Bank compliance with its risk management policy.

Sections 917.3(b)(3)(i) and (ii) require that each Bank's risk management policy set forth standards for the Bank's management of credit risk and market risk, respectively. One commenter (a Bank) suggested that the Finance Board amend the definitions of both market risk and credit risk, which in proposed § 917.1 referred to the ''market value'' of a Bank's portfolio and of a particular obligation, respectively, to refer also to the ''estimated fair value'' of assets. In the final rule, these two definitions have been revised to add references to ''estimated fair value if market value is not available.''

The same Bank also suggested that the Finance Board define the terms ''market value'' and ''estimated fair value'' in the final rule. Because these terms are

standard accounting terms, *see, e.g.,* Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards No. 133, App. D, ¶ 534(j), the Finance Board has determined that they need not be defined in the final rule.

The same Bank also suggested that the definition of ''market risk'' be amended to include changes in interest rate volatility as an underlying causal factor. Because the Finance Board believes that the concept of changes in interest rate volatility are subsumed within the general term ''changes in interest rates,'' which is included in the definition of market risk, it finds the suggested revision to be unnecessary.

Section 917.3(b)(3)(iii) of the rule requires that each Bank's risk management policy set forth standards for the Bank's management of day-to-day operational liquidity needs and contingency liquidity needs. One commenter (a Bank) recommended that the definition of ''contingency liquidity,'' set forth in § 917.1, include both maturing advances and off-balance sheet sources of funds that a Bank can use to help meet liquidity needs if access to capital markets is impeded. Because the Finance Board considers maturing advances to be included within paragraph (2) of the definition of ''contingency liquidity'' (self-liquidating assets with a maturity of seven days or less), it has chosen not to list maturing advances separately in the definition.

Regarding off-balance sheet items, during a funding crisis, a Bank may be expected to lose access to normal sources of unsecured borrowings such as deposits or federal funds. However, even if, due to a funding crisis, a Bank were to lose access to its normal sources of unsecured borrowing, it is expected that the Bank would continue to have access to previously-established irrevocable lines of credit from AAA- or AA-rated financial institutions, through either deposits or the federal funds market. Accordingly, the Finance Board has amended the definition of ''contingency liquidity'' in the final rule to include these sources of funds.

One commenter (a Bank), noting that the proposed rule contained a definition of ''contingency liquidity,'' but did not define ''operational liquidity,'' requested that a definition of ''operational liquidity'' be added to the final rule. In response, the Finance Board has, in final § 917.1, defined ''operational liquidity'' as including sources of cash from both a Bank's ongoing access to the capital markets and its holding of liquid assets to meet operational requirements in a Bank's normal course of business.

Section 917.3(c) of the rule requires that each Bank's senior management perform an annual risk assessment to identify and evaluate all material risks that could adversely affect the achievement of the Bank's performance objectives and compliance requirements. One commenter (a Bank) requested that the Finance Board include in the final rule a definition of the word ''material.'' The same Bank opposed the requirement that a Bank identify and evaluate ''all'' material risks, stating that the ''innocent failure'' to identify a risk that is deemed by a Finance Board examiner to be ''material'' could expose the Bank's board and management to criticism.

Because ''material risk'' is a standard accounting concept, *see, e.g.,* FASB Statement of Financial Accounting Concepts No. 2; SEC Staff Accounting Bulletin No. 99, the Finance Board finds it unnecessary to define the term in the final rule. Additionally, because the Finance Board would consider the failure of a Bank's management to identify any material risk—whether innocent or intentional—to be a matter of supervisory concern, the agency declines to eliminate the word ''all'' from § 917.3(c). However, so as not to set an unreasonable regulatory standard, the Finance Board has amended § 917.3(c) in the final rule to require only that the risk assessment be ''reasonably designed'' to identify and evaluate all material risks.

*F. Strategic Planning Requirement and Mission—§ 917.5 and Part 940*

Section 917.5 of the final rule (§ 917.9 in the proposed rule) requires that, beginning 90 days after the effective date of the final rule, each Bank's board of directors have in effect at all times a strategic business plan that describes how the Bank's business activities will achieve the mission of the Bank. In the proposed rule, the ''mission of the Banks'' was defined in paragraph (a) of the strategic business plan section. In the final rule, this mission provision remains substantively unchanged, but is moved from part 917 and to a new part 940, entitled ''Mission of the Banks.''

The mission provision describes the mission of the Banks as providing to their members and associates financial products and services, including but not limited to advances, that assist and enhance their members' and associates' financing of housing and community lending. Three commenters (all Banks) stated their belief that individual Banks should have the responsibility for establishing their own mission statements. One Bank stated that each Bank's mission statement should be a reflection of how the Bank, its board, its management and shareholders construe the authority granted under the Federal Home Loan Bank Act (Bank Act). The Bank further stated that the Bank Act does not explicitly define the mission of the Banks and does not require that the Finance Board do so. Another Bank commented that the drafting of a mission statement is fundamentally a management responsibility that should be exercised by the entity's board of directors and not by the entity's regulator.

The Bank Act authorizes the Finance Board to supervise the Banks and to promulgate and enforce such regulations and orders as are necessary from time to time to carry out the provisions of the Bank Act. *See* 12 U.S.C. 1422b(a)(1). Among the provisions of the Bank Act are those outlining the duties of the Finance Board, which include the duty to ''ensure'' that the Banks carry out their housing finance mission. *See id.* at 1422a(a)(3)(B)(ii). Many of the comment letters received in response to the proposed rule criticized the Finance Board for using the word ''ensure'' in some of the provisions setting forth specific duties of Bank directors, noting that the word implies that the directors would have a duty to ''guarantee'' that Bank employees would carry out the board's directives with precision. The Finance Board agrees that the word ''ensure'' connotes an affirmative obligation that carries a high degree of responsibility. Thus, the use of the word ''ensure'' in section 2A(a)(3)(B)(ii) of the Bank Act makes clear that, consistent with the safe and sound operation of the Banks, the Finance Board has the duty to take active measures, using all available avenues, to see to it that the Banks carry out their housing finance mission.

Because Congress has not expressly defined the term ''housing finance mission,'' it is the responsibility and the privilege of the Finance Board—as the body charged with the duty to ensure that the Banks fulfill that mission and, more generally, as the supervisory regulator of the Banks and the agency charged with the administration of the Bank Act—to construe the term reasonably in light of the totality of the Act. It is the position of the Finance Board that, when Congress amended the Bank Act in 1989 to require the Banks to offer Affordable Housing Programs (AHP) and Community Investment Programs (CIP) and authorized the Banks to offer Community Investment Cash Advance Programs (CICA), the Banks' ''housing finance mission,'' as referenced in section 2A(a)(3)(B)(ii),

came to include support not only for the financing of traditional housing-related activities, but also for those types of community lending that the Banks are authorized by statute to support and that indirectly enhance traditional housing finance by helping to create and sustain thriving and livable communities. *See* 12 U.S.C. 1430(i), (j).

Section 940.2 of the final rule implements in regulation this description of the Banks' ''housing finance mission.'' Although, as discussed, the Finance Board believes that support of community lending is an integral part of the Banks' statutory housing finance mission, it has used the terms ''housing'' and ''community lending'' separately in § 940.2 and in other parts of the regulations in order to make clear that the Banks' housing finance mission goes beyond the parameters that the term ''housing finance'' would traditionally connote.

Regarding the substance of the mission provision, seven commenters (five Banks and two trade associations) stated that the scope of the provision was too narrow. Specifically, several commenters noted that the mission provision does not reference the Banks' new authority to extend advances to CFIs for the purpose of funding loans to small businesses, small farms and small agri-businesses. One of the Banks stated that, if the Finance Board must enact a mission provision, the agency should draft the provision broadly enough to support all activities explicitly allowed by the Bank Act. Similarly, two of the Banks opined that the mission provision does not include sufficient reference to other types of investments, products and services that may directly contribute to mission achievement. Yet another Bank stated that the mission provision should recognize the need to use member's capital prudently and effectively, particularly in light of the recent statutory change to an all-voluntary membership base.

As drafted, the mission provision does not appear to consider as mission-related activities related to those purposes addressed by the Modernization Act–namely facilitating the funding of loans by CFIs to small businesses, small farms and small agri-businesses. However, the Finance Board has recently approved for publication a proposed rule to amend its advances regulation to incorporate the new CFI-related advance authorities. As part of this rule, the Finance Board is proposing to amend the term ''community lending,'' as defined in part 952 of the regulations, to include these authorities. Because the mission provision incorporates the term ''community lending,'' it will also encompass the new CFI-related authorities once the Finance Board promulgates a final rule amending its advances regulation, most likely in the third quarter of 2000. Presently, the Finance Board is in the midst of an ambitious regulatory agenda intended to implement in a timely manner the statutory changes brought about by the Modernization Act. In order to accomplish these changes effectively, the agency must necessarily proceed one step at a time. With many interrelated regulations, it will in some cases take two or more rulemakings before a change can be fully integrated into all relevant aspects of the Finance Board's regulatory scheme. In order to make clear immediately that the CFI-related authorities, as well as support for the financing of multi-family housing, are considered to be part of each Bank's mission, the Finance Board has added to § 917.5(a) a requirement that performance goals for these areas be included in each Bank's strategic plan.

It should also be noted that the mission provision is not intended to be an all-encompassing description of every function that a Bank is authorized to undertake. As mentioned in several of the comment letters, there are many ways in which a Bank may serve its members and associates that do not fall within the parameters of the mission provision. The point of the mission provision, in combination with the strategic planning requirement, is to require the Banks to focus primarily upon carrying out their housing finance mission and to do so in a profitable manner.

Finally one commenter (a trade association) expressed concern that the Finance Board's promulgation of the mission provision, in combination with the strategic planning requirement, is inconsistent with the content of an October 18, 1999 letter from Finance Board Chairman Bruce Morrison to Senator Phil Gramm and Congressman Jim Leach. In that letter, Chairman Morrison stated that, upon the enactment of the Modernization Act, the Finance Board would withdraw its Financial Management and Mission Achievement (FMMA) proposed rulemaking, *see* 64 FR 52163 (1999), and would take no action to promulgate proposed or final regulations limiting Bank assets or advances beyond those regulations currently in effect, except to the extent necessary to protect the safety and soundness of the Banks. As discussed, this rule does nothing to limit Bank assets or advances of any kind, but merely requires the Banks to adopt a strategic plan setting forth how their assets, advances and other products and services will contribute to fulfillment of the Banks' mission.

The requirements regarding the content of the Banks' strategic plans remain in part 917, at § 917.5. Regarding the actual strategic plan requirement, one commenter (a Bank) expressly opposed specific strategic planning requirements, stating that each Bank should be permitted to determine the strategic planning methodology most appropriate for the Bank to pursue its mission. As mentioned above, it is the duty of the Finance Board to ensure that the Banks carry out their statutory mission. The Finance Board has determined that, in order to fulfill this duty, it must require the Banks to focus upon the development of profitable products and services that enhance the carrying out of this mission. This is the intent behind the strategic planning requirement.

One commenter (a Bank) asked whether the strategic business plan may consist of multiple documents generated and approved by a Bank's board of directors in a sequential manner. Nothing in the rule prohibits the Banks from drafting and approving elements of the strategic business in a sequential fashion, so long as: (1) It is clear which documents comprise the strategic business plan; and (2) these documents, as a whole, meet the requirements set forth in § 917.5.

Five commenters (three Banks and two trade associations) opposed the 90-day time limit the Banks have been given to adopt their strategic business plans. Two of the Banks suggested that the rule be revised to permit the Banks to adopt the plan during their next scheduled annual planning process. Another of the Banks requested that the Banks be given one year to adopt their plans. The trade associations suggested that the Finance Board delay imposition of the strategic planning requirement until the implementation of each Bank's new capital structure. The Finance Board believes that, under current requirements, the Banks should already have most elements of the strategic plan in place and that, therefore, the adoption of the full plan under § 917.5 within 90 days should not be overly burdensome. Accordingly, the 90-day requirement remains unchanged in the final rule.

*G. Internal Control System—§ 917.6*

Section 917.6 of the final rule (§ 917.4 of the proposed rule) sets forth requirements pertaining to the establishment and maintenance of a Bank's internal control system. Section 917.6(a)(1) enumerates the areas of

concern that each Bank's internal control system should be designed to address. Section 917.6(a)(2) sets forth several of the ongoing internal control activities that the Finance Board has determined are necessary in order to adequately address the concerns referred to in paragraph (a)(1). One commenter (a Bank) opposed the non-exclusive listing of required ongoing internal control activities in § 917.6(a)(2), stating that the list added little, if anything, to the regulation.

In determining whether a Bank's internal control system adequately addresses the areas of concern set forth in paragraph (a)(1), Finance Board examiners will be looking to determine whether the Bank is effectively carrying out the ongoing internal control activities listed in paragraph (a)(2). Accordingly, the Finance Board finds it preferable to list explicitly some of the internal control activities on which examiners will focus so that each Bank will be aware in advance of the standards that will be applied in the examination of its internal control system.

Section 917.6(b) of the rule lists the internal control responsibilities of each Bank's board of directors. In the proposed rule, paragraph (b)(2) would have required that each Bank's board ensure that an effective and comprehensive internal audit of the internal control system is performed annually. Four commenters (three Banks and one Bank director) objected to the proposed rule language on the ground that it appeared to require Bank boards of directors to ''guarantee'' that employees carrying out an internal control audit would do so effectively and comprehensively. The commenters argued that this regulatory standard would exceed the legal standard that normally applies to corporate directors under state law. In response to these concerns, and to emphasize that the regulatory standard of care applicable to Bank directors is equivalent to the legal standard that normally applies to corporate directors under state law, the Finance Board has revised § 917.6(b)(2) in the final rule to require only that: (1) The board require an annual internal audit of the Bank's internal control system; and (2) the audit plan is reasonably designed to be effective and comprehensive.

Two commenters (one Bank and one trade association) suggested that the Finance Board modify § 917.6(b)(2) to enable Banks to distinguish between high- and low-risk internal control areas and that audits of low-risk areas be required less frequently than annually. The Federal Deposit Insurance Act (FDIA) requires that each insured depository institution prepare annually, among other things, a report signed by the chief executive officer and the chief accounting or financial officer of the institution that contains: (A) A statement of the management's responsibilities for (i) preparing financial statements; (ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and (iii) complying with the laws and regulations relating to safety and soundness; and (B) an assessment, as of the end of the institution's most recent fiscal year, of (i) the effectiveness of such internal control structure and procedures; and (ii) the institution's compliance with the laws and regulations relating to safety and soundness. *See* 12 U.S.C. 1831m(b)(2); *see also* 12 CFR part 363 (FDIC implementing regulations). These FDIA provisions essentially require that each FDIC-insured financial institution perform an annual comprehensive audit of its internal control system. Section 917.6(b)(2) of the rule is intended to apply a similar requirement to the Banks and therefore remains unchanged in the final rule.

One commenter (a Bank) also objected to the requirement, set forth in § 917.6(b)(6), that a Bank's board of directors report to the Finance Board in a timely manner any internal control deficiencies found and the corrective action taken. The commenter suggested that the Banks be required to report only significant internal control deficiencies that have the potential to impact a Bank's safety and soundness. As the entity charged by statute with ensuring the safety and soundness of the Banks, *see* 12 U.S.C. 1422a(a)(3)(A), it is ultimately the statutory responsibility of the Finance Board to determine which deficiencies may impact upon the safety and soundness of a Bank. As such, final § 917.6(b)(6) continues to hold each Bank's board of directors responsible for reporting all known internal control deficiencies to the Finance Board.

Section 917.6(b)(8) of the rule requires that each Bank's board of directors review all delegations of authority to specific personnel or committees and require that such delegations state the extent of the authority and responsibilities delegated. One commenter (a Bank) requested clarification as to whether, under this provision, it would be permissible for a Bank's management to make particular delegation decisions, so long as the Bank's board of directors reviews the delegations. The Finance Board understands that decisions regarding delegations of authority among specific Bank personnel will most likely be made by a Bank's management as part of its responsibility for the day-to-day operations of the Bank. Such management decisions are permissible under § 917.6(b)(8), provided that the Bank's board of directors reviews the delegations and requires that the delegations state the extent of the power delegated.

Section 917.6(c) of the rule addresses the responsibilities of each Bank's senior management for the establishment, implementation and maintenance of the Bank's internal control system. As it appeared in the proposed rule, this provision would have required that senior management ensure that Bank personnel fully understand and comply with all policies, procedures and legal requirements. One commenter (a trade association) requested that the Finance Board amend this provision to require only that management ensure that Bank personnel understand and comply with policies, procedures and requirements applicable to their positions and responsibilities. Although this was implicit in the proposed rule, the Finance Board agrees that the provision may have appeared to be overly-burdensome as written. Therefore, the agency has revised § 917.6(c)(2) to add the requested clarification.

In addition, one commenter (a Bank) objected to the use of the word ''ensure'' in § 917.6(c)(2), and also to its use in § 917.6(c)(6), which requires that senior management ensure adherence to the lines of authority and responsibility established by the Bank's board of directors. Contrary to the role of the Bank's board of directors, which sets overall policy and oversees the operations of the Bank in a general sense, the management of the Bank is responsible for day-to-day operations, including the direct supervision of Bank employees. As such, Bank management should be in a position: (1) To educate employees regarding policies, procedures and legal requirements related to their positions and regarding lines of authority and responsibility relevant to their positions; (2) to determine on a regular basis whether employees are complying with these policies, procedures and requirements and lines of authority and responsibility; and (3) to take prompt corrective action when it is discovered that they are not so complying. Accordingly, the Finance Board has determined that use of the word ''ensure'' in §§ 917.6(c)(2) and (6) is appropriate.

*H. Audit Committees—§ 917.7*

Section 917.7 of the final rule (§ 917.5 in the proposed rule) addresses the powers and responsibilities of Bank audit committees. One commenter (a Bank) stated generally that the language of the rule suggests that audit committees will interact directly with Bank management as an independent source of authority, while, under traditional notions of corporate governance, the audit committee acts as an agent of the full board. Nothing in the audit committee provisions of the rule is intended to suggest that the authority of a Bank's audit committee derives other than from its status as agent of the full board of directors. References in the rule to direct audit committee supervision of, or authority over, the internal auditor or other Bank employees are to powers that the Finance Board has determined a Bank audit committee must possess in order to be effective. These powers would be delegated by the full board of directors to the audit committee as part of the audit committee charter.

Section 917.7(b) of the rule addresses the required composition of Bank audit committees. Specifically, § 917.7(b)(1) requires that the audit committee comprise at least five persons drawn from the Bank's board of directors. One commenter (a trade association) opposed this requirement, stating that the rule contradicts Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees (Feb. 8, 1999) (Blue Ribbon Committee Report), which establishes a minimum of three directors.

Section 917.7(b)(2) requires that each Bank's audit committee include a balance of representatives of: (i) community financial institutions (CFIs) and other members; and (ii) appointive and elective directors of the Bank. One commenter (a Bank) opposed the diversity requirement, stating that the safety and soundness issues that face the Banks are straightforward and that the requirement adds to the complexity of the audit committee without adding to its ability to deal with issues of safety and soundness. Another commenter (a trade association) opposed the diversity requirement, stating that it has no basis in the Blue Ribbon Committee Report. Two commenters (both Banks) suggested that the Finance Board remove the provision requiring a balance between representatives of CFIs and other members, stating that there can be no assurance that a particular Bank's board of directors will have any elected directors representing a CFI. Finally, one commenter (a trade association) opposed the diversity requirement as written, suggesting that large borrowers be precluded from serving on the audit committee.

As stated in the proposed rule, the Finance Board included the diversity requirement in the rule in order to prevent dominance of the audit committee by any particular interest. Section 917.7(a)(1) sets the minimum audit committee membership at five (instead of the three established by the Blue Ribbon Committee Report) because the Finance Board has determined that this is the minimum number required to achieve adequately diverse representation on a Bank's audit committee. The Finance Board rejects suggestions that it eliminate the requirement that there be a balance of representation between CFIs and other members. If there are no CFI representatives on a Bank's board of directors, there will obviously be no one to serve on the audit committee in that capacity and the Bank would not be in violation of the regulation for failure to appoint a non-existent CFI director to the board. Section 917.7(b)(4) requires that at least one member of each Bank's audit committee have extensive accounting or related financial management experience. Three commenters (two Banks and one trade association) expressly supported this requirement. One of the Banks requested that the Finance Board clarify the meaning of the phrase ''extensive accounting or related financial management experience.'' The Blue Ribbon Committee Report uses the phrase ''accounting or related financial management expertise,'' where ''expertise'' signifies ''past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a CEO or other senior officer with financial oversight responsibilities.'' Although the Finance Board has chosen to use the word ''experience'' in order to express the standard more clearly, the explanation contained in the Blue Ribbon Committee Report is equally applicable to the standard set forth in final § 917.7(b)(4).

In the proposed rule, the Finance Board requested comment on two specific questions regarding the composition of a Bank's audit committee. First, the Finance Board asked whether, in the final rule, the provision requiring that at least one member of the audit committee have extensive accounting or related financial management experience should be made to apply specifically to the chair of the audit committee. Eight commenters (six Banks and two trade associations) opposed, and no commenters supported, the inclusion of this requirement in the final rule. The primary objection to this idea was that such a requirement might prevent an individual with other important qualifications, such as proven administrative ability, from serving as chair. Most commenters expressed a belief that, so long as at least one member of the committee has extensive financial or accounting experience, it would add little to the effectiveness of the audit committee to require that the chair specifically possess such experience. The Finance Board agrees with these arguments and, therefore, has not included this requirement in the final rule.

Second, the Finance Board asked whether the final rule should require that the vice chair of the board of directors serve as chair of the audit committee, to enable Banks to pay the audit committee chair at a higher rate of compensation. Twelve commenters (nine Banks and three trade associations) opposed, and no commenters supported, the inclusion of this requirement in the final rule. Most commenters believed that this decision properly should be left to a Bank's board of directors. Others expressed concern that, far from being an incentive, service as vice chair would only distract the audit committee chair from his or her audit committee duties. The Finance Board also agrees with these comments and, therefore, has not included this requirement in the final rule.

Section 917.7(c) of the rule prohibits any member of a Bank's board of directors from serving on the audit committee if he or she has a disqualifying relationship with the Bank or its management that would interfere with the exercise of that director's independent judgment. This section includes a non-exclusive list of relationships that would disqualify a board director for audit committee service regardless of the attendant circumstances. In the proposed rule, paragraph (4) of this list deemed as disqualifying ''being an immediate family member of an individual who is, or has been in any of the past five years, employed by the Bank.'' Two commenters (both Banks) suggested that the Finance Board amend this provision to refer only to family members who are employed by the Bank ''as an executive officer.'' The commenters pointed out that the suggested language conforms to

the standard set forth in the Blue Ribbon Committee Report and that a director's familial relationship with a low-ranking Bank employee would be likely to have little effect on the director's independent judgment.

The Finance Board agrees that, on its face, a familial relationship with a low-ranking Bank employee should not disqualify a director from service on the Bank's audit committee and, therefore, has added the requested language to final § 917.7(c)(4). However, if circumstances surrounding the relationship were to cast doubt upon the director's ability to act independently, that director would still be prohibited from serving on the audit committee pursuant to the general prohibition against disqualifying relationships set forth in the introductory paragraph of § 917.7(c).

In addition, one commenter (a Bank) requested clarification that the concept of ''independence'' does not in any way preclude elected directors associated with Bank members from serving on the audit committee. Given that, under § 917.7(b)(2), a Bank is expressly required to have on its audit committee elective directors that represent both CFI and non-CFI members, § 917.7(c) should not be read as overriding this requirement. Only if an industry representative were to have a direct personal or financial relationship with the Bank or its senior employees would that director's independence be called into question under § 917.7(c).

Section 917.7(e) enumerates the duties applicable to Bank audit committees. Under the proposed rule, paragraph (2) of this section would have required, among other things, that each Bank's audit committee ensure that policies are in place to achieve disclosure and transparency regarding the Bank's true financial performance and governance practices. One commenter (a Bank) requested that the Finance Board modify the language of this paragraph to refer instead to policies that are ''reasonably designed'' to achieve disclosure and transparency regarding the Bank's true financial performance and governance practices. The commenter argued that the language of the proposed rule appeared to require that audit committee members ''guarantee'' that Bank employees would implement these policies without error and that the precise result intended would be achieved. The Finance Board agrees that, in the proposed rule, this provision appeared to impose upon audit committee members a regulatory requirement that exceeds the legal standard that normally applies to corporate directors under state law. Accordingly, the Finance Board has amended § 917.7(e)(2) in the final rule to include the requested language.

*I. Budgets, Dividends and Bylaws—§§ 917.8, 917.9 and 917.10*

Sections 917.8, 917.9 and 917.10 of the final rule address the power and responsibilities of Banks' boards of directors and senior management regarding, respectively, budget preparation and reporting requirements, dividends and Bank bylaws. These provisions already appear in existing part 917 as §§ 917.6, 917.7 and 917.8, respectively, having been redesignated from old §§ 934.7, 934.16 and 934.17, respectively, in the recent final rulemaking that reorganized and renumbered the Finance Board's regulations. *See* 65 FR 8253 (2000). Each of these provisions has also been substantively amended as part of the Finance Board's recent rulemaking that devolved various corporate governance authorities to the Banks in response to statutory changes made by the Federal Home Loan Bank Modernization Act of 1999 (Modernization Act), Pub. L. No. 106–102, Title VI (1999). *See* 64 FR 71275 (1999) (interim final rule); 65 FR 13663 (2000) (final rule). As such, no further amendments are made to these provisions in this final rule, other than their redesignation as §§ 917.8, 917.9 and 917.10.

## III. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, *see id.* at 605(b), the Finance Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

## IV. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

## List of Subjects in 12 CFR Parts 900, 917 and 940

Community development, Credit, Federal home loan banks, Housing.

Accordingly, the Finance Board hereby amends title 12, chapter IX, Code of Federal Regulations as follows:

## PART 900—GENERAL DEFINITIONS

1. The authority citation for part 900 continues to read as follows:

**Authority:** 12 U.S.C. 1422b(a).

2. In § 900.1, add a definition of ''associate'' to read as follows:

### § 900.1 Definitions applying to all regulations.

* * * * *

*Associate* means an entity that has been approved as a nonmember mortgagee pursuant to subpart B of part 950 of this chapter.

* * * * *

3. In subchapter C, revise part 917 to read as follows:

## PART 917—POWERS AND RESPONSIBILITIES OF BANK BOARDS OF DIRECTORS AND SENIOR MANAGEMENT

Sec.
917.1 Definitions.
917.2 General authorities and duties of Bank boards of directors.
917.3 Risk management.
917.4 Bank member products policy. [Reserved]
917.5 Strategic business plan.
917.6 Internal control system.
917.7 Audit committees.
917.8 Budget preparation.
917.9 Dividends.
917.10 Bank bylaws.

**Authority:** 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1427, 1432(a), 1436(a), 1440.

### § 917.1 Definitions.

As used in this part:

*Business risk* means the risk of an adverse impact on a Bank's profitability resulting from external factors as may occur in both the short and long run.

*Capital structure plan* means the plan establishing and implementing a capital structure that each Bank is required to submit to the Finance Board under 12 U.S.C. 1426(b).

*Community financial institution* has the meaning set forth in § 925.1 of this chapter.

*Contingency liquidity* means the sources of cash a Bank may use to meet its operational requirements when its access to the capital markets is impeded, and includes:

(1) Marketable assets with a maturity of one year or less;

(2) Self-liquidating assets with a maturity of seven days or less;

(3) Assets that are generally accepted as collateral in the repurchase agreement market; and

(4) Irrevocable lines of credit from financial institutions rated not lower than the second highest credit rating category by a credit rating organization

regarded as a Nationally Recognized Statistical Rating Organization by the Securities and Exchange Commission.

*Credit risk* means the risk that the market value, or estimated fair value if market value is not available, of an obligation will decline as a result of deterioration in creditworthiness.

*Immediate family member* means a parent, sibling, spouse, child, dependent, or any relative sharing the same residence.

*Internal auditor* means the individual responsible for the internal audit function at the Bank.

*Liquidity risk* means the risk that a Bank will be unable to meet its obligations as they come due or meet the credit needs of its members and associates in a timely and cost-efficient manner.

*Market risk* means the risk that the market value, or estimated fair value if market value is not available, of a Bank's portfolio will decline as a result of changes in interest rates, foreign exchange rates, equity and commodity prices.

*Operational liquidity* means sources of cash from both a Bank's ongoing access to the capital markets and its holding of liquid assets to meet operational requirements in a Bank's normal course of business.

*Operations risk* means the risk of an unexpected loss to a Bank resulting from human error, fraud, unenforceability of legal contracts, or deficiencies in internal controls or information systems.

*Reportable conditions* means matters that represent significant deficiencies in the design or operation of the internal control system that could adversely affect a Bank's ability to record, process, summarize and report financial data consistent with the assertions of management.

**§ 917.2 General authorities and duties of Bank boards of directors.**

(a) *Management of a Bank.* The management of each Bank shall be vested in its board of directors. While Bank boards of directors may delegate the execution of operational functions to Bank personnel, the ultimate responsibility of each Bank's board of directors for that Bank's management is non-delegable.

(b) *Duties of Bank directors.* Each Bank director shall have the duty to:

(1) Carry out his or her duties as director in good faith, in a manner such director believes to be in the best interests of the Bank, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances;

(2) Administer the affairs of the Bank fairly and impartially and without discrimination in favor of or against any member;

(3) At the time of appointment or election, or within a reasonable time thereafter, have a working familiarity with basic finance and accounting practices, including the ability to read and understand the Bank's balance sheet and income statement and to ask substantive questions of management and the internal and external auditors; and

(4) Direct the operations of the Bank in conformity with the requirements set forth in the Act and this chapter.

(c) *Authority regarding staff and outside consultants.* (1) In carrying out its duties and responsibilities under the Act and this chapter, each Bank's board of directors and all committees thereof shall have authority to retain staff and outside counsel, independent accountants, or other outside consultants at the expense of the Bank.

(2) Bank staff providing services to the board of directors or any committee of the board under paragraph (c)(1) of this section may be required by the board of directors or such committee to report directly to the board or such committee, as appropriate.

**§ 917.3 Risk management.**

(a) *Risk management policy.* (1) *Adoption.* Beginning August 29, 2000, each Bank's board of directors shall have in effect at all times a risk management policy that addresses the Bank's exposure to credit risk, market risk, liquidity risk, business risk and operations risk and that conforms to the requirements of paragraph (b) of this section and to all applicable Finance Board regulations and policies.

(2) *Review and compliance.* Each Bank's board of directors shall:

(i) Review the Bank's risk management policy at least annually;

(ii) Amend the risk management policy as appropriate;

(iii) Re-adopt the Bank's risk management policy, including interim amendments, not less often than every three years; and

(iv) Ensure that policies and procedures are in place that are reasonably designed to achieve continuing Bank compliance with the risk management policy.

(b) *Risk management policy requirements.* In addition to meeting any other requirements set forth in this chapter, each Bank's risk management policy shall:

(1) After the Bank's capital structure plan is approved by the Finance Board, describe how the Bank will comply with its capital structure plan;

(2) Set forth the Bank's tolerance levels for the market and credit risk components; and

(3) Set forth standards for the Bank's management of each risk component, including but not limited to:

(i) Regarding credit risk arising from all secured and unsecured transactions, standards and criteria for, and timing of, periodic assessment of the creditworthiness of issuers, obligors, or other counterparties including identifying the criteria for selecting dealers, brokers and other securities firms with which the Bank may execute transactions; and

(ii) Regarding market risk, standards for the methods and models used to measure and monitor such risk;

(iii) Regarding day-to-day operational liquidity needs and contingency liquidity needs:

(A) An enumeration of specific types of investments to be held for such liquidity purposes; and

(B) The methodology to be used for determining the Bank's operational and contingency liquidity needs;

(iv) Regarding operations risk, standards for an effective internal control system, including periodic testing and reporting; and

(v) Regarding business risk, strategies for mitigating such risk, including contingency plans where appropriate.

(c) *Risk assessment.* The senior management of each Bank shall perform, at least annually, a risk assessment that is reasonably designed to identify and evaluate all material risks, including both quantitative and qualitative aspects, that could adversely affect the achievement of the Bank's performance objectives and compliance requirements. The risk assessment shall be in written form and shall be reviewed by the Bank's board of directors promptly upon its completion.

**§ 917.4 Bank member products policy. [Reserved]**

**§ 917.5 Strategic business plan.**

(a) *Adoption of strategic business plan.* Beginning 90 days after the effective date of this section, each Bank's board of directors shall have in effect at all times a strategic business plan that describes how the business activities of the Bank will achieve the mission of the Bank consistent with part 940 of this chapter. Specifically, each Bank's strategic business plan shall:

(1) Enumerate operating goals and objectives for each major business activity and for all new business activities, which must include plans for

maximizing activities that enhance the carrying out of the mission of the Bank, consistent with part 940 of this chapter;

(2) Discuss how the Bank will:

(i) Address credit needs and market opportunities identified through ongoing market research and consultations with members, associates and public and private organizations; and

(ii) Notify members and associates of relevant programs and initiatives;

(3) Establish quantitative performance goals for Bank products related to multi-family housing, small business, small farm and small agri-business lending ;

(4) Describe any proposed new business activities or enhancements of existing activities; and (5) Be supported by appropriate and timely research and analysis of relevant market developments and member and associate demand for Bank products and services.

(b) *Review and monitoring.* Each Bank's board of directors shall:

(1) Review the Bank's strategic business plan at least annually;

(2) Amend the strategic business plan as appropriate;

(3) Re-adopt the Bank's strategic business plan, including interim amendments, not less often than every three years; and

(4) Establish management reporting requirements and monitor implementation of the strategic business plan and the operating goals and objectives contained therein.

(c) Report to Finance Board. Each Bank shall submit to the Finance Board annually a report analyzing and describing the Bank's performance in achieving the goals described in paragraph (a)(3) of this section.

**§ 917.6 Internal control system.**

(a) *Establishment and maintenance.* (1) Each Bank shall establish and maintain an effective internal control system that addresses:

(i) The efficiency and effectiveness of Bank activities;

(ii) The safeguarding of Bank assets;

(iii) The reliability, completeness and timely reporting of financial and management information and transparency of such information to the Bank's board of directors and to the Finance Board; and

(iv) Compliance with applicable laws, regulations, policies, supervisory determinations and directives of the Bank's board of directors and senior management.

(2) Ongoing internal control activities necessary to maintain the internal control system required under paragraph (a)(1) of this section shall include, but are not limited to:

(i) Top level reviews by the Bank's board of directors and senior management, including review of financial presentations and performance reports;

(ii) Activity controls, including review of standard performance and exception reports by department-level management on an appropriate periodic basis;

(iii) Physical and procedural controls to safeguard, and prevent the unauthorized use of, assets;

(iv) Monitoring for compliance with the risk tolerance limits set forth in the Bank's risk management policy;

(v) Any required approvals and authorizations for specific activities; and

(vi) Any required verifications and reconciliations for specific activities.

(b) *Internal control responsibilities of Banks' boards of directors.* Each Bank's board of directors shall ensure that the internal control system required under paragraph (a)(1) of this section is established and maintained, and shall oversee senior management's implementation of such a system on an ongoing basis, by:

(1) Conducting periodic discussions with senior management regarding the effectiveness of the internal control system;

(2) Ensuring that an internal audit of the internal control system is performed annually and that such annual audit is reasonably designed to be effective and comprehensive;

(3) Requiring that internal control deficiencies be reported to the Bank's board of directors in a timely manner and that such deficiencies are addressed promptly;

(4) Conducting a timely review of evaluations of the effectiveness of the internal control system made by internal auditors, external auditors and Finance Board examiners;

(5) Directing senior management to address promptly and effectively recommendations and concerns expressed by internal auditors, external auditors and Finance Board examiners regarding weaknesses in the internal control system;

(6) Reporting any internal control deficiencies found, and the corrective action taken, to the Finance Board in a timely manner;

(7) Establishing, documenting and communicating an organizational structure that clearly shows lines of authority within the Bank, provides for effective communication throughout the Bank, and ensures that there are no gaps in the lines of authority;

(8) Reviewing all delegations of authority to specific personnel or committees and requiring that such delegations state the extent of the authority and responsibilities delegated; and

(9) Establishing reporting requirements, including specifying the nature and frequency of reports it receives.

(c) *Internal control responsibilities of Banks' senior management.* Each Bank's senior management shall be responsible for carrying out the directives of the Bank's board of directors, including the establishment, implementation and maintenance of the internal control system required under paragraph (a)(1) of this section by:

(1) Establishing, implementing and effectively communicating to Bank personnel policies and procedures that are adequate to ensure that internal control activities necessary to maintain an effective internal control system, including the activities enumerated in paragraph (a)(2) of this section, are an integral part of the daily functions of all Bank personnel;

(2) Ensuring that all Bank personnel fully understand and comply with all policies, procedures and legal requirements applicable to their positions and responsibilities;

(3) Ensuring that there is appropriate segregation of duties among Bank personnel and that personnel are not assigned conflicting responsibilities;

(4) Establishing effective paths of communication upward, downward and across the organization in order to ensure that Bank personnel receive necessary and appropriate information, including:

(i) Information relating to the operational policies and procedures of the Bank;

(ii) Information relating to the actual operational performance of the Bank;

(iii) Adequate and comprehensive internal financial, operational and compliance data; and

(iv) External market information about events and conditions that are relevant to decision making;

(5) Developing and implementing procedures that translate the major business strategies and policies established by the Bank's board of directors into operating standards;

(6) Ensuring adherence to the lines of authority and responsibility established by the Bank's board of directors;

(7) Overseeing the implementation and maintenance of management information and other systems;

(8) Establishing and implementing an effective system to track internal control weaknesses and the actions taken to correct them; and

(9) Monitoring and reporting to the Bank's board of directors the effectiveness of the internal control system on an ongoing basis.

**§ 917.7 Audit committees.**

(a) *Establishment.* The board of directors of each Bank shall establish an audit committee, consistent with the requirements set forth in this section.

(b) *Composition.* (1) The audit committee shall comprise five or more persons drawn from the Bank's board of directors, each of whom shall meet the criteria of independence set forth in paragraph (c) of this section.

(2) The audit committee shall include a balance of representatives of:

(i) Community financial institutions and other members; and

(ii) Appointive and elective directors of the Bank.

(3) The terms of audit committee members shall be appropriately staggered so as to provide for continuity of service.

(4) At least one member of the audit committee shall have extensive accounting or related financial management experience.

(c) *Independence.* Any member of the Bank's board of directors shall be considered to be sufficiently independent to serve as a member of the audit committee if that director does not have a disqualifying relationship with the Bank or its management that would interfere with the exercise of that director's independent judgment. Such disqualifying relationships include, but are not limited to:

(1) Being employed by the Bank in the current year or any of the past five years;

(2) Accepting any compensation from the Bank other than compensation for service as a board director;

(3) Serving or having served in any of the past five years as a consultant, advisor, promoter, underwriter, or legal counsel of or to the Bank; or

(4) Being an immediate family member of an individual who is, or has been in any of the past five years, employed by the Bank as an executive officer.

(d) *Charter.* (1) The audit committee of each Bank shall adopt, and the Bank's board of directors shall approve, a formal written charter that specifies the scope of the audit committee's powers and responsibilities, as well as the audit committee's structure, processes and membership requirements.

(2) The audit committee and the board of directors of each Bank shall:

(i) Review, assess the adequacy of and, where appropriate, amend the Bank's audit committee charter on an annual basis;

(ii) Amend the audit committee charter as appropriate; and

(iii) Re-adopt and re-approve, respectively, the Bank's audit committee charter not less often than every three years.

(3) Each Bank's audit committee charter shall:

(i) Provide that the audit committee has the responsibility to select, evaluate and, where appropriate, replace the internal auditor and that the internal auditor may be removed only with the approval of the audit committee;

(ii) Provide that the internal auditor shall report directly to the audit committee on substantive matters and that the internal auditor is ultimately accountable to the audit committee and board of directors; and

(iii) Provide that both the internal auditor and the external auditor shall have unrestricted access to the audit committee without the need for any prior management knowledge or approval.

(e) *Duties.* Each Bank's audit committee shall have the duty to:

(1) Direct senior management to maintain the reliability and integrity of the accounting policies and financial reporting and disclosure practices of the Bank;

(2) Review the basis for the Bank's financial statements and the external auditor's opinion rendered with respect to such financial statements (including the nature and extent of any significant changes in accounting principles or the application therein) and ensure that policies are in place that are reasonably designed to achieve disclosure and transparency regarding the Bank's true financial performance and governance practices;

(3) Oversee the internal audit function by:

(i) Reviewing the scope of audit services required, significant accounting policies, significant risks and exposures, audit activities and audit findings;

(ii) Assessing the performance and determining the compensation of the internal auditor; and

(iii) Reviewing and approving the internal auditor's work plan;

(4) Oversee the external audit function by:

(i) Approving the external auditor's annual engagement letter;

(ii) Reviewing the performance of the external auditor; and

(iii) Making recommendations to the Bank's board of directors regarding the appointment, renewal, or termination of the external auditor;

(5) Provide an independent, direct channel of communication between the Bank's board of directors and the internal and external auditors;

(6) Conduct or authorize investigations into any matters within the audit committee's scope of responsibilities;

(7) Ensure that senior management has established and is maintaining an adequate internal control system within the Bank by:

(i) Reviewing the Bank's internal control system and the resolution of identified material weaknesses and reportable conditions in the internal control system, including the prevention or detection of management override or compromise of the internal control system; and

(ii) Reviewing the programs and policies of the Bank designed to ensure compliance with applicable laws, regulations and policies and monitoring the results of these compliance efforts;

(8) Review the policies and procedures established by senior management to assess and monitor implementation of with the Bank's strategic business plan and the operating goals and objectives contained therein; and

(9) Report periodically its findings to the Bank's board of directors.

(f) *Meetings.* The audit committee shall prepare written minutes of each audit committee meeting.

**§ 917.8 Budget preparation.**

(a) *Adoption of budgets.* Each Bank's board of directors shall be responsible for the adoption of an annual operating expense budget and a capital expenditures budget for the Bank, and any subsequent amendments thereto, consistent with the requirements of the Act, this section, other regulations and policies of the Finance Board, and with the Bank's responsibility to protect both its members and the public interest by keeping its costs to an efficient and effective minimum.

(b) *No delegation of budget authority.* A Bank's board of directors may not delegate the authority to approve the Bank's annual budgets, or any subsequent amendments thereto, to Bank officers or other Bank employees.

(c) *Interest rate scenario.* A Bank's annual budgets shall be prepared based upon an interest rate scenario as determined by the Bank.

(d) *Board approval for deviations.* A Bank may not exceed its total annual operating expense budget or its total annual capital expenditures budget without prior approval by the Bank's board of directors of an amendment to such budget.

**§ 917.9 Dividends.**

A Bank's board of directors may declare and pay a dividend only from

previously retained earnings or current net earnings and only if such payment will not result in a projected impairment of the par value of the capital stock of the Bank. Dividends on such capital stock shall be computed without preference.

**§ 917.10 Bank bylaws.**

A Bank's board of directors shall have in effect at all times bylaws governing the manner in which the Bank administers its affairs and such bylaws shall be consistent with applicable laws and regulations as administered by the Finance Board.

4. In subchapter F, add a new part 940 to read as follows:

## PART 940—MISSION OF THE BANKS

Sec.
940.1 Definitions.
940.2 Mission of the Banks.

**Authority:** 12 U.S.C. 1422a(a)(3), 1422b(a), 1430, 1430b, 1431.

**§ 940.1 Definitions.**

*Community lending* has the meaning set forth in § 952.3 of this chapter.

**§ 940.2 Mission of the Banks.**

The mission of the Banks is to provide to their members and associates financial products and services, including but not limited to advances, that assist and enhance such members' and associates' financing of:

(a) Housing, including single-family and multi-family housing serving consumers at all income levels; and

(b) Community lending.

Date: March 22, 2000.

By the Board of Directors of the Federal Housing Finance Board.

**Bruce A. Morrison,**

*Chairman.*

[FR Doc. 00–10427 Filed 4–28–00; 8:45 am]

BILLING CODE 6725–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–293–AD; Amendment 39–11705; AD 2000–08–19]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 727 and 727C Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727 and 727C series airplanes, that requires one-time inspections of the exterior body skin located at the forward corners of the mid-galley door hinge cutouts to detect cracking, and corrective actions, if necessary. This AD also requires modification of the body skin of the mid-galley door hinge cutouts. This amendment is prompted by a report indicating that, during fatigue testing on a Boeing Model 727 series airplane, a crack was found in the body skin at the lower forward corners of the mid-galley door hinge cutouts due to cabin pressurization cycles. The actions specified by this AD are intended to prevent such fatigue cracking of the body skin, which could result in reduced structural integrity of the fuselage and consequent loss of cabin pressurization.

**DATES:** Effective June 5, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 5, 2000.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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:** Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2774; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 727 and 727C series airplanes was published in the **Federal Register** on November 22, 1999 (64 FR 63753). That action proposed to require one-time inspections of the exterior body skin located at the forward corners of the mid-galley door hinge cutouts to detect cracking; corrective actions, if necessary; and modification of the body skin of the mid-galley door hinge cutouts.

### Comments

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

### Airplanes Not Affected

On behalf of two of its members, the Air Transport Association of America (ATA) comments that no airplanes operated by those two members are affected by this proposal. The ATA makes no further comment or request.

### Request to Remove Airplanes From Applicability

One commenter, the manufacturer, requests that the FAA revise the applicability statement of the proposed AD to remove two airplanes. The commenter states that, according to its records, the airplanes having line numbers 153 and 339 were determined to be irreparable on August 8, 1965, and February 16, 1968, respectively.

The FAA does not concur with the commenter's request. Though the commenter states that the airplanes were determined to be irreparable, the FAA considers it possible that the subject airplanes could be repaired by an entity other than the manufacturer. Should one of these airplanes be repaired and added to the U.S. Register in the future, the FAA finds that, to ensure safe operation, the airplane must be inspected, repaired, and modified, as applicable, in accordance with the requirements of this AD. No change to the final rule is necessary.

### Conclusion

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

### Cost Impact

There are approximately 1,516 Boeing Model 727 and 727C series airplanes of the affected design in the worldwide fleet. The FAA estimates that 3 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the required inspections of the body skin at the corners of the mid-galley door hinge cutouts, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspections required by this AD on U.S. operators is estimated to be $180, or $60 per airplane.

The FAA also estimates that it will take approximately 28 work hours per airplane to accomplish the repair and modification, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,023 per

airplane. Based on these figures, the cost impact of the repair and modification required by this AD on U.S. operators is estimated to be $8,109, or $2,703 per airplane.

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

## 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 adding the following new airworthiness directive:

**2000–08–19 Boeing:** Amendment 39–11705. Docket 98–NM–293–AD.

*Applicability:* Model 727 and 727C series airplanes, line numbers 153, 290, and 339 inclusive; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the body skin at the forward corners of the mid-galley door hinge cutouts, which could result in reduced structural integrity of the fuselage and consequent loss of cabin pressurization, accomplish the following:

**One-Time Inspections**

(a) Prior to the accumulation of 60,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time detailed visual inspection and a high frequency eddy current inspection of the exterior body skin located adjacent to the forward corners of the mid-galley door hinge cutouts for cracking in accordance with Boeing Service Bulletin 727–53–0054, Revision 1, dated November 16, 1989.

**Note 2:** For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

**Repairs and Modification**

(1) If no cracking is found during any inspection, prior to further flight, modify the body skin at the forward corners of the mid-galley door hinge cutouts, in accordance with Boeing Service Bulletin 727–53–0054, Revision 1, dated November 16, 1989. No further action is required by this AD.

(2) If any cracking is found during any inspection, prior to further flight, accomplish the requirements of either paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable.

(i) If any crack is less than or equal to 1.00 inch, accomplish the repair and modification in accordance with Boeing Service Bulletin 727–53–0054, Revision 1, dated November 16, 1989. No further action is required by this AD.

(ii) If any crack is greater than 1.00 inch, accomplish the repair and modification in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD. No further action is required by this AD.

**Note 3:** Accomplishment of the actions required by AD 90–06–09, amendment 39–6488, is considered acceptable for compliance with this AD.

**Alternative Method of Compliance**

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

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

**Special Flight Permits**

(c) 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**

(d) Except as provided by paragraph (a)(2)(ii) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 727–53–0054, Revision 1, dated November 16, 1989. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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.

**Effective Date**

(e) This amendment becomes effective on June 5, 2000.

Issued in Renton, Washington, on April 19, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–10287 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–13–U

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 99–NM–221–AD; Amendment 39–11706; AD 2000–08–20]**

**RIN 2120–AA64**

## Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model L–1011–385 series airplanes, that requires modification of the high pressure bleed valve controller of each engine. This amendment is prompted by reports of failure of the bleed air system components such as the thermal compensators and bleed air ducts. The actions specified by this AD are intended to prevent such failures of the bleed air system components, which could result in high temperature air leaking into the cabin and/or cargo areas and could possibly require an emergency landing and evacuation.

**DATES:** Effective June 5, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 5, 2000.

**ADDRESSES:** The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Lockheed Model L–1011–385 series airplanes was published in the **Federal Register** on October 6, 1999 (64 FR 54232). That action proposed to require modification of the high pressure bleed valve controller of each engine.

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

### Support for the Proposal

One commenter supports the proposed rule.

### Request to Specify Lockheed Service Bulletin Reference to Hamilton Standard Service Bulletin

One commenter, the manufacturer, requests that the language in NOTE 2 of the proposal be revised to reflect that the Lockheed Service Bulletin 093–36–065, dated February 9, 1999, specifically references Hamilton Standard Service Bulletin 36–1060 R1, dated March 1, 1997.

The FAA concurs with the commenter's request and has revised NOTE 2 of the final rule accordingly.

### Request to Extend the Compliance Time

One commenter, an airline operator, requests that the compliance time for the proposed modification be revised to coincide with a ''C'' check interval. The commenter states that the proposed compliance time of 14 months does not match its ''C'' check interval of 19 months. The commenter explains that it will incur an undue financial burden unless the compliance time is extended to 19 months since it is necessary to remove an airplane from service in order to accomplish the tasks associated with the proposal.

The FAA does not concur. The modification of the bleed valve controller itself (installing the new check valve) can be accomplished previous to installation of the bleed valve controller on the airplane. The FAA estimates that the installation of the modified bleed valve controller will take 1 work hour to accomplish. If installation of the modified check valve is performed with the controller mounted on the engine, the installation can still be accomplished in approximately 2 work hours. Therefore, the FAA considers that it is not necessary to accomplish the required modification during an extended downtime of a ''C'' check. Therefore, it is unnecessary to revise the final rule.

### Request to Revise the ''Differences'' Section

One commenter, the manufacturer, requests that the FAA revise the ''Differences Between Proposed Rule and Service Information'' section of the proposal to specify ''this proposed AD would require the modification of both high pressure bleed valve controller types to a later configuration (P/N 739084–4) with the installation of the restrictor check valve P/N 764898–2 or later.''

The FAA acknowledges that the ''Differences Between Proposed Rule and Service Information'' section of the proposed AD, as revised by the commenter clarifies the intent of the proposed rule. However, since that section of the preamble does not reappear in the final rule, no change to the final rule is necessary.

### Request to Specify Certain High Pressure Bleed Valve Controllers

That same commenter, the manufacturer, requests that paragraph (b) of the proposal be revised to specify particular high pressure bleed valve controllers. The commenter suggests that the revised paragraph should read that ''No person shall install on any airplane a high pressure bleed valve controller, Hamilton Standard P/N 739084–2 or 739084–3 (Lockheed P/N 672286–103 or 672286–105), unless it has been modified in accordance with this AD.'' The FAA concurs and has revised paragraph (b) of the final rule accordingly.

### Conclusion

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

### Cost Impact

There are approximately 235 Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 116 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $650 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $89,320, or $770 per airplane.

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

**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 adding the following new airworthiness directive:

**2000–08–20 Lockheed:** Amendment 39–11706. Docket 99–NM–221–AD.

*Applicability:* Model L–1011–385–1, –1–14, –1–15, and –3 series airplanes, equipped with high pressure bleed valve controller Hamilton Standard part number (P/N) 739084–2 or 739084–3 (Lockheed P/N 672286–103 or 672286–105); certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failures of the bleed air system components, which could result in high temperature air leaking into the cabin and/or cargo areas and could possibly require an emergency landing and evacuation, accomplish the following:

(a) Within 14 months after the effective date of this AD, modify the high pressure bleed valve controller of each engine in accordance with Lockheed Service Bulletin 093–36–065, dated February 9, 1999.

**Note 2:** Lockheed Service Bulletin 093–36–065, dated February 9, 1999, references Hamilton Standard Service Bulletin 36–1060, Revision 1, dated March 1, 1977, as an additional source of service information for the modification of the high pressure bleed valve controller of each engine.

(b) As of the effective date of this AD, no person shall install on any airplane a high pressure bleed valve controller having Hamilton Standard part number (P/N) 739084–2 or 739084–3 (Lockheed P/N 672286–103 or 672286–105), unless it has been modified in accordance with this AD.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

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

**Incorporation by Reference**

(e) The actions shall be done in accordance with Lockheed Service Bulletin 093–36–065, dated February 9, 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 Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 5, 2000.

Issued in Renton, Washington, on April 19, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–10286 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NM–231–AD; Amendment 39–11707; AD 2000–08–21]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 747 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 747 series airplanes, that requires repetitive inspections to detect cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, and repair, if necessary. This amendment is prompted by reports of fatigue cracking found in those areas. The actions specified by this AD are intended to detect and correct such cracking, which could result in reduced structural capability of the bulkhead and the inability of the structure to carry horizontal stabilizer flight loads.

**DATES:** Effective June 5, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 5, 2000.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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:** Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 747 series airplanes was published in the Federal Register on November 5, 1999 (64 FR 60386). That action proposed to require repetitive inspections to detect cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, and repair, if necessary.

## Comments

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

## Request to Reference New Service Information

One commenter requests that the proposed AD be revised to reference Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999. (The original issue of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, was referenced in the proposal as the appropriate source of service information for the proposed actions.)

The FAA concurs with the commenter's request. Since the issuance of the proposed rule, the FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2427, Revision 1. Revision 1 of the alert service bulletin is substantially similar to the original issue. However, Revision 1 includes instructions for a one-time high frequency eddy current (HFEC) and repetitive detailed visual inspections to detect cracking of the splice fitting of the forward inner chord of the station 2598 bulkhead. Though not described in the original issue of the alert service bulletin, such inspections of the splice fitting were described in the proposed rule, so adding references to Revision 1 of the alert service bulletin to this final rule would not add any additional requirements beyond those that were proposed. Thus, paragraphs (a), (b), and (c) of this final rule have been revised to reference both the original issue and Revision 1 of the alert service bulletin as appropriate sources of service information for the requirements of this AD.

In addition, the same commenter requests that the FAA make several specific changes to paragraphs (a) and (b) of the proposed rule:

- Revise paragraph (a)(1) to refer to Figure 2, Steps 1 and 2, of Boeing Alert Service Bulletin 747–53A2427, Revision 1;
- Revise paragraph (a)(2) to refer to Figure 2, View C and View A, of Boeing Alert Service Bulletin 747–53A2427, Revision 1;
- Revise paragraph (b)(1) to refer to Figure 3, Steps 1 and 2, of Boeing Alert Service Bulletin 747–53A2427, Revision 1; and
- Revise paragraph (b)(2) to refer to Figure 2, View C and View A, of Boeing Alert Service Bulletin 747–53A2427, Revision 1.

The commenter states that these changes will make inspection instructions more explicit.

The FAA concurs with the commenter's request, and references to specific figures and steps contained in Revision 1 of the alert service bulletin have been included in paragraphs (a) and (b) of this final rule accordingly. However, for consistency, where the commenter recommends ''View C and View A'' in its suggested revisions to paragraphs (a)(2) and (b)(2) of the proposed AD, the FAA instead has revised those paragraphs to refer to ''Step 3'' of the figures.

## Request to Delete Notes

The same commenter that requests that the FAA revise the proposed rule to reference new service information also requests that the FAA delete ''NOTE 2'' and ''NOTE 4'' of the proposed rule. These notes explain that inspection areas specified in paragraphs (a)(2) and (b)(2) of the proposed rule are not highlighted in certain figures in the original issue of the alert service bulletin. In Revision 1 of the alert service bulletin, the figures to which these notes refer have been updated to show the subject inspection areas. The commenter cites no justification for this request, but the FAA infers that the commenter considers ''NOTE 2'' and ''NOTE 4'' no longer necessary.

The FAA does not concur with the commenter's request. As stated previously, this final rule has been revised to reference both the original issue and Revision 1 of the alert service bulletin as appropriate sources of service information. The information in ''NOTE 2'' and ''NOTE 4'' is still correct for the original issue of the alert service bulletin. No change to the final rule is necessary in this regard.

## Request to Clarify Repair Method

One commenter requests that the FAA revise paragraph (d) of the proposed rule to allow repairs of cracking of the aft inner chord to be accomplished in accordance with the applicable chapters of the Boeing 747 Structural Repair Manual (SRM) referenced in Boeing Alert Service Bulletin 747–53A2427. The commenter states that, without clarification, paragraph (d) of the proposal may be interpreted to require approval by the Manager of the FAA's Seattle Aircraft Certification Office (ACO) for repairs of cracking of the aft inner chord because the alert service bulletin provides the option to contact Boeing for repair data instead of using the SRM.

The FAA does not concur with the commenter that any change is necessary. Paragraph (c) of the proposed rule (and this final rule) states that any cracking detected during the inspections required by paragraph (a)(1) or (b)(1) of this AD must be repaired in accordance with the alert service bulletin, except as provided by paragraph (d) of this AD. The FAA considers paragraph (d) of this AD to apply to cracks on the aft inner chord only if those cracks cannot be repaired in accordance with the chapters of the SRM listed in the alert service bulletin. No change to the final rule is necessary in this regard.

## Conclusion

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

## Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

## Cost Impact

There are approximately 1,301 Model 747 series airplanes of the affected

design in the worldwide fleet. The FAA estimates that 260 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required HFEC inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $31,200, or $120 per airplane.

It will take approximately 2 work hours per airplane to accomplish the required detailed visual inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $31,200, or $120 per airplane, per inspection cycle.

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

## 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 adding the following new airworthiness directive:

**2000–08–21 Boeing:** Amendment 39–11707. Docket 99–NM–231–AD.

*Applicability:* All Model 747 series airplanes, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To detect and correct cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, which could result in reduced structural capability of the bulkhead and the inability of the structure to carry horizontal stabilizer flight loads, accomplish the following:

**Initial Inspection**

(a) Prior to the accumulation of 13,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later: Accomplish the requirements specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Perform a high frequency eddy current inspection (HFEC) to detect cracking of the forward and aft inner chords of the station 2598 bulkhead, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or in accordance with Figure 2, Steps 1 and 2, of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999.

(2) Perform an HFEC inspection to detect cracking of the splice fitting along the upper and lower attachment to the forward inner chord of the station 2598 bulkhead, as shown in Figure 2, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or in accordance with Figure 2, Step 3, of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999.

**Note 2:** Operators should note that although the splice fitting is NOT highlighted in Figure 2, Detail A, of Boeing Alert Service Bulletin 747–53A2427, datedDecember 17, 1998, as it is in Figure 2 of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999, the inspection required by paragraph (a)(2) of this AD must still be accomplished.

**Repetitive Inspections**

(b) Within 3,000 flight cycles after accomplishment of the inspections required by paragraph (a) of this AD: Accomplish the inspections specified in paragraphs (b)(1) and (b)(2) of this AD. Repeat the inspection thereafter at intervals not to exceed 3,000 flight cycles.

(1) Perform a detailed visual inspection to detect cracking of the forward and aft inner chords of the station 2598 bulkhead, in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or in accordance with Figure 3, Steps 1 and 2, of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999.

**Note 3:** For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(2) Perform a detailed visual inspection to detect cracking of the splice fitting along the upper and lower attachment to the forward inner chord of the station 2598 bulkhead, as shown in Figure 3, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; or in accordance with Figure 3, Step 3, of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999.

**Note 4:** Operators should note that although the splice fitting is NOT highlighted in Figure 3, Detail A, of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, as it is in Figure 3 of Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999, the inspections required by paragraph (b)(2) of this AD must still be accomplished.

**Repair**

(c) If any cracking is detected during the inspections required by paragraph (a)(1) or (b)(1) of this AD, prior to further flight, repair in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, or

Revision 1, dated October 28, 1999; except as provided by paragraph (d) of this AD.

(d) If any cracking is detected during the inspections required by paragraph (a)(2) or (b)(2) of this AD, or where the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, or a Boeing DER, as required by this paragraph, the approval letter must specifically reference this AD.

**Alternative Methods of Compliance**

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

**Note 5:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

**Special Flight Permits**

(f) 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**

(g) Except as provided by paragraph (d) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998, or Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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.

**Effective Date**

(h) This amendment becomes effective on June 5, 2000.

Issued in Renton, Washington, on April 19, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–10285 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF THE INTERIOR

## Minerals Management Service

## 30 CFR Part 250

## Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Update of Revised/Reaffirmed Documents Incorporated by Reference

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Technical amendment.

**SUMMARY:** This document makes technical amendments to regulations that were published in a final rule on December 28, 1999 (64 FR 72756), and which listed all documents incorporated by reference in regulations governing oil and gas and sulfur operations in the Outer Continental Shelf (OCS). This amendment incorporates Supplement 2 to the 21st Edition of American Petroleum Institute (API) Specification 6D (SPEC 6D). The rulemaking of December 28, 1999, incorporated API SPEC 6D, 21st Edition, but not the supplement.

**EFFECTIVE DATE:** May 31, 2000.

The incorporation by reference of publications listed in the regulation is approved by the Director of the Federal Register as of May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Carl W. Anderson at (703) 787–1608.

**SUPPLEMENTARY INFORMATION:**

### Background

Early in 1998, API requested that MMS incorporate by reference Supplements 1 and 2 (dated December 1996 and December 1997, respectively) to API SPEC 6D. (Supplement 2 actually fully incorporates and expands upon Supplement 1.) For metal-to-metal seated valves, the Supplements changed from a ''no visible leakage'' standard to ''allowable internal leakage rates'' according to valve size. This raised two concerns for MMS with regard to its regulatory program. First, once an attempt has been made to purge a pipeline of all contents and close its valves, how can an operator be sure that the pipeline is properly isolated and free of combustibles or pressure during repairs? (Cutting into an existing pipeline in preparation to repair it is considered among the most hazardous operations conducted offshore.) Second, how can MMS be sure that out-of-service pipelines isolated by block valves are really shut down?

MMS issued Notice to Lessees and Operators on the Outer Continental Shelf (NTL) No. 98–16N in October 1998 rejecting Supplements 1 and 2 as documents incorporated by reference. MMS needed more time to discuss the issues with API and to consider the ramifications of the ''allowable internal leakage'' standard for the OCS regulatory program. MMS reasoned:

> It may well be that the ''no visible leakage'' standard contained in the 21st and previous editions of API SPEC 6D is an unreasonably high standard for metal-to-metal seats. Metal-to-metal seats are non-deforming compared to non-metal-to-metal seats; therefore, it may be reasonable to expect that some leakage would occur between facing metal surfaces. Nevertheless, there appears to be no data or agreed-upon formula for predicting an acceptable leakage rate.

The MMS made a concerted attempt with API to collect data on this question and held further discussions with industry. In February 1999, MMS proposed a research project on leakage rates to API and asked them to survey their members on their perceptions of the ''allowable leakage rates'' and willingness to participate in the research project. Only 25 of 250 potential respondents replied. Their answers indicated that few valve suppliers believe that the ''no visible leakage'' standard is realistic, other than for special-purpose, non-off-the-shelf (*i.e.*, expensive) valves. Support for new research was very limited.

Industry representatives maintained that there is little formal data on leakage rates. They explained, however, that most correspondence on this subject focuses on leakage rates contained in International Standards Organization Standard 5208, Rate D. These rates are incorporated into Supplements 1 and 2. The API SPEC 6D workgroup generally agrees that these leakage rates are reasonable and in line with their experience.

Further discussions with the API SPEC 6D workgroup revealed that participants almost unanimously agree that all pipeline valves leak after they have been in service for a short time due to operational residues and abrasion.

This indicates that initial leakage rates for new valves are irrelevant by the time a pipeline is in need of repair or placed out-of-service. Therefore, measures in addition to ''closed valves'' are needed to protect workers and to ensure ''isolated pipelines'' during pipeline repairs.

The MMS's own pipeline workgroup conferred on these issues. They decided that rejecting the new allowable internal leakage rates would be unrealistic in light of what MMS had learned from its discussions with industry. Moreover, the maintenance of an unrealistic ''no visible leakage'' standard would not address the real regulatory dilemma that regardless of initial internal leakage rates, eventually all pipeline valves will leak internally. The MMS workgroup reasoned that since internal leakage occurs in pipeline valves regardless of initial leakage rates, MMS must address this concern in its inspection and maintenance procedures. Therefore, the MMS workgroup recommended canceling NTL 98–16N and adopting Supplement 2 as a document incorporated by reference. They also recommended two additions to Subpart J that would address the problems posed by leaking pipeline valves. The first would add a requirement for operators to submit a work plan detailing the measures they intend to take and procedures they intend to follow to ensure the safety of their employees during any pipeline repair. The second would add a requirement for placing a blind flange on lateral lines taken out-of-service. The MMS intends to propose both of these requirements in a separate rulemaking.

MMS has reviewed Supplements 1 and 2 to the 21st Edition of API SPEC 6D in light of the above considerations and determined that they will not impose undue cost on the offshore oil and gas industry. Moreover, further discussions with API confirm that Supplement 2 completely replaces Supplement 1. (Thus, parties that order copies of the 21st Edition of API SPEC 6D from API receive only Supplement 2 in addition to the primary document.) Therefore, we are incorporating Supplement 2 according to the authority in 30 CFR 250.198(a)(2).

Upon the effective date of this technical amendment, NTL No. 98–16N is cancelled.

### List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Accordingly, 30 CFR part 250 is amended by making the following technical amendments:

## PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

**Authority:** 43 U.S.C. 1331 *et seq.*

2. In § 250.198, in the table in paragraph (e), revise the entry for API SPEC 6D to read as set forth below.

**§ 250.198 Documents incorporated by reference.**

* * * * *

(e) * * *

| Title of documents | Incorporated by reference at |
|---|---|
| * * * * | * * * |
| API Spec 6D, Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves), Twenty-first Edition, March 31, 1994, including Supplement 2, December 1, 1997, API Stock No. G03200. | § 250.1002(b)(1). |
| * * * * | * * * |

Dated: April 21, 2000.

**Joseph R. Levine,**

*Acting Chief, Engineering and Operations Division.*

[FR Doc. 00–10592 Filed 4–28–00; 8:45 am]

BILLING CODE 4310–MR–P

## DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

## 49 CFR Part 391

**RIN 2126–AA45**

## Federal Motor Carrier Safety Regulations; Technical Amendments

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA).

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This document makes technical amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) to update the rules concerning qualifications of drivers who have loss or impairment of limbs by changing the designated official who authorizes and signs the skill performance evaluation (SPE) certificate for such drivers, and to remove the reference to ''waiver.'' These amendments are necessitated by an agency organizational restructuring and by changes in the statute. The effect of these amendments is to update the regulations regarding the standards for evaluating requests for SPE certificates.

**DATES:** The effective date of this rule is May 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** For information about the amendments contained in this rule, Ms. Teresa Doggett, Office of Bus and Truck Standards and Operations, HMCS–20, (202) 366–2990; for information about legal issues related to this rule, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–1353, FMCSA, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may

reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

**Background**

The Secretary has rescinded the authority previously delegated to the Office of Motor Carrier Safety (OMCS) to perform motor carrier functions and operations. This authority has been redelegated to the Administrator, FMCSA, a new agency within the Department of Transportation [65 FR 220, January 4, 2000]. The new FMCSA assumes the motor carrier functions previously performed by the Federal Highway Administration's (FHWA's) Office of Motor Carrier and Highway Safety (OMCHS) before October 19, 1999, and the OMCS before January 1, 2000. Ongoing rulemaking, enforcement, and other activities of the FMCSA, initiated while part of the FHWA or OMCS, will be continued by the FMCSA. The redelegation will cause no changes in the motor carrier functions and operations of the offices or field service centers (formerly resource centers).

The authority to require medical certification of CMV driver qualification was originally granted to the Interstate Commerce Commission (ICC) in the Motor Carrier Act of 1935 (Public Law 74–255, 49 Stat. 543). The authority was transferred to the DOT in 1966 and is currently codified at 49 U.S.C. 31502(b).

The importance of physical qualification of commercial drivers was recognized in 1939 when the first regulatory medical standard was established by the ICC. Those regulations, published at 4 FR 2294 on June 7, 1939, required a driver to possess the following minimum qualifications:

Good physical and mental health; good eyesight; adequate hearing; no addiction to narcotic drugs; and no excessive use of alcoholic beverages or liquors.

The first change to this standard was initiated in 1952 and went into effect on January 1, 1954. The certificate of physical examination required under the 1954 rule was slightly more specific than the 1939 regulation, and also required a physical examination form and a doctor's certificate. A second revision made in 1964 (29 FR 14495, October 22, 1964) amended the standard to allow limb-amputee and limb-impaired drivers, who are otherwise eligible, to become medically qualified through a waiver program. On April 22, 1970 (35 FR 6458) in light of discussions with the FHWA medical advisors, the existing physical qualification requirements were substantially tightened by including guidelines for evaluation of persons in high-risk medical categories. This rule also provided that the examining physician be given full information about the responsibilities of and the exacting demands made on commercial drivers.

In 1984, the Congress provided the Department of Transportation with alternative regulatory authority with the enactment of the Motor Carrier Safety Act of 1984 (Public Law 98–554, 98 Stat. 2832). This Act directed the Secretary to establish minimum safety standards to ensure that ''the physical condition of operators of commercial motor vehicles is adequate to enable them to operate such vehicles safely * * *.'' 49 U.S.C. 31136(a)(3).

On June 9, 1998, the FHWA's waiver authority changed with enactment of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107. Section 4007 of TEA–21 amended the waiver provisions of 49 U.S.C. 31136(e) and 31315 to change the standard for evaluating waiver requests, to distinguish between a waiver and an exemption, and to establish term limits for both. Under revised section 31136(e), the FMCSA may grant a waiver for a period of up to 3 months or an exemption for a renewable 2-year period.

The amendments to 49 U.S.C. 31136(e) also changed the criteria for exempting a person from application of a regulation. Previously an exemption was appropriate if it was consistent with the public interest and the safe operation of CMVs. Now the FMCSA may grant an exemption if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' According to the legislative history, the Congress changed the statutory standard to give the agency greater discretion to consider exemptions. The previous standard was judicially construed as requiring an advance determination that absolutely no reduction in safety would result from an exemption. The Congress revised the standard to require that an ''equivalent'' level of safety be achieved by the exemption, which would allow for more equitable resolution of such matters, while ensuring safety standards are maintained.

Section 391.41(b)(1) of 49 CFR states that a person is physically qualified to drive a motor vehicle if that person:

(1) Has no loss of a foot, a leg, a hand, or an arm, or has been granted a waiver pursuant to § 391.49;

(2) Has no impairment of:

(i) A hand or finger which interferes with prehension or power grasping; or

(ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or has been granted a waiver pursuant to § 391.49.

The Handicapped Driver Waiver Program, established in 1964 under 49 CFR 391.49 (waiver of physical defects), provides an opportunity for physically challenged drivers, who do not meet the physical qualification requirements under §§ 391.41(b)(1) or (b)(2), but who are otherwise qualified, to become medically qualified to operate commercial motor vehicles in interstate commerce.

This rule amends § 391.49 by revising the title of the section and removing all references to ''Regional Director of motor carriers, regional offices(s),'' ''waiver,'' and ''region'' and replacing them with ''State Director, FMCSA,'' ''Skill performance evaluation certificate,'' and ''State of legal residence,'' respectively.

**Rulemaking Analyses and Notices**

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, allows agencies engaged in rulemaking to dispense with prior notice and opportunity for comment when the agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest. This amendment merely reflects a change in the name of the Handicapped Driver Waiver Program, a change in the title of the designated official authorized to sign the SPE certificate, and the merging of the SPE certificate form into current regulations. As a result, the FMCSA has determined that prior notice and opportunity for public comment on this action are unnecessary.

Furthermore, due to the technical nature of this amendment, the FMCSA has determined that prior notice and opportunity for public comment are not required under the Department's regulatory policies and procedures, as it is not anticipated that such action will result in the receipt of useful information. The APA, under 5 U.S.C. 553(d)(3), also allows agencies, upon a finding of good cause, to make a rule effective immediately and avoid the otherwise applicable 30-day delayed effective date requirement. The FMCSA finds that good cause exists to dispense with the 30-day delay in the effective

date in this instance due to the minor and technical nature of these amendments. Thus, the FMCSA is proceeding directly with a final rule which will be effective on its date of publication.

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

The FMCSA has determined this action is not major within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Since this final rule makes only those technical changes to current regulatory language discussed above, the FMCSA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FMCSA has evaluated the effects of this rule on small entitles. Based on the evaluation, and particularly because this final rule makes only those technical changes to current regulatory language discussed above, the FMCSA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

**Executive Order 13132 (Federalism)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

**Executive Order 12372 (Intergovernmental Review)**

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

**National Environmental Policy Act**

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 432 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

**Unfunded Mandates Reform Act of 1995**

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

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (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, sponsor or require through regulations. An analysis of this rule has been made by the FMCSA, and it has been determined that the actions outlined in these technical amendments are covered under a currently-approved information collection, OMB Control No. 2126–0006, Medical Qualifications Requirements, (which is approved through September 30, 2000). No revisions to this current clearance are necessary due to this action.

**Executive Order 12988 (Civil Justice Reform)**

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

**Executive Order 13045 (Protection of Children)**

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

**Executive Order 12630 (Taking of Private Property)**

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

**Regulation Identification Number**

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

**List of Subjects in 49 CFR Part 391**

Driver qualifications–physical examinations, Highway safety, Motor carriers, Motor vehicle safety.

Issued on: April 24, 2000.

**Julie Anna Cirillo,**

*Acting Deputy Administrator.*

In consideration of the foregoing, the FMCSA amends title 49, Code of Federal Regulations, chapter III, part 391 as set forth below:

## PART 391—QUALIFICATIONS OF DRIVERS

1. Revise the authority citation for part 391 to read as follows:

**Authority:** 49 U.S.C. 322, 504, 31133, 31136, and 31502; and 49 CFR 1.73.

2. Revise § 391.49 to read as follows:

**§ 391.49 Alternative physical qualification standards for the loss or impairment of limbs.**

(a) A person who is not physically qualified to drive under § 391.41(b)(1) or (b)(2) and who is otherwise qualified to drive a commercial motor vehicle, may drive a commercial motor vehicle, if the State Director, FMCSA, has granted a Skill Performance Evaluation (SPE) Certificate to that person.

(b) *SPE certificate.*—(1) *Application.* A letter of application for an SPE certificate may be submitted jointly by the person (driver applicant) who seeks an SPE certificate and by the motor carrier that will employ the driver applicant, if the application is accepted.

(2) *Application address.* The application must be addressed to the applicable field service center, FMCSA, for the State in which the co-applicant motor carrier's principal place of business is located. The address of each, and the States serviced, are listed in § 390.27 of this chapter.

(3) *Exception.* A letter of application for an SPE certificate may be submitted unilaterally by a driver applicant. The application must be addressed to the field service center, FMCSA, for the State in which the driver has legal residence. The driver applicant must comply with all the requirements of paragraph (c) of this section except those in (c)(1)(i) and (iii). The driver applicant shall respond to the requirements of paragraphs (c)(2)(i) to (v) of this section, if the information is known.

(c) A letter of application for an SPE certificate shall contain:

(1) Identification of the applicant(s):

(i) Name and complete address of the motor carrier coapplicant;

(ii) Name and complete address of the driver applicant;

(iii) The U.S. DOT Motor Carrier Identification Number, if known; and

(iv) A description of the driver applicant's limb impairment for which SPE certificate is requested.

(2) Description of the type of operation the driver will be employed to perform:

(i) State(s) in which the driver will operate for the motor carrier coapplicant (if more than 10 States, designate general geographic area only);

(ii) Average period of time the driver will be driving and/or on duty, per day;

(iii) Type of commodities or cargo to be transported;

(iv) Type of driver operation (*i.e.,* sleeper team, relay, owner operator, etc.); and

(v) Number of years experience operating the type of commercial motor vehicle(s) requested in the letter of application and total years of experience operating all types of commercial motor vehicles.

(3) Description of the commercial motor vehicle(s) the driver applicant intends to drive:

(i) Truck, truck tractor, or bus make, model, and year (if known);

(ii) Drive train;

(A) Transmission type (automatic or manual—if manual, designate number of forward speeds);

(B) Auxiliary transmission (if any) and number of forward speeds; and

(C) Rear axle (designate single speed, 2 speed, or 3 speed).

(iii) Type of brake system;

(iv) Steering, manual or power assisted;

(v) Description of type of trailer(s) (*i.e.,* van, flatbed, cargo tank, drop frame, lowboy, or pole);

(vi) Number of semitrailers or full trailers to be towed at one time;

(vii) For commercial motor vehicles designed to transport passengers, indicate the seating capacity of commercial motor vehicle; and

(viii) Description of any modification(s) made to the commercial motor vehicle for the driver applicant; attach photograph(s) where applicable.

(4) Otherwise qualified:

(i) The coapplicant motor carrier must certify that the driver applicant is otherwise qualified under the regulations of this part;

(ii) In the case of a unilateral application, the driver applicant must certify that he/she is otherwise qualified under the regulations of this part.

(5) Signature of applicant(s):

(i) Driver applicant's signature and date signed;

(ii) Motor carrier official's signature (if application has a coapplicant), title, and date signed. Depending upon the motor carrier's organizational structure (corporation, partnership, or proprietorship), the signer of the application shall be an officer, partner, or the proprietor.

(d) The letter of application for an SPE certificate shall be accompanied by:

(1) A copy of the results of the medical examination performed pursuant to § 391.43;

(2) A copy of the medical certificate completed pursuant to § 391.43(e);

(3) A medical evaluation summary completed by either a board qualified or board certified physiatrist (doctor of physical medicine) or orthopedic surgeon. The coapplicant motor carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job-related tasks the driver applicant will be required to perform;

(i) The medical evaluation summary for a driver applicant disqualified under § 391.41(b)(1) shall include:

(A) An assessment of the functional capabilities of the driver as they relate to the ability of the driver to perform normal tasks associated with operating a commercial motor vehicle; and

(B) A statement by the examiner that the applicant is capable of demonstrating precision prehension (*e.g.,* manipulating knobs and switches) and power grasp prehension (*e.g.,* holding and maneuvering the steering wheel) with each upper limb separately. This requirement does not apply to an individual who was granted a waiver, absent a prosthetic device, prior to the publication of this amendment.

(ii) The medical evaluation summary for a driver applicant disqualified under § 391.41(b)(2) shall include:

(A) An explanation as to how and why the impairment interferes with the ability of the applicant to perform normal tasks associated with operating a commercial motor vehicle;

(B) An assessment and medical opinion of whether the condition will likely remain medically stable over the lifetime of the driver applicant; and

(C) A statement by the examiner that the applicant is capable of demonstrating precision prehension (*e.g.,* manipulating knobs and switches) and power grasp prehension (*e.g.,* holding and maneuvering the steering wheel) with each upper limb separately. This requirement does not apply to an individual who was granted an SPE certificate, absent an orthotic device, prior to the publication of this amendment.

(4) A description of the driver applicant's prosthetic or orthotic device worn, if any;

(5) Road test:

(i) A copy of the driver applicant's road test administered by the motor carrier coapplicant and the certificate issued pursuant to § 391.31(b) through (g); or

(ii) A unilateral applicant shall be responsible for having a road test administered by a motor carrier or a person who is competent to administer the test and evaluate its results.

(6) Application for employment:

(i) A copy of the driver applicant's application for employment completed pursuant to § 391.21; or

(ii) A unilateral applicant shall be responsible for submitting a copy of the last commercial driving position's employment application he/she held. If not previously employed as a commercial driver, so state.

(7) A copy of the driver applicant's SPE certificate of certain physical defects issued by the individual State(s), where applicable; and

(8) A copy of the driver applicant's State Motor Vehicle Driving Record for the past 3 years from each State in which a motor vehicle driver's license or permit has been obtained.

(e) *Agreement.* A motor carrier that employs a driver with an SPE certificate agrees to:

(1) File promptly (within 30 days of the involved incident) with the Medical Program Specialist, FMCSA service center, such documents and information as may be required about driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the driver applicant. This applies whether the driver's SPE certificate is a unilateral one or has a coapplicant motor carrier;

(i) A motor carrier who is a coapplicant must file the required documents with the Medical Program Specialist, FMCSA for the State in which the carrier's principal place of business is located; or

(ii) A motor carrier who employs a driver who has been issued a unilateral SPE certificate must file the required documents with the Medical Program Specialist, FMCSA service center, for the State in which the driver has legal residence.

(2) Evaluate the driver with a road test using the trailer the motor carrier intends the driver to transport or, in lieu of, accept a certificate of a trailer road test from another motor carrier if the trailer type(s) is similar, or accept the trailer road test done during the Skill Performance Evaluation if it is a similar trailer type(s) to that of the prospective motor carrier. Job tasks, as stated in paragraph (e)(3) of this section, are not

evaluated in the Skill Performance Evaluation;

(3) Evaluate the driver for those nondriving safety related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety related or job related tasks unique to the operations of the employing motor carrier; and

(4) Use the driver to operate the type of commercial motor vehicle defined in the SPE certificate only when the driver is in compliance with the conditions and limitations of the SPE certificate.

(f) The driver shall supply each employing motor carrier with a copy of the SPE certificate.

(g) The State Director, FMCSA, may require the driver applicant to demonstrate his or her ability to safely operate the commercial motor vehicle(s) the driver intends to drive to an agent of the State Director, FMCSA. The SPE certificate form will identify the power unit (bus, truck, truck tractor) for which the SPE certificate has been granted. The SPE certificate forms will also identify the trailer type used in the Skill Performance Evaluation; however, the SPE certificate is not limited to that specific trailer type. A driver may use the SPE certificate with other trailer types if a successful trailer road test is completed in accordance with paragraph (e)(2) of this section. Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated during the Skill Performance Evaluation.

(h) The State Director, FMCSA, may deny the application for SPE certificate or may grant it totally or in part and issue the SPE certificate subject to such terms, conditions, and limitations as deemed consistent with the public interest. The SPE certificate is valid for a period not to exceed 2 years from date of issue, and may be renewed 30 days prior to the expiration date.

(i) The SPE certificate renewal application shall be submitted to the Medical Program Specialist, FMCSA service center, for the State in which the driver has legal residence, if the SPE certificate was issued unilaterally. If the SPE certificate has a coapplicant, then the renewal application is submitted to the Medical Program Specialist, FMCSA field service center, for the State in which the coapplicant motor carrier's principal place of business is located. The SPE certificate renewal application shall contain the following:

(1) Name and complete address of motor carrier currently employing the applicant;

(2) Name and complete address of the driver;

(3) Effective date of the current SPE certificate;

(4) Expiration date of the current SPE certificate;

(5) Total miles driven under the current SPE certificate;

(6) Number of accidents incurred while driving under the current SPE certificate, including date of the accident(s), number of fatalities, number of injuries, and the estimated dollar amount of property damage;

(7) A current medical examination report;

(8) A medical evaluation summary pursuant to paragraph (d)(3) of this section, if an unstable medical condition exists. All handicapped conditions classified under § 391.41(b)(1) are considered unstable. Refer to paragraph (d)(3)(ii) of this section for the condition under § 391.41(b)(2) which may be considered medically stable.

(9) A copy of driver's current State motor vehicle driving record for the period of time the current SPE certificate has been in effect;

(10) Notification of any change in the type of tractor the driver will operate;

(11) Driver's signature and date signed; and

(12) Motor carrier coapplicant's signature and date signed.

(j)(1) Upon granting an SPE certificate, the State Director, FMCSA, will notify the driver applicant and co-applicant motor carrier (if applicable) by letter. The terms, conditions, and limitations of the SPE certificate will be set forth. A motor carrier shall maintain a copy of the SPE certificate in its driver qualification file. A copy of the SPE certificate shall be retained in the motor carrier's file for a period of 3 years after the driver's employment is terminated. The driver applicant shall have the SPE certificate (or a legible copy) in his/her possession whenever on duty.

(2) Upon successful completion of the skill performance evaluation, the State Director, FMCSA, for the State where the driver applicant has legal residence, must notify the driver by letter and enclose an SPE certificate substantially in the following form:

Skill Performance Evaluation Certificate

Name of Issuing Agency: _____
Agency Address: _____
Telephone Number: ( ) _____

Issued Under 49 CFR 391.49, subchapter B of the Federal Motor Carrier Safety Regulations

Driver's Name: _____
Effective Date: _____
SSN: _____
DOB: _____
Expiration Date: _____
Address: _____
_____
_____
Driver Disability: _____

Check One: __New __Renewal
Driver's License: _____ _____
(State) (Number)

In accordance with 49 CFR 391.49, subchapter B of the Federal Motor Carrier Safety Regulations (FMCSRs), the driver application for a skill performance evaluation (SPE) certificate is hereby granted authorizing the above-named driver to operate in interstate or foreign commerce under the provisions set forth below. This certificate is granted for the period shown above, not to exceed 2 years, subject to periodic review as may be found necessary. This certificate may be renewed upon submission of a renewal application. Continuation of this certificate is dependent upon strict adherence by the above-named driver to the provisions set forth below and compliance with the FMCSRs. Any failure to comply with provisions herein may be cause for cancellation.

CONDITIONS: As a condition of this certificate, reports of all accidents, arrests, suspensions, revocations, withdrawals of driver licenses or permits, and convictions involving the above-named driver shall be reported in writing to the Issuing Agency by the EMPLOYING MOTOR CARRIER within 30 days after occurrence.

LIMITATIONS:
1. Vehicle Type (power unit):* _____
2. Vehicle modification(s): _____
_____
3. Prosthetic or Orthotic device(s) (Required to be Worn While Driving): _____
_____
4. Additional Provision(s): _____
_____

NOTICE: To all MOTOR CARRIERS employing a driver with an SPE certificate. This certificate is granted for the operation of the *power unit only*. It is the responsibility of the employing motor carrier to evaluate the driver with a road test using the trailer type(s) the motor carrier intends the driver to transport, or in lieu of, accept the trailer road test done during the SPE if it is a similar trailer type(s) to that of the prospective motor carrier. Also, it is the responsibility of the employing motor carrier to evaluate the driver for those non-driving safety-related job tasks associated with the type of trailer(s) utilized, as well as, any other non-driving safety-related or job-related tasks unique to the operations of the employing motor carrier.

The SPE of the above named driver was given by a Skill Performance Evaluation Program Specialist. It was successfully completed utilizing the above named power unit and _____(trailer, if applicable)

The tractor or truck had a _____ transmission.

Please read the *NOTICE* paragraph above.
Name: _____
Signature: _____
Title: _____
Date: _____

(k) The State Director, FMCSA, may revoke an SPE certificate after the person to whom it was issued is given notice of the proposed revocation and has been allowed a reasonable opportunity to appeal.

(l) Falsifying information in the letter of application, the renewal application, or falsifying information required by this section by either the applicant or motor carrier is prohibited.

[FR Doc. 00–10700 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 9812224323–9226–02; I.D. 120198B]**

**RIN 0648–AL23**

### Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to the final rule for recordkeeping and reporting that was published in the **Federal Register** on November 15, 1999.

**DATES:** Effective December 15, 1999.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907–586–7008.

**SUPPLEMENTARY INFORMATION:** A final rule was published in the **Federal Register** on November 15, 1999 (64 FR 61964), to revise recordkeeping and reporting regulations. Figures 1 and 3 to 50 CFR part 679 list Federal reporting areas and coordinates for the boundaries of those areas. Recently the coordinates of Figures 1 and 3 were plotted using a Geographic Information System. This highly accurate plotting procedure revealed several errors in the published points depicting the boundary between the Bering Sea and the Gulf of Alaska. NMFS correctly revises the description of reporting areas 518 and 519 in Figure 1b and the description of reporting area 610 in Figure 3b.

**Correction**

In the final rule Revisions to Recordkeeping and Reporting Requirements published in 64 FR 61964, November 15, 1999, FR Doc. 99–28294, correct Figure 1b to Part 679 and Figure 3b to part 679.

On page 61984, under Figure 1 to Part 679—BSAI Statistical and Reporting Areas: b. Coordinates, correctly revise the description of reporting areas 518 and 519 to read as follows:

FIGURE 1 TO PART 679—BSAI STATISTICAL AND REPORTING AREAS

b. Coordinates

| Code | Description |
|---|---|
| * * * * * * * | |
| 518 | Bogoslof District: South of a straight line between 55°46′ N lat, 170°00′ W long and 54°30′ N lat, 167°00′ W long, and between 167°00′ W long and 170°00′ W long, and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed:<br>52°49.18′ N, 169°40.47′ W<br>52°49.24′ N, 169°07.10′ W<br>53°23.13′ N, 167°50.50′ W<br>53°18.95′ N, 167°51.06′ W |
| 519 | South of a straight line between 54°30′ N lat, 167°00′ W long and 54°30′ N lat, 164°54′ W long; east of 167°00′ W long; west of Unimak Island; and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed:<br>53°58.97′ N, 166°16.50′ W<br>54°02.69′ N, 166°02.93′ W<br>54°07.69′ N, 165°39.74′ W<br>54°08.40′ N, 165°38.29′ W<br>54°11.71′ N, 165°23.09′ W<br>54°23.74′ N, 164°44.73′ W |
| * * * * * * * | |

On page 61987, under Figure 3 to Part 679—Gulf of Alaska Statistical and Reporting Areas: b. Coordinates, correctly revise the description of reporting area 610 to read as follows:

FIGURE 3 TO PART 679–GULF OF ALASKA STATISTICAL AND REPORTING AREAS

b. Coordinates

| Code | Description |
|---|---|
| 610 | Western Regulatory Area, Shumagin District. Along the south side of the Aleutian Islands, including those waters south of Nichols Point (54°51′ 30″ N lat) near False Pass, and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed:<br>I1152°49.18′ N, 169°40.47′ W;<br>52°49.24′ N, 169°07.10′ W;<br>53°23.13′ N, 167°50.50′ W;<br>53°18.95′ N, 167°51.06′ W;<br>53°58.97′ N, 166°16.50′ W;<br>54°02.69′ N, 166°02.93′ W;<br>54°07.69′ N, 165°39.74′ W;<br>54°08.40′ N, 165°38.29′ W;<br>54°11.71′ N, 165°23.09′ W;<br>54°23.74′ N, 164°44.73′ W; and<br>southward to the limits of the US EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), between 170°00′ W long and 159°00′ W long. |

* * * * * * *

Dated: April 25, 2000.

**Penelope D. Dalton,**

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

[FR Doc. 00–10795 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register

Vol. 65, No. 84

Monday, May 1, 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 AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 77

**[Docket No. 99–038–3]**

### Tuberculosis in Cattle, Bison, Goats, and Captive Cervids; State and Zone Designations

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of reopening and extension of comment period.

**SUMMARY:** We are reopening and extending the comment period for our proposed rule that would amend the bovine tuberculosis regulations to establish new levels of tuberculosis risk classifications to be applied to States and zones within States. The proposed rule would also classify States and zones according to their tuberculosis risk with regard to captive cervids.

Additionally, it would amend the regulations to specify that the regulations apply to goats as well as to cattle, bison, and captive cervids, and would increase the amount of testing that must be done before certain cattle, bison, and goats may be moved interstate. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** We invite you to comment on Docket No. 99–038–1. We will consider all comments that we receive by May 8, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 99–038–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–038–1.

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

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Joseph Van Tiem, Senior Staff Veterinarian, VS, APHIS, USDA, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7716.

**SUPPLEMENTARY INFORMATION:**

#### Background

On March 7, 2000, we published in the **Federal Register** (65 FR 11912–11940, Docket No. 99–038–1) a proposal to amend the bovine tuberculosis regulations, contained in 9 CFR part 77. We proposed to: (1) Establish several new levels of tuberculosis risk classifications to be applied to States and zones within States; (2) classify States and zones according their tuberculosis risk with regard to captive cervids; (3) apply the regulations to goats as well as to cattle, bison, and captive cervids; and (4) increase the amount of testing required for the interstate movement of certain cattle, bison, and goats.

Comments on the proposed rule were required to be received on or before April 21, 2000. On March 24, 2000, we published in the **Federal Register** (65 FR 15877–15878, Docket No. 99–038–2) a correction to Docket No. 99–038–1. Comments on the proposed rule as corrected were required to be received on or before April 21, 2000.

Several commenters have requested that we extend the comment period on Docket No. 99–038–1 to allow additional time for members of the public to review the proposed rule and to submit comments. In response to these requests, we are reopening and extending the comment period on Docket No. 99–038–1 until May 8, 2000. This action will allow interested persons additional time to prepare and submit comments.

**Authority:** 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done at Washington, DC, this 26th day of April 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–10809 Filed 4–28–00; 8:45 am]

BILLING CODE 3410–34–U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

**[FRL–6585–2]**

### National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List Update

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete the Tenth Street Superfund Site from the National Priorities List and Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Tenth Street Superfund Site located in Oklahoma County, Oklahoma (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. All public comments regarding this proposed action which are submitted within 30 days of the date of this notice, to the address indicated below, will be considered by EPA. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is codified at Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300. The EPA and the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate and the Site should be deleted from the NPL.

**DATES:** The EPA will consider comments received by May 31, 2000.

**ADDRESSES:** Comments may be mailed to: Mr. Donn Walters, Community Relations Coordinator (6SF–PO), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733; (214) 665–6483 or 1–800–533–3508 (Toll Free).

*Information Repositories:* Comprehensive information on the Site has been compiled in a public deletion docket which may be reviewed and copied during normal business hours at the following Tenth Street Superfund Site information repositories:

U.S. EPA Region 6 Library (12th Floor), 1445 Ross Avenue, Dallas, Texas 75202–2733, 1–800–533–3508 (Toll Free)

Ralph Ellison Library, 2000 N.E. 23rd Street, Oklahoma City, Oklahoma 73111, (405) 424–1437

**FOR FURTHER INFORMATION CONTACT:** Mr. Noel Bennett, Remedial Project Manager (6SF–AP), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733; (214) 665–8514.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

## I. Introduction

This document was prepared by EPA Region 6 as Notice of Intent to Delete (NOID) the Tenth Street Superfund Site, Oklahoma City, Oklahoma County, Oklahoma (EPA Site Spill No. 0684; CERCLIS No. OKD980620967), from the National Priorities List (NPL). The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

The EPA will consider comments concerning this NOID which are submitted within thirty days of the date of this NOID. EPA has also published a notice of the availability of this NOID in the Daily Oklahoman.

Section II of this NOID explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Tenth Street Superfund Site and explains that the Site meets the deletion criteria.

## II. NPL Depletion Criteria

The NCP, at 40 CFR 300.425(e), provides that releases may be deleted from or recategorized on the NPL if no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria has been met:

i. Responsible parties or other parties have implemented all appropriate response actions required;

ii. All appropriate Fund-financed [1] response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

If, at the site of a release, EPA selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, CERCLA Subsection 121(c), 42 U.S.C. Section 121(c), requires that EPA review such remedial action no less often than each 5 years to ensure that human health and the environment are being protected by the remedial action. Since hazardous substances will remain at the Site,[2] EPA shall conduct such reviews. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.[3]

## III. Deletion Procedures

EPA followed these procedures regarding the proposed deletion:

(1) EPA Region 6 made a determination that no further response action is necessary to ensure protection of human health and the environment and that the Site may be deleted from the NPL;

(2) EPA has consulted with the appropriate environmental agency, the Oklahoma Department of Environmental Quality (ODEQ), and ODEQ concurs with EPA's proposed deletion decision;

(3) EPA has published, in a major local newspaper of general circulation at or near the Site, a notice of availability of the NOID, which includes an announcement of a 30-day public comment period regarding the NOID, and EPA distributed the NOID to appropriate State, local and Federal officials, and to other interested parties; and

(4) EPA made copies of information supporting the proposed deletion (i.e., the public deletion docket) available for public review in the Site information repositories (the locations of these repositories are identified above).

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility of the site for future response actions.

For deletion of this Site, EPA Region 6 will accept and evaluate public comments on this NOID before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by EPA Region 6.

## IV. Basis for Intended Site Deletion

### *A. Site Location and Description*

The Tenth Street Superfund Site (Site) is located at 3200 N.E. Tenth Street between Bryant Avenue and the North Canadian River and covers approximately 3.5 acres. The Site is located in Township 12N, Range 2W, Section 31 (the northeast corner of the Site is 35°28′42″ north latitude and 97°27′14″ west longitude). One residence is located adjacent to the west side of the Site. Residential subdivisions are located approximately one block to the north and approximately one block to the west of the Site.

### *B. Site History*

Aerial photos have been used to identify early Site activities. These show that in 1951 a meander loop of the North Canadian River cut almost directly through the Site. Between 1951 and 1954, the River was channelized and levees constructed on both sides of the River. The Site, including the cutoff meander loop, was operated as a municipal landfill during this period. No activity at the Site is noted between 1954 and 1959. Beginning in 1959, Mr. Raymond Cobb leased the Site from Mr. Sullivan Scott and used the Site as a salvage yard, accepting materials such

[1] The "Fund" referred to here is the Hazardous Substance Superfund established by section 9507 of chapter 98 of the Internal Revenue Code of 1986.

[2] Contaminated soil remains on the Site under a multi-media impermeable cap which covers approximately 3.5 acres of the Site. EPA considers the cap to be protective; nonetheless, since hazardous substances will remain on the Site, EPA is required to conduct the CERCLA-required five-year reviews.

[3] The Hazardous Ranking System is the method used by EPA to evaluate the relative potential of hazardous substance releases to cause health or safety problems, or ecological or environmental damage.

as tires, solvents, and transformers. The dielectric fluids from the transformers contained Polychlorinated Biphenyls (PCBs). The fluids were drained from the transformers, then transferred to barrels and sold. During the recovery process, substantial quantities of transformer oil were spilled onto the ground. Mr. Cobb continued this operation until his death in 1979, when Mr. Rolling Fulbright began operating the Site as Deadeye's Salvage Yard, an automobile salvage yard.

Sampling by the EPA in 1984 and 1985 identified PCB concentrations up to 39,000 parts per million (ppm) in the soil at the Site. After reviewing the data, EPA determined that the contaminants posed an imminent and substantial endangerment to human health and the environment. As a result, the Regional Administrator for EPA Region 6 authorized the removal action in an Action Memorandum dated August 23, 1985. The EPA conducted a removal action for the Site from September 1985 until April 1987 to address direct human contact threats and the potential for offsite migration of contaminants. An exemption to allow continuation of the removal action beyond the six-month time limit was granted by the Regional Administrator on May 7, 1986.

The removal action consisted of the removal and disposal of the electrical equipment and drums containing hazardous substances; decontamination and relocation of automobiles and other salvage material; consolidation of contaminated soils to the center of the Site; grading of the Site for effective drainage and installation of a synthetic liner and clay cap, and erection of a security fence around the Site. The clay cap placed during the removal action was constructed as a temporary cap and not a permanent cap for a permanent remedy. The Site was proposed for the National Priorities List (NPL) in January 1987 (52 FR 2492) and placed on the NPL in July 1987 (52 FR 27620).

*C. Characterization of Risk*

The EPA initiated a Remedial Investigation/Feasibility Study (RI/FS) in 1989. The RI determined the types and amounts of contaminants present at the Site and discovered the extent of contamination. The RI indicated that PCBs were the contaminants of concern at the Site, based on concentration and risk; that contamination was limited to soil at the Site; and that no ground water or surface water contamination from the Site was detected. The predominant PCB species present was Aroclor 1260. The FS developed and evaluated a range of alternatives to remediate the contamination. The RI was finalized in March 1990 and the FS was finalized in July 1990. A proposed plan for the Site was issued in August 1990, presenting the preferred remedial alternative of chemical dechlorination of the contaminated soil.

The Regional Administrator for EPA Region 6 signed a Record of Decision (ROD) on September 27, 1990. Through the ROD, EPA selected Alternative 4—Excavation, Onsite Chemical Treatment, as the remedy for the Tenth Street Superfund Site. As noted in the ROD in the ''Statement of Basis and Purpose,'' the State of Oklahoma did not support the original remedy selected in the ROD.

The EPA issued an Alternative Remedial Contract Strategy (ARCS) work assignment to the Remedial Design (RD) contractor on March 28, 1991, for design of the onsite chemical treatment remedy. During the RD, problems with the implementation of this process which EPA had encountered at other Superfund sites became apparent. Problems that were experienced included: low production rates; severe odor problems given off from the treatment process and persisting in the soil after treatment; ''soupy'' (wet) physical condition of the treated soil and the ensuing need for stabilization before placement back on the ground as backfill; soil volume increases of 100% during treatment, causing space problems for backfilling on the site; and leaching of residual reagent from the soil following treatment.

In addition to the aforementioned technical problems posed by chemical dechlorination, treatment of the contaminated soil at this Site was further complicated by the existence of construction debris and other types of solid waste that had been dumped at the Tenth Street Site prior to the PCB spills. The PCB-contaminated soil became mixed with the solid waste at the Site. The materials handling problems resulting from such a mixture further complicated the treatment remedy and contributed to increased construction cost estimates.

As a result, EPA re-evaluated the remedial alternatives for the Site. On September 30, 1993, the Regional Administrator for EPA Region 6 executed an amendment of the ROD for the Site (ROD Amendment). The major components of the remedy selected in the ROD Amendment, which was concurred upon by the State, included: (1) Excavation and placement of contaminated soil, with PCB concentrations greater than 25 ppm, from the roadway right-of-way on the south side of N.E. Tenth Street onto the existing cap; (2) allowing the Oklahoma Department of Transportation's widening of Tenth Street to cover contaminated soil in the roadway right-of-way on the north side of N.E. Tenth Street; (3) construction of a new cap meeting the technical requirements for caps under the Toxic Substances Control Act (TSCA), 40 CFR 761.75 (b) (1) and (2); and (4) maintenance of the cap and ground water monitoring. Cap maintenance will continue in perpetuity. Ground water monitoring will continue until PCB contamination is undetected in five consecutive years of annual monitoring.

The EPA determined that this alternative was protective of human health and the environment, complied with Federal and State requirements that are applicable or relevant and appropriate, was cost-effective compared to equally protective alternatives, and utilized permanent solutions and alternative treatment technologies to the maximum extent practicable. This remedy did not satisfy the statutory preference for treatment as a principal element.

In May 1994, EPA entered into an Interagency Agreement (IAG) with the U.S. Army Corps of Engineers (USCOE) (Tulsa District) to perform the Remedial Design (RD) for the Site based on the ROD Amendment. The EPA also entered into another IAG with the USCOE in April 1994, to perform the Remedial Action (RA) for the Site. Subsequently, the USCOE contracted with Abatement Systems, Inc., of Broken Arrow, Oklahoma to perform the RA for the Site. The contract with Abatement Systems, Inc., was awarded on April 26, 1995. The USCOE provided contract supervision and quality assurance during the RA.

The USCOE, at EPA's direction, issued the notice to proceed for the remediation contract on May 31, 1995. Actual remediation activities at the Site began August 28, 1995. The following operations were conducted according to design specifications set forth in the RD package as part of the remediation:

—Sampling and disposal of 26 drums.
—Over-drilling and grouting of three existing monitoring wells.
—Excavation and relocation of PCB contaminated soil from the perimeter of the Site.
—Installation and development of new monitoring wells.
—Placement of 3-foot thick clay barrier layer.
—Placement of geomembrane, drainage net, and geotextile.
—Installation of perimeter drain system.
—Placement of cover soil and topsoil layers.

Approximately 4,655 cubic yards of soil with PCB concentrations greater

than 25 ppm, the health-based performance standard, were excavated from the north and west perimeter and the south corner of the perimeter of the Site, and placed in the area to be capped. The above quantity included additional excavation of 275 cubic yards of soil which the USCOE determined to exceed cleanup standards after the initial excavation sampling. The completion of the selected remedy addressed the principal threat posed by the Site, by preventing direct contact of humans with the contaminated soil and by reducing the mobility of the contamination.

In January 1997, ODEQ began inspection, maintenance, and monitoring activities in accordance with the approved operation and maintenance (O&M) plan, issued May 1995. The ground water monitoring wells at the Site are being sampled annually. Monitoring will consist of sampling five monitoring wells, two up gradient and three down gradient, to verify that PCBs from this Site are not contaminating the ground water. In addition, ODEQ will mow the grass on the cap, inspect the cap for damage, and make any repairs to the cap necessitated by erosion or other damage.

The EPA issued the Final Close Out Report for the Site on July 3, 1997, after consultation with ODEQ. The Close Out Report concluded that the Site met all of the site completion requirements as specified in Close Out Procedures for National Priorities List Sites (OSWER Directive 9320.2–09). The EPA has determined that the remedy for the Site is operational and functional. Specifically, the EPA and ODEQ have determined that all analytical results were accurate to the degree needed to assure satisfactory execution of the RA, and consistent with the ROD, as amended, and RD plans and specifications. All contaminated soil with more than 25 ppm PCBs has been placed under the clay barrier layer and the geomembrane as evidenced by confirmation sampling. Infiltration of precipitation will be retarded by this liner, thereby reducing possible leaching of the contaminants into the ground water. Additionally, protection of the ground water has been verified by the first sampling round, conducted at the completion of the RA, which found no detectable levels of PCBs in the samples collected from the five monitoring wells.

Consistent with Section 121(c) of CERCLA, 42 U.S.C. 9621(c), and the requirements of the OSWER Directive 9355.7–02 (''Structure and Components of Five-Year Reviews,'' May 23, 1991), a five-year review will be required at the Tenth Street Superfund Site. The EPA must conduct statutory five-year reviews at sites where, upon attainment of ROD cleanup levels, hazardous substances remaining within restricted areas onsite will not allow unlimited use of the entire site.

*D. Community Involvement*

The Site has been the object of considerable public interest from residents living in the vicinity of the Site. As a result, EPA conducted an active community relations effort to ensure that the residents were informed about the activities at the Site. A Technical Assistance Grant (TAG) was awarded to assist a local citizens group to be better informed and to have input into project activities. Community meetings were conducted by EPA at major project milestones to keep the community informed about the project and to receive their input. Public participation activities have satisfied the requirements of CERCLA Subsection 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied upon in making this recommendation of Site deletion from the NPL have been made available to the public in the two information repositories referenced herein above.

*E. Proposed Action*

In consultation with ODEQ, the EPA has concluded that all appropriate response actions required at the Site have been completed (neither the CERCLA-required five-year reviews, nor operation and maintenance of the constructed remedy is considered further response action for these purposes), that all appropriate Fund-financed response actions under CERCLA have been implemented, and that no further remedial action is appropriate. Moreover, the EPA, in consultation with ODEQ, has determined that the Site now poses no significant threat to public health or the environment. Consequently, the EPA proposes to delete the Site from the NPL.

Dated: April 13, 2000.

**Sam R. Becker,**

*Acting Regional Administrator, U.S. EPA Region 6.*

[FR Doc. 00–10647 Filed 4–28–00; 8:45 am]

BILLING CODE 6560–50–P

# Notices

Federal Register
Vol. 65, No. 84
Monday, May 1, 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.

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Notice of Public Information Collections being Reviewed by the Agency for International Development; Comments Requested

**SUMMARY:** U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Send comments on this information collection on or before June 9, 2000.

**FOR FURTHER INFORMATION CONTACT:** Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail bjohnson@usaid.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB No.:* OMB 0412–0514.

*Form No.:* N/A.

*Title:* Rules and Procedures Applicable to Commodity Transactions.

*Type of Review:* Renewal of Information Collection.

*Purpose:* USAID finances transactions under Commodity Import programs and needs to assure that the transaction complies with applicable statutory and regulatory requirements. In order to assure compliance and request refund when appropriate, information is required from host country importers, suppliers receiving from host country importers, suppliers receiving USAID funds and banks making payments for USAID.

*Annual Reporting Burden:*

*Respondents:* 308.

*Total annual responses:* 1991.

*Total annual hours requested:* 869 hours.

Dated: April 21, 2000.

**Joanne Paskar,**

*Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.*

[FR Doc. 00–10775 Filed 4–28–00; 8:45 am]

BILLING CODE 6116–01–M

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Food Distribution Program: Substitution of Donated Poultry With Commercial Poultry

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the Food and Nutrition Service's (FNS) intent to continue a demonstration project to test program changes designed to improve the State processing of donated poultry by allowing the substitution of donated poultry supplied by the Department of Agriculture (the Department) with commercial poultry. The Department is currently operating a demonstration project that allows selected poultry processors to substitute commercial poultry for donated poultry in the State processing of donated poultry. Only bulk pack poultry and poultry parts are eligible for substitution under the current demonstration project. Notice of the project, which commenced operation on February 1, 1996, was published in the **Federal Register** at 61 FR 5373 on February 12, 1996. The project was expanded and extended through June 30, 2000 (64 FR 35582, July 1, 1999). Under the demonstration project, FNS invoked its authority under 7 CFR 250.30(t) to waive the current prohibition at 7 CFR 250.30 (f)(1)(i) against the substitution of poultry items and to establish the criteria under which substitution will be permitted.

The Department will continue to operate the demonstration project from July 1, 2000 through June 30, 2002. The Department will use the results of the demonstration project to further examine whether allowing the additional substitution will result in increased processor participation and provide a greater variety of processed end products to recipient agencies in a more timely manner at lower costs.

**DATES:** The proposals described in this Notice may be submitted to FNS through June 30, 2000. Note that the demonstration project runs until June 30, 2002.

**ADDRESSES:** Proposals should be sent to Suzanne Rigby, Chief, Schools and Institutions Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, Park Office Center, 3101 Park Center Drive, Alexandria, Virginia 22302–1594.

**FOR FURTHER INFORMATION CONTACT:** David Brothers, Schools and Institutions Branch, at (703) 305–2644.

**SUPPLEMENTARY INFORMATION:**

#### Executive Order 12866

This notice has been determined to be not significant and therefore was not reviewed by the Office of Management and Budget under Executive Order 12866.

#### Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.550 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22675, May 31, 1984).

#### Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and is thus exempt from the provisions of that Act.

#### Background

Section 250.30 of the current Food Distribution Program regulations (7 CFR part 250) sets forth the terms and conditions under which distributing

agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for processing donated foods and prescribes the minimum requirements to be included in such contracts. Section 250.30(t) authorizes FNS to waive any of the requirements contained in 7 CFR part 250 for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods.

**Current Program Requirements**

The State processing regulations at Section 250.30(f)(1)(i) currently allow for the substitution of certain specified donated food items with commercial foods, with the exception of meat and poultry. Under the current regulations at Section 250.30(g), when donated meat or poultry products are processed or when any commercial meat or poultry products are incorporated into an end product containing one or more donated foods, all of the processing is required to be performed in plants under continuous Federal meat or poultry inspection or continuous State meat or poultry inspection in States certified to have programs at least equal to the Federal inspection programs. In addition to Food Safety Inspection Service (FSIS) inspection, all donated meat and poultry processing must be performed under Agricultural Marketing Service (AMS) acceptance service grading.

Traditionally only a few companies have processed donated poultry. Those processors have stated that the policy prohibiting the substitution of donated poultry reduces the quantity of donated poultry they are able to accept and process during a given period. Poultry purchased by USDA for further processing is bulk chill packed. Processors must schedule production around deliveries of the donated poultry since it is a highly perishable product. Some of the processors must schedule production around deliveries of donated poultry for up to 30 individual States. Vendors do not always deliver donated poultry to the processors as scheduled, causing delays in production of end products. These delays may be alleviated if the processors can substitute their commercial poultry for donated poultry.

**Demonstration Project**

From July 1, 2000 to June 30, 2002, the Department will continue to operate a demonstration project under which it will permit approved processors to substitute commercial poultry for donated poultry in the State processing of donated poultry. FNS is invoking its authority under 7 CFR 250.30(t) to waive the current prohibition in 7 CFR 250.30(f)(1)(i) against the substitution of poultry for purposes of this demonstration project.

The demonstration project will be limited to bulk pack chicken, chicken parts, and bulk pack turkey because the processing of such items can be readily evaluated. The definition of substitution in 7 CFR 250.3 requires the replacement of commercial product for donated food to be of the same generic identity and equal or better quality. With bulk pack chicken, chicken parts, and bulk pack turkey these requirements can be met easily and quickly. Bulk pack turkey has been added to the original demonstration project that allowed for the substitution of bulk pack chicken and bulk pack chicken parts because USDA graders can easily determine if commercial turkey meets or exceeds the specifications for donated turkey.

FNS is inviting interested poultry processors to submit written proposals to participate in the demonstration project. The following basic requirements will apply to the demonstration project:

- As with the processing of donated poultry into end products, AMS graders must monitor the processing of any substituted commercial poultry to ensure program integrity is maintained.
- Only bulk pack chicken, chicken parts, and bulk pack turkey delivered by USDA vendors to the processor will be eligible for substitution. No backhauled product will be eligible. (Backhauled product is typically cut-up frozen poultry parts delivered to schools which may be turned over to processors for further processing at a later time.)
- Substitution of commercial poultry may occur in advance of the actual receipt of the donated poultry by the processor. However, no substitution may occur before the product is purchased by USDA and the contract is awarded. Lead time between the purchase and delivery of donated poultry may be up to five weeks. Any variation between the amount of commercial poultry substituted and the amount of donated poultry received by the processor will be adjusted according to guidelines furnished by USDA.
- Any donated poultry not used in end products because of substitution must only be used by the processor at one of its facilities in other commercial processed products and cannot be sold as an intact unit. However, in lieu of processing the donated poultry, the processor may use the product to fulfill other contracts with USDA provided all terms of the other contract are met.
- The only regulatory provision or State processing contract term affected by the demonstration project is the prohibition on substitution of poultry (section 250.30(f)(1)(i) of the regulations). All other regulatory and contract requirements remain unchanged and must still be met by processors participating in the demonstration project.

The demonstration project will enable FNS to evaluate whether to propose amendment of program regulations to provide for the substitution of donated poultry with commercial poultry in the State processing program. Particular attention will be paid to whether such an amendment of the regulations would probably increase the number of processors participating, and whether it would probably increase the quantity of donated poultry that each processor accepts for processing. Further, FNS will attempt to determine whether the expected increase in competition and the expected increase in the quantity of donated poultry accepted for processing enables processors to function more efficiently, producing a greater variety of processed poultry end products in a more timely manner at lower costs.

The initial, but limited, data gathered from recipient agencies, AMS graders, and AMS procurement has been positive. USDA is convinced that given additional time, more chicken processors will decide to participate. The limited participation in the demonstration, to date, has not provided FNS with sufficient data to make an informed decision regarding benefits that might accrue to State processing programs should the terms of the demonstration be made permanent.

Interested processors should submit a written proposal to FNS outlining how they plan to carry out the substitution while complying with the above conditions. Processors who are currently participating in the demonstration should apply to continue in the demonstration. The proposal must contain (1) a step-by-step description of how production will be monitored, (2) a complete description of the records that will be maintained for (a) the commercial poultry substituted for the donated poultry and (b) the disposition of the donated poultry delivered. All proposals will be reviewed by representatives of the Food Distribution Division of FNS and by representatives of AMS Poultry Division's Grading Branch. Companies approved for participation in the demonstration project will be required to enter into an agreement with FNS and AMS which authorizes the processor to substitute commercial bulk pack

chicken, chicken parts, and bulk pack turkey in fulfilling any current or future State processing contracts during the demonstration project period. Participation in the demonstration project will not ensure the processor will receive any State processing contracts.

Dated: April 19, 2000.

**Samuel Chambers, Jr.,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 00–10745 Filed 4–28–00; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Change of Commodity Reporting and Analysis on Cocoa and Honey

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

**ACTION:** Notice of change of commodity reporting and analysis on cocoa and honey.

**SUMMARY:** Beginning with the June, 2000, *Tropical Products: World Markets and Trade* Circular and the November, 2000, *Sugar: World Markets and Trade* Circular, commodity and country analysis and statistical tables for cocoa and honey will be discontinued. This decision is due to declining Foreign Agricultural Service (FAS) budget resources and the need to more strategically target remaining resources in support of the agency's primary mission to facilitate the expansion of export opportunities for U.S.-produced agricultural commodities. The availability of similar production and trade information from other sources was also a factor behind the decision. FAS expects to continue to receive voluntary reporting on cocoa production and trade from an abbreviated number of countries and these will continue to be posted on the FAS Home page upon receipt: http://www.fas.usda.gov.

**FOR FURTHER INFORMATION CONTACT:** Nancy Hirschhorn, Horticultural and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1049 or telephone at (202) 720–2974.

Issued at Washington, DC, the 24th day of April, 2000.

**Richard Fritz,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 00–10810 Filed 4–28–00; 8:45 am]

**BILLING CODE 3410–10–M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Natural Areas Trails Environmental Impact Statement

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Intent to Prepare an Environmental Impact Statement.

**SUMMARY:** The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement (EIS) to analyze seven Natural Areas for designation of hiker/equestrian trails on the Shawnee National Forest and to amend the Shawnee Natural Forest Land and Resource Management Plan (LRMP) to increase trail density standards in Management Area (MA) 5.1.

**Proposed Federal Action**

The proposed Federal action includes:

(1) Designation trails for hiker/equestrian use in or around three natural areas, and allowing construction, reconstruction and maintenance on the trails. The analysis will include four other natural areas although additional specific trail locations are not being proposed in those areas.

(2) Amending the LRMP to increase the Forest Service (FS) system trail density standards in MA 5.1 (Wilderness) from 1-mile of trail per square mile to 2-miles of trail per square mile.

A more specific description follows: Maps of the proposed management action will be made available for viewing and photocopying specific areas of interest at each of the Shawnee National Forest (NF) offices. Electronic viewing is proposed to be available by May 10, 2000 on the Shawnee NF website: *www.fs.fed.us/r9/shawnee.*

(1) Natural Area Trails—The proposed Federal action includes Forest System trail proposals for hiker/equestrian designation in Jackson Hollow, Double Branch Hole and Lusk Creek (Ecological/Zoological) Natural Areas. Hiker/equestrian trails have already been designated in Garden of the Gods, and LaRue Pine Hills Natural Areas within corroders shown on the Trail Corridor Map attached to the ALRMP of 1992. There are currently no proposed trail locations for Little Grand Canyon, Bulge Hole or the portion of the Lusk Creek Zoological area lying south of the Eddyville–Golconda blacktop.

Based upon a site-specific review of the trail corridors suggested on the Trail Plan Corridor Map in the LRMP 1992 Amendment (ALRMP), designation of hiker/equestrian trails is not possible in Little Grand Canyon and Bulge Hole Natural Areas for the following reasons: (a) The Trail Map did not recognize the cliff and deep drainages which prohibit the north-south location of a trail in Little Grand Canyon. In addition, annual flooding would make trail construction and maintenance for equestrian use impractical; (b) extremely steep terrain in Bulge Hole makes an equestrian trail proposal expensive and impractical, and (c) there was no evidence of user-created equestrian trail routes in either of these areas prior to closure. There appears to be little or no evidence of equestrian use near the Lusk Creek Zoological Area south of the Eddyville-Golconda blacktop. The Shawnee is proposing no additional trails at this time in that area. Suggestions for the Bulge Hole Ecological Area, the Little Grand Canyon Ecological Area, and the Lusk Creek Zoological (south of the Eddyville-Golconda blacktop) that surface during the scoping process may assist in the development of alternatives.

Within all Natural Areas (Management Area 8.2) equestrian use is restricted to designated Forest Service system trails. Maps of proposed trails can be viewed at each of the Shawnee National Forest offices. A decision to designate hiker/equestrian trails would include future construction, reconstruction and maintenance of the trails using equipment, where appropriate, or by hand.

(2) Amending the ALRMP trail density standards in MA 5.1 (Wilderness) from 1 mile of trail per square mile to 2 miles of trail per square mile. (One square mile is equivalent to 640 acres. Two miles of trail would occupy 1 to 2 acres.) This action would allow the designation of the proposed trails in and around Natural Areas (MA 8.2) in this management area. In addition, at the time of the signing of the ALRMP in 1992, designated Forest Service system trails were within the trail density standards. However, the Forest Plan Trail Corridor Map identifies potential trail corridors that would exceed the trail density standards, if implemented.

Decision to be made are whether or not to:

(1) Designate, construct, reconstruct, maintain equestrian/hiker trails in or around seven natural areas;

(2) Amend the ALRMP to increase trail density standards in MA 5.1 from 1 mile per square mile to 2 miles per square mile; and

(3) The decision to be made includes the Forest Supervisor's approval of site-specific mitigation and/or monitoring standards.

*Alternatives*—In preparing the environmental impact statement the Forest Service will consider a reasonable range of alternatives to the proposed action, including the ''no action'' alternative. The no action alternative will be the continuation of implementing the ALRMP, 1992, and all current laws, regulations, and Forest Orders, which apply. In the no action alternative, no additional Forest Service system hiker/equestrian trails would be designated in or around the Natural Areas named above, other than those already designated; and Forest Service system trail density standards would not change, limiting the total number of miles of system trails allowable in MA 5.1 around Natural Areas within Wilderness. The no action alternative is the baseline against which the effects of other alternatives are compared, and represents the present course until the action is changed.

In addition to the no action alternative, other alternatives will be considered depending on the types of issues received from the public. Possible alternatives may include other locations for Natural Area trails and different Forest Service system trail densities. These as well as other alternatives based on public comments may be analyzed. Suggestions on later natives that meet the purpose and need for the proposed Federal action are welcome.

*Purpose and Need for the Action*—The purpose of this proposal is to provide a quality recreational experience for equestrian users and hikers on designated trails in and around Natural Areas (MA 8.2) while protecting their unique values. Management Prescription 8.2 provides for the preservation, protection and enhancement of the unique features found within these Natural Areas. A Forest Order issued by the Forest Supervisor has closed all Natural Areas to equestrian use except on designated trails (Forest System Trails designated for equestrian use). The ALRMP of 1992 Trail Corridor Map displays potential trail corridors in seven Natural Areas. In some cases trails have already been designated on locations shown on the Trail Corridor Map. The proposed action is to designate, construct and maintain additional hiker/equestrian trails within the Natural Areas mentioned above in accordance with the ALRMP of 1992.

*Issues*—Issues that have been identified relating to this proposal include:

—Soil erosion and sedimentation as a result of equestrian use;
—Equestrian access to the scenic places within natural areas. There are 80 natural areas. Seven natural areas are being analyzed for the designation of hiker/equestrian trails.
—Impacts of equestrian use on native plant communities and threatened and endangered species within the natural areas;
—Conflicts of equestrian use on the hiker experiences within the natural areas and in the Wilderness;
—Conflicts and safety concerns of equestrian use in a popular rock climbing area at Jackson Falls;
—Social impacts of high densities of user-created and system trails in Wilderness;
—Inadequate numbers of marked and maintained Forest System trail opportunities for all users, particularly for equestrian users;
—Adequate Forest System trail infrastructure to accommodate equestrian use in all seasons;
—Equestrian use on user-created trails that have not been designed specifically for this use.

*Scoping and Public participation*—The initial scoping period begins May 1, 2000 and ends June 15, 2000. We will meet with the public on May 18, 2000 at the Marion Hotel and Conference Center, 2600 West DeYoung, Marion, Illinois from 2 pm to 7 pm and again with the issuance of the Draft EIS with the purpose of addressing questions or concerns, and obtaining new input. We will also meet with the public at other points during the analysis as the need arises. The Draft Environmental Impact Statement is anticipated to be available by January, 2001. The Final EIS is anticipated in July, 2001. The Forest Service invites written comments that identify and/or clarify issues relating to the proposal. General opinions, not specific to the proposals, have limited usefulness. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a previous relevant environment analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (*i.e.,* direct, indirect, and cumulative effects).
6. Determining potential cooperative agencies.

Initial scoping letters have been sent, and comments received on the Double Branch Hole and Jackson Hollow proposed Natural Area trails EA. The comments already received for these EA's and further analysis will be incorporated into this EIS.

**ADDRESSES:** Submit written comments and suggestions related to the scope of analysis to Richard Johnson, Vienna Ranger District, P.O. Box 37, Vienna, IL 62995 or sent electronic comments to *mlross@fs.fed.us* subject: Natural Area Trails EIS.

**FOR FURTHER INFORMATION CONTACT:** Forest L. Starkey, Forest Supervisor, Shawnee National Forest, telephone: (618) 253–7114, or Richard Johnson, EIS Team Leader, Vienna Ranger District, P.O. Box 37, Vienna, IL. 62995, (618) 658–2111, email: *mlross@fs.fed.us.* A detailed scoping package is available by contacting Richard Johnson at the address listed above or on the Shawnee National Forest's website at *http://www.fs.fed.us/r9/shawnee/.*

**SUPPLEMENTARY INFORMATION:** Public participation will be an integral component of the study process, and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments and assistance from Federal, State, County, and local agencies, individuals and organizations that may be interested in or affected by the proposed activities. The scoping process will include: (1) Identification of potential issues, (2) identification of issues to be analyzed in depth, and (3) elimination of insignificant issues or those which have been covered by a previous environmental review. Written scoping comments will be solicited through a scoping package that will be sent to the project mailing list and the local newspaper. For the Forest Service to best use the scoping input, comments should be received by June 15, 2000. The Shawnee National Forest Amended Forest Land and Resource Management Plan, was approved by Regional Forester, Floyd J. Marita, in 1992. Within Natural Areas (8.2 Management Areas) equestrian use is prohibited except on designated trails. LaRue Pine Hills, Garden of the Gods and Lusk Creek Zoological Natural Areas have Forest System trails designated for hikers and equestrians. In addition, Little Grand Canyon has trails designated for hiking only. Lusk Creek Zoological Area is the Creek from bank to bank. No new equestrian trails have been designated in Natural Areas.

Based on the results of scoping and the resource conditions within the project area, alternatives (including a no-action alternative) will be developed for the Draft EIS. The Draft EIS is projected to be filed with the Environmental Protection Agency (EPA) in December 2000. The Final EIS is anticipated in July, 2001.

The comment period on the Draft EIS will be 45 days from the date that the

EPA publishes the notice of availability in the **Federal Register**.

At this early stage, the Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EISs must structure their participation in the environmental review of the proposal, so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,553, (1978). Also, environmental objections that could have been raised at the draft EIS stage, but that are not raised until the completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2nd 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period on the Draft EIS, so that substantive comments and objections are made available to the Forest Service at a time when they can be meaningfully considered and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may address the adequacy of the draft EIS, or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR 1503.3, in addressing these points.

*Lead and Cooperating Agencies:* The Shawnee National Forest manages approximately 277,000 acres within its proclomation boundaries. It is the lead agency for preparation of this document.

*Responsible Official:* Forrest L. Starkey, Forest Supervisor, Shawnee National Forest, is the responsible official. In making the decision, the responsible official will consider the comments; responses; disclosure of environmental consequences; and applicable laws, regulations, and policies. The responsible official will state the rationale for the chosen alternative in the Record of Decision.

Dated: April 21, 2000.

**Forrest L. Starkey,**

*Forest Supervisor.*

[FR Doc. 00–10776 Filed 4–28–00; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

### Notice and Comment Period for the Natural Resources Conservation Service Revised Pest Management Policy

**AGENCY:** Natural Resources Conservation Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** Notice is hereby given of the decision of the Natural Resources Conservation Service (NRCS) to adopt a revised policy for providing pest management technical assistance. This revised policy will be disseminated within the agency through updates of the agency's General Manual. It includes revision of existing policy in Title 450, Part 401, Subpart A, Technical Guides, Policy and Responsibilities and new policy in Title 190, Part 404, Ecological Sciences, Pest Management Policy. This policy will be implemented through the revision of the agency's conservation practice standards for Pest Management (595). This national conservation practice was developed to reflect the new policy.

**DATES:** This Federal Register notice will commence a 30-day comment period which will end May 31, 2000.

**ADDRESSES:** The revised policy can be viewed on the internet at: *http://www.nhq.nrcs.usda.gov/BCS/pest/pest.html.* Address requests and comments to: Lara Philbert, Natural Resources Conservation Service, P.O. Box 2890, Room 6158–S, Washington, DC 20013–2890.

**FOR FURTHER INFORMATION CONTACT:** Benjamin F. Smallwood, Natural Resources Conservation Service, (202) 720–7838; fax (202) 720–1814.

**SUPPLEMENTARY INFORMATION:** The Pest Management Policy is a document intended for NRCS employees as they provide technical assistance to landowners and land managers. Section 343 of the Federal Agriculture Improvement and Reform Act of 1996, requires NRCS to make available for public review and comment proposed revisions to conservation practice standards used to carry out the highly erodible land and wetland provisions of the law. This policy supports the conservation practice standard for Pest Management (Code 595), which is being prepared for publication in the Federal Register.

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Signed in Washington, DC, on April 21, 2000.

**Danny D. Sells,**

*Associate Chief, Natural Resources Conservation Service.*

[FR Doc. 00–10800 Filed 4–28–00; 8:45 am]

BILLING CODE 3410–16–U

## DEPARTMENT OF COMMERCE

### Bureau of the Census

### [Docket Number 000410099–0099–01]

**RIN 0607–ZA03**

### Expansion of Census Information Center Program

**AGENCY:** Bureau of the Census, Department of Commerce.

**ACTION:** Program solicitation.

**SUMMARY:** The purpose of this notice is to announce the expansion of the Census Information Center (CIC) Program, the community-based component of the Bureau of the Census' (Census Bureau's) Data Dissemination Network and to invite eligible organizations to submit a proposal to be considered for inclusion in the Program. The Census Bureau's Data Dissemination Network currently consists of 12 permanent Regional Offices, 1,800 state and local governmental organizations participating in the State Data Center Program, 1,400 public and university libraries designated as federal depository libraries, and 36 national, regional, and local nonprofit

organizations participating in the CIC Program. The CICs tailor census data to local communities and the local groups they serve. They interpret and explain what census data mean for local communities and neighborhoods, and they increase awareness, education, and understanding of the value and uses of census data. For their participation in the CIC Program, CICs receive free access to a wide variety of Census Bureau products, information, and services, including training from Census Bureau staff. The Census Bureau currently has a Memorandum of Understanding (MOU) with five national, non-profit organizations to disseminate census information and data to underserved communities and populations.

We are seeking to add up to 60 organizations to the Program, subject to the availability of appropriations. The **SUPPLEMENTARY INFORMATION** section provides a detailed description of the CIC Program, eligibility, requirements, proposal format, content, submission instructions, review, evaluation, and notification processes.

**DATES:** Proposals must be received by June 30, 2000.

**ADDRESSES:** Submit proposals to Mr. Stanley J. Rolark, Chief, Customer Liaison Office, Census Bureau, 4700 Silver Hill Road, Room 3616, Federal Office Building 3, Washington, DC 20233.

**FOR FURTHER INFORMATION CONTACT:** Anyone requesting additional information about the CIC Program, or wanting to submit written statements or questions, may contact Ms. Barbara A. Harris, Program Administrator, Customer Liaison Office, Census Bureau, 4700 Silver Hill Road, Room 3620, Federal Office Building 3, Washington, DC 20233 (or via the Internet to <Barbara.A.Harris@ccmail.census.gov>).

**SUPPLEMENTARY INFORMATION:** This section provides a discussion of the following items for the CIC Program: eligibility; program description; program requirements; proposal format, content, submission instructions; and the review, evaluation and notification process.

## A. Eligibility

National nonprofit organizations representing underserved communities are eligible to participate in the CIC Program. Some regional and local nonprofit organizations representing smaller population groups like American Indians and Alaska Natives and those representing minority serving institutions and local minority chambers of commerce are also eligible. Some of the types of organizations we are seeking to include are, but not limited to, minority serving colleges and universities, minority chambers of commerce, civil rights, social justice, social service, minority think tanks, research organizations, and organizations serving rural, children, and youth populations.

## B. Census Information Center (CIC) Program Description

The CIC Program was started in 1988 to add a community-based component to the Census Bureau's Data Dissemination Network. The CICs play a crucial role in the Data Dissemination Network by providing access and understanding of the value and uses of census data in underserved communities and neighborhoods. The Census Bureau provides the CICs free access to a wide variety of data products, information, and services. CICs also receive training and technical support from Census Bureau staff. In return, the CICs interpret and explain what census data mean for local communities. The current CIC participants have used census data in areas such as program planning, planning and analysis of service areas and scope of services, public policy development and impact, business development, and race and ethnic related research projects. Current participants are the National Urban League, National Council of La Raza, William C. Velasquez Institute, the Asian and Pacific Islander American Health Forum, the Native American Public Telecommunications, and 31 local affiliated organizations.

The Customer Liaison Office (CLO) of the Census Bureau administers the CIC Program. All participants must sign a MOU with the Census Bureau. The MOU lists the specific services offered by the Census Bureau and the specific conditions that each CIC must meet.

## C. CIC Program Requirements

1. *The Census Bureau provides the following services to a CIC through the CIC Program:*

- Free access to a wide variety of Census Bureau products, information, and services for use in data access and dissemination activities. These products include, but are not limited to, printed reports, CD–ROM products, electronic files, Internet-based products (through the *American Factfinder*), subscriptions, documentation, guides, catalogs, statistical compendia, indexes, maps, mapping databases, and other reference materials. This does not include access to confidential data or custom tabulations. ]
- Training and technical support on Census Bureau data products and services. This includes, but is not limited to, training at Census Bureau headquarters, training sponsored by Census Bureau regional offices, or training via available technologies, such as teleconferencing, video presentations, and other training materials.
- Training and instruction on the use of the Census Bureau's web site and Internet delivery system, the American Factfinder.
- Periodic and timely communications with CICs through e-mail, written correspondence, telephone conference calls, meetings, site visits, annual conference, and a Listserv maintained by the Census Bureau.
- Tools (*e.g.* brochures, booklets, directories, etc.) developed to assist in marketing the services of the CICs.
- A web site that provides information about the CIC Program and provides links to the web site of the CICs.
- A log for CICs to keep records of their CIC activities.

2. *A CIC provides the following services to the community through the CIC Program:*

- Access to census statistics, data, and reports to underserved communities and data users who might not have access through the other components of the Census Bureau's Data Dissemination Network. CIC's provide access through media such as print, fax, newsletters, telephone, e-mail, community workshops and press releases.
- Census data packaged in ways (e.g. fact sheets and briefs) that make the data clearer and more appropriate for community and local use. They also will help local data users with limited knowledge of census data find the right data for their needs.
- Clear, nontechnical interpretation and explanation of what census data mean for local communities and neighborhoods.
- Technical assistance and consultation on the Census Bureau data products to data users and underserved populations by telephone, e-mail, fax, community workshops, etc.
- Reasonable walk-in access to census information (optional). Some organizations may not be set up for ''walk-in'' clients.

3. *A CIC provides the following items/services to the Census Bureau through the CIC Program:*

- Copies of any CIC reports, fact sheets, briefs, and articles produced using census data.

• An annual report of activities, including an accounting of the recipients and users of these products.

• A record of inquires addressed.

• Maintains a web site that highlights the work of their CIC Program and links to Census Bureau web site.

• Participates in an annual CIC conference and Census Bureau sponsored training.

4. *The Census Bureau will conduct the following monitoring and evaluation activities under the CIC Program. The Census Bureau will:*

• Make periodic site visits to CICs (budget permitting) as a means of evaluating how well CICs are meeting program requirements. CICs will provide an annual report with measurable evidence that they are meeting program requirements. This includes providing copies of reports, fact sheets, brief, articles, etc., produced using census data; an accounting of the recipients and users of these products; and a record of inquiries addressed.

• Maintain frequent contact and communication with the CICs by conducting periodic conference calls to continually assess the status of CIC participation and to share new information about programs or activities.

• Reserve the right to terminate the relationship if the CICs are not meeting the program requirements.

**D. Suggested Proposal Format, Content, and Submission Instructions**

The suggested format below encourages applicants to describe their data dissemination plans, community outreach and record of service to underserved populations, research and data use capability and expertise, and past experience working with the Census Bureau. Applicants are not required, however, to use the suggested format.

*1. Proposal Format*

The following is the suggested format, which should include the following information:

• Organizations should submit one original and one copy of their proposal in response to this solicitation. An original signature transmittal letter should be included at the beginning of the original proposal and proposal copy, transmitting the proposal to the official identified in the **ADDRESSES** section of this notice.

• Proposals should not exceed 10 pages. This does not include the transmittal letter.

• Proposals should be in English. Proposal pages should be submitted on 8½ by 11 inch paper with printing on only one side (single sided). The information should be double-spaced. The typewritten or printed letters should be Times New Roman or similar type, 12 point.

*2. Proposal Content*

Each proposal should include the following: a description of your organization, program summary, and program requirements (4 components).

a. Description of Your Organization: This section should include background information about your organization, including history, mission, programs, services, constituency, etc.

b. Program Summary: The program summary should include a brief description of the opportunities and challenges, goals and objectives, and primary focus of your CIC Program. It also should detail how your organization will use census data to benefit underserved communities. The program summary should include a brief description of research or data products you are contemplating and any specific areas of application for your research, especially as it relates to underserved communities.

c. Program Requirements: In this section, you should respond to each of the following components:

i. Data Dissemination Plans: Describe how your organization will disseminate census data to underserved communities and populations. How will your organization make census information, data, and reports available to local communities and data users served by your organization? How will you provide data and information to data users without Internet access? How will you provide assistance to data users who need help interpreting and understanding the uses and/or implications of census data?

ii. Community Outreach and Record of Service to Underserved Communities: Provide a brief statement of your organization's focus as it relates to underserved communities. What is the geographic focus of your organization? Be sure to cite specific locations where services are provided. Which underserved populations are serviced by your organization? What types of services do you provide to underserved communities? What is the number of persons served directly by your organization on an annual basis?

iii. Research and Data Use Capability and Expertise: Describe your organization's specific capabilities and expertise in conducting research, using census data or other statistical data. Include information on your publications and current uses of census data. Describe how your organization has used or plans to use census data to benefit underserved communities, neighborhoods and populations. Describe what resources (staff, equipment, time) you will commit to your CIC Program. What plans do you have to obtain the necessary resources to run your CIC?

iv. Past Experience: In what ways has your organization worked with the Census Bureau in the past?

*3. Proposal Submission Instructions*

Proposals must be received by the date identified in the **DATES** section of this notice. Submit proposals to the official identified in the **ADDRESSES** section of this notice.

**E. Review, Evaluation, and Notification Process**

*1. Review Process*

Census Bureau staff will initially screen all proposals received in response to this notice for timeliness (received by the due date), completeness (includes transmittal letter with signature and specified number of copies), and adequacy (includes proper format and content).

Following the initial proposal screening process, remaining proposals will be evaluated, scored, and reviewed in the Evaluation Process.

*2. Evaluation Process*

All proposals will be evaluated on the strength of the responses to the requirements in the content section. In evaluating proposals, the Census Bureau will give the highest consideration to an organization's data dissemination plans. We also will consider the geographic location, focus, and diversity of organizations to ensure that underserved communities in particular locations have access to census information. Proposals will be reviewed by an evaluation panel of five to seven members with at least three members from outside the Census Bureau who have knowledge and understanding of the CIC Program.

The evaluation factors will be:

• Data dissemination plans (40 points).

• Research and data use capabilities and expertise (35 points).

• Outreach and record of service to underserved communities (20 points).

• Past experience with the Census Bureau (5 points).

A program officer assigned to the proposal review process will consider the advice of the Evaluation Panel and will formulate recommendations for the Selection Panel. The Selection Panel will make final decisions on who will be included in the CIC Program.

*3. Notification Process*

Organizations selected to participate in the CIC Program will be notified in writing by August 31, 2000. The Census Bureau Program Office administering the program will advise organizations whose proposals are declined as promptly as possible.

*4. New Participant Information*

New participants will be invited to attend a Census Bureau sponsored orientation and training conference tentatively scheduled for September 27–29, 2000.

**Paperwork Reduction Act**

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Bureau of Census Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Dated: April 20, 2000.

**Kenneth Prewitt,**

*Director, Bureau of the Census.*

[FR Doc. 00–10371 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–07–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 March anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

**EFFECTIVE DATE:** May 1, 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 March anniversary dates.

**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 March 31, 2001.

| | Period to be reviewed |
|---|---|
| **Antidumping duty proceedings** | |
| Canada: Iron Construction Castings, A–122–503 | 3/1/99–2/29/00 |
| Bibby-Ste. Croix | |
| Laperle Foundry | |
| Mexico: Steel Wire Rope, A–201–806 | 3/1/99–12/31/99 |
| Aceros Camesa, S.A. de C.V. | |
| Cablesa, S.A. de C.V. | |
| Thailand: Certain Welded Carbon Steel Pipes and Tubes, A–549–502 | 3/1/99–2/29/00 |
| Saha Thai Steel Pipe Company, Ltd. | |
| **Countervailing Duty Proceedings** | |
| Pakistan: Shop Towels, C–535–001 | 1/1/99–12/31/99 |
| M/s. Mehtabi Towel Mills (Pvt.) Ltd. Karachi | |
| M/s. Aqil Textile Industries, Karachi | |
| M/s. Quality Linen Supply Corp., Karachi | |
| M/s. Shahi Textiles, Karachi | |
| M/s. Jawwad Industries, Karachi | |
| M/s. Silver Textile Factory, Karachi | |
| M/s. Fine Fabrico, Karachi | |
| M/s. United Towel Exporters, Karachi | |
| M/s. R.I. Weaving, Karachi | |
| M/s. Universal Linen, Karachi | |
| M/s. Ejaz Linen, Karachi | |
| M/s. Ahmed & Co., Karachi | |
| **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 section 351.211 or a determination under section 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 193 amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: April 24, 2000.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary, Group II for Import Administration.*

[FR Doc. 00–10690 Filed 4–28–00; 8:45 am]

**BILLING CODE 3510–DS–M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[(A–351–603)(C–351–604)(A–122–601)(A–427–602)(C–427–603)(A–475–601)(A–428–602)(A–588–704)]**

### Continuation of Antidumping Duty Orders and Countervailing Duty Orders: Brass Sheet and Strip From Brazil, Canada, France, Italy, Germany, and Japan

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of continuation of antidumping duty orders and countervailing duty orders: Brass sheet and strip from Brazil, Canada, France, Italy, Germany, and Japan.

**SUMMARY:** On September 3, 1999 (with respect to Brazil, France, and Italy), on September 14, 1999 (with respect to Germany and Japan), and on November 11, 1999 (with respect to Canada), the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty orders on brass sheet and strip from Brazil, France, Italy, Germany, Japan, and Canada, and the countervailing duty orders on brass sheet and strip from Brazil and France, would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (64 FR 48351, 48351, 48348, 49767, 49765, 66165, 48367, 48369, respectively). On April 18, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of these antidumping and countervailing duty orders on brass sheet and strip would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 5369). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of antidumping duty orders on brass sheet and strip from Brazil, France, Italy, Germany, Japan, and Canada, and the countervailing duty orders on brass sheet and strip from Brazil and France.

**EFFECTIVE DATE:** May 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Eun W. Cho or Carole Showers, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–3217, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On February 1, 1999, the Department initiated, and the Commission instituted, sunset reviews (64 FR 4840 and 64 FR 4892, respectively) of the antidumping duty orders on brass sheet and strip from Brazil, France, Italy, Germany, Japan, and Canada, and the countervailing duty orders on brass sheet and strip from Brazil and France, pursuant to section 751(c) of the Act. As a result of its reviews, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the orders to be revoked.[1] In addition, the Department determined that revocation of the countervailing duty orders would likely lead to continuation or recurrence of countervailable subsidies and notified the Commission of the net countervailable subsidies likely to prevail were the order revoked.[2]

On April 18, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on brass sheet and strip from Brazil, France, Italy, Germany, Japan, and Canada, and the countervailing duty orders on brass sheet and strip from Brazil and France, would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see,* Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, 65 FR 20832 (April 18, 2000) and USITC Publication 3290, Investigations Nos. 701–TA–269 & 270 (Review), and 731–TA–311–317 and 379–380 (Review) (April 2000)).

### Scope

The merchandise subject to this order is brass sheet and strip, other than leaded and tinned, from Brazil, France, Italy, Germany, Japan, and Canada. The chemical composition of the subject merchandise is defined in the Copper Development Association (''C.D.A.'') 200 Series or the Unified Numbering System (''U.N.S.'') C2000 Series. This order does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this order have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (''HTS'') item numbers 7409.21.00.50, 7409.21.00.75, 7409.21.00.90, 7409.29.00.50, 7409.29.00.75, and 7409.29.0090.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings remains dispositive.

### Determination

As a result of the determinations by the Department and the Commission that revocation of these antidumping duty orders and countervailing duty orders would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on brass sheet and strip from Brazil, France, Italy, Germany, Japan, and Canada, and of the countervailing duty orders on brass sheet and strip from Brazil and France. The Department will instruct the U.S. Customs Service to continue to collect antidumping and countervailing duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this Notice of Continuation.

[1] See Final Results of Expedited Sunset Reviews: Brass Sheet and Strip from Brazil, France, and Korea, 64 FR 48351 (September 3, 1999); Final Results of Expedited Sunset Review: Brass Sheet and Strip from Italy, 64 FR 48348 (September 3, 1999); Final Results of Expedited Sunset Review: Brass Sheet and Strip from Germany, 64 FR 49767 (September 14, 1999); and Final Results of Full Sunset Review: Brass Sheet and Strip From Canada, 64 FR 66165 (November 24, 1999).

[2] See Final Results of Expedited Sunset Review: Brass Sheet and Strip from Brazil, 64 FR 48367 (September 3, 1999); Final Results of Expedited Sunset Review: Brass Sheet and Strip from France, 64 FR 48369 (September 3, 1999).

Pursuant to section 751(c)(2) and 751 (c)(6) of the Act, the Department intends to initiate the next five-year review of these orders not later than March 2005.

Dated: April 25, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–10802 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–603; A–421–701; A–401–601]**

### Revocation of Antidumping Duty Orders: Brass Sheet and Strip From the Republic of Korea, the Netherlands, and Sweden

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of revocation of antidumping duty orders: Brass sheet and strip from the Republic of Korea, the Netherlands, and Sweden.

**SUMMARY:** Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the United States International Trade Commission (''the Commission'') determined that revocation of the antidumping duty orders on brass sheet and strip from the Republic of Korea (''Korea''), the Netherlands, and Sweden are not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 20832 (April 18, 2000)). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), the Department of Commerce (''the Department'') is revoking the antidumping duty orders on brass sheet and strip from Korea, the Netherlands, and Sweden. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2), the effective date of revocation is January 1, 2000.

**EFFECTIVE DATE:** January 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Eun W. Cho or Carole Showers, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–3217, respectively.

On February 1, 1999, the Department initiated, and the Commission instituted, sunset reviews (64 FR 4840 and 64 FR 4892, respectively) of the antidumping duty orders on brass sheet and strip from Korea, the Netherlands, and Sweden, pursuant to section 751(c) of the Act. As a result of the reviews, the Department found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the antidumping orders revoked.[1]

On April 18, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on brass sheet and strip from Korea, the Netherlands, and Sweden would not likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. (*see*, Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, 65 FR 20832 (April 18, 2000) and USITC Publication 3290, Investigations Nos. 701–TA–269 & 270 (Review), and 731–TA–311–317 and 379–380 (Review) (April 2000)).

### Scope

Imports covered by this order are brass sheet and strip, other than leaded and tin brass sheet and strip, from Korea, the Netherlands, and Sweden. The chemical composition of the products under order is currently defined in the Copper Development Association (''CDA'') 200 Series or the Unified Numbering System (''UNS'') C20000 series. This order does not cover products the chemical composition of which are defined by other CDA or UNS series. The physical dimensions of the products covered by this order are brass sheet and strip of solid rectangular cross section over 0.006 inch (0.15 millimeter) through 0.188 inch (4.8 millimeters) in gauge, regardless of width. Coiled, wound-on-reels (traverse-wound), and cut-to-length products are included. The merchandise subject to this order is currently classifiable under item numbers 7409.21.00.50, 7409.21.00.75, 7409.21.00.90, 7409.29.00.50, 7409.29.00.75, and 7409.29.0090 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

[1] See Final Results of Expedited Sunset Reviews: Brass Sheet and Strip from Brazil, France, and Korea, 64 FR 48351 (September 3, 1999); Final Results of Full Sunset Review: Brass Sheet and Strip from the Netherlands, 65 FR 735 (January 6, 2000); and Final Results of Expedited Sunset Review: Brass Sheet and Strip from Sweden, 64 FR 49444 (September 13, 1999).

### Determination

As a result of the determination by the Commission that revocation of these antidumping duty orders is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), is revoking the antidumping duty orders on brass sheet and strip from Korea, the Netherlands, and Sweden. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), this revocation is effective January 1, 2000.

The Department will instruct the U.S. Customs Service to discontinue the suspension of liquidation and collection of cash deposits rate on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: April 25, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–10803 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–853]**

### Notice of Preliminary Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** May 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Charles Riggle at (202) 482–0650 or Constance Handley at (202) 482–0631, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

### 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 Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

**Preliminary Determination**

We preliminarily determine that circular seamless stainless steel hollow products (SSHP) from Japan are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

*Case History*

On October 26, 1999, the Department received a petition on SSHP from Japan filed in proper form by Altx, Inc., American Extruded Products, PMAC Ltd, DMV Stainless USA, Inc., Salem Tube Inc., Sandvik Steel Co., International Extruded Products LLC and the United Steel Workers of America, AFL–CIO/CLC. On November 9, 1999, Pennsylvania Extruded Company (Pexco) joined as a co-petitioner in the case.

This investigation was initiated on November 15, 1999. *See Initiation of Antidumping Duty Investigation: Circular Seamless Stainless Steel Hollow Products from Japan (Initiation Notice),* 64 FR 63285 (November 19, 1999). Since the initiation of the investigation, the following events have occurred:

On December 22, 1999, the Department selected the following companies as mandatory respondents in the investigation: Sanyo Special Tube Company Ltd. (Sanyo) and Sumitomo Metal Industries Ltd. (SMI). *See Selection of Respondents,* below. On December 29, 1999, the Department issued the antidumping questionnaires to each of the selected respondents. On February 28, March 3, March 8, and March 15, 2000, the Department issued supplemental questionnaires to SMI. SMI responded to the section A supplemental questionnaire on March 6, 2000, however, it did not respond to any of the other supplemental questionnaires.

On December 10, 1999, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to this antidumping investigation are materially injuring the U.S. industry. *See Circular Seamless Stainless Steel Hollow Products from Japan,* 64 FR 71496 (December 21, 1999).

*Period of Investigation*

The period of investigation (POI) is October 1, 1998, through September 30, 1999. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* October 1999).

*Scope of Investigation* [1]

The scope of this investigation covers seamless stainless hollow products, including pipes, tubes, redraw hollows, and hollow bars, of circular cross section, containing 10.5 percent or more by weight chromium, regardless of production process, outside diameter, wall thickness, length, industry specification (domestic, foreign or proprietary), grade or intended use. Common specifications for the subject seamless stainless steel hollow products include, but are not limited to, ASTM–A–213, ASTM–A–268, ASTM–A–269, ASTM–A–270, ASTM–A–271, ASTM–A–312, ASTM–A–376, ASTM–A–498, ASTM–A–511, ASTM–A–632, ASTM–A–731, ASTM–A–771, ASTM–A–789, ASTM–A–790, ASTM–A–826 and their proprietary or foreign equivalents.

The merchandise covered by this petition is found in the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7304.10.50.20, 7304.10.50.50, 7304.10.50.80, 7304.41.30.05, 7304.41.30.15,7304.41.30.45, 7304.41.60.05, 7304.41.60.15, 7304.41.60.45, 7304.49.00.05, 7304.49.00.15, 7304.49.00.45, 7304.49.00.60. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of the investigation are finished oil country tubular goods certified to American Petroleum Institute (API) standard 5CT or 5D or to a proprietary OCTG specification if such OCTG products are (1) not certified, marked or otherwise warranted or qualified for use as a non-OCTG product; (2) produced to a common OCTG casing, tubing or drill pipe size as found in the standard size tables of API specifications 5CT and 5D, or produced to standard VIT sizes for deep-water temperature-controlled tubing; (3) rated for a minimum yield strength of not less than 85,000 psi and a minimum tensile strength of not less than 100,000 psi, as noted on the mill certificate or other relevant sales documentation; (4) continuously stenciled with the appropriate API and/or proprietary OCTG specification, size (*e.g.,* outside diameter and weight), minimum yield and tensile strength, and the phrase ''OCTG,'' ''oil country tubular goods'' or a similar phrase, with such information also written on the entry documents; (5) not marked or otherwise certified as meeting a specification other than an API or proprietary OCTG specification whether or not also marked, warranted or certified to an OCTG specification; and (6) not used in any application other than a down-hole, OCTG application. Any OCTG products marked, certified or otherwise warranted for non-OCTG use, or actually used in a non-OCTG application, are within the scope of this investigation.

Also excluded from the scope of this investigation is OCTG coupling stock that (1) is entered within the same entry as matching (complimentary) sizes and matching grades of exempted OCTG, or (2) is entered with documentation linking the entered OCTG coupling stock products to another entry of matching sizes and grades of OCTG, and (3) is actually used in the production of OCTG couplings or other OCTG accessories. All coupling stock that does not have such ''Mother-Child Traceability'' remains within the scope of the investigation, and coupling stock that is traceable remains within the scope if used in an application other than the production of OCTG couplings or accessories.

Line pipe marked, produced, warranted, or certified only to API or proprietary line pipe specifications and used in a pipeline application is excluded from the scope of the investigation. Line pipe products are included in the scope if (1) marked, produced, warranted, or certified to one of the covered seamless stainless steel hollow products specifications listed above (or their proprietary or foreign equivalents), whether or not also certified to an API, proprietary, or foreign line pipe specification, or (2) are used in an application other than in an oil or gas pipeline.

Also excluded are hollow drill bars and rods, classifiable under item number 7228.80 of the HTSUS.

With regard to the excluded OCTG products, OCTG coupling stock, and line pipe used in oil or gas pipeline applications, the Department will not instruct Customs to require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that imports of these products are not being used for their intended purpose of OCTG or oil or gas line pipe

[1] On March 28, 2000, the petitioners requested that the scope of the investigation be amended to exclude certain products. This change is reflected in the current scope.

is occurring. If such information is provided, we will require end-use certification only for the product(s) (or specification(s)) for which the evidence demonstrates such new use. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to a proprietary specification is being used in a non-OCTG application, we will require end-use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

*Selection of Respondents*

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can be reasonably examined.

Upon consideration of the resources available to the Department, we determined that it was not practicable to examine all known producers/exporters of the subject merchandise. Instead, because there were numerous producers/exporters of the subject merchandise during the POI, we selected as mandatory respondents the two with the greatest export volume, Sanyo and SMI. Together, they accounted for more than 50 percent of all known exports of the subject merchandise during the POI from Japan. For a more detailed discussion of respondent selection in this investigation, *see Respondent Selection Memorandum,* dated December 22, 1999.

*Facts Available*

Sanyo did not respond to the Department's questionnaire. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Because Sanyo failed to respond to our questionnaire, pursuant to section 776(a)(2)(A) of the Act, we resorted to facts otherwise available to determine the dumping margins for this company.

SMI responded to sections A through D of the Department's questionnaire, but did not respond to the Department's requests for information necessary to correct the deficiencies in its responses. For a detailed discussion of this issue, *see Memorandum from Constance Handley to Holly Kuga, Re: Use of Facts Available,* dated April 13, 2000.

Because SMI did not fully respond to our requests for information, without which we are unable to perform an analysis of its pricing practices or costs, we preliminarily determine that the use of facts available is appropriate, in accordance with section 776(a)(2)(A) of the Act.

Section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994) (SAA). Failure by Sanyo to respond to the Department's antidumping questionnaire constitutes a failure to act to the best of its ability to comply with a request for information, within the meaning of section 776 of the Act. Because Sanyo failed to act to the best of its ability to respond to the Department's request for information, the Department has preliminarily determined that, in selecting from among the facts otherwise available, an adverse inference is warranted for Sanyo.

Likewise, SMI's failure to respond to the preponderance of the requests for information, constitutes a failure to act to the best of its ability. SMI did not provide the requested information even after being granted additional time when it failed to make a timely response. Therefore, the Department has preliminarily determined that, in selecting from among the facts otherwise available, an adverse inference is warranted for SMI.

Because we were unable to calculate margins for the respondents, consistent with Department practice, we assigned to Sanyo and SMI the highest margin from the proceeding, which is the highest margin alleged in the petition. *See, e.g., Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand,* 64 FR 60410, 60414 (November 5, 1999). *See Initiation Notice.*

Section 776(b) states that an adverse inference may include reliance on information derived from the petition. *See also* SAA at 829–831. Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see* SAA at 870).

We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose. *See Import Administration AD Investigation Initiation Checklist,* dated November 15, 1999, for a discussion of the margin calculations in the petition. In addition, in order to determine the probative value of the margins in the petition for use as adverse facts available for purposes of this determination, we examined evidence supporting the calculations in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petition were based.

Our review of the EP and NV calculations indicated that the information in the petition has

probative value, as certain information included in the margin calculations in the petition is from public sources concurrent, for the most part, with the POI (*e.g.,* international freight and insurance, customs duty, interest rates). However, with respect to certain other data included in the margin calculations of the petition (*e.g.,* gross United States and home market unit prices), neither the respondents nor other interested parties provided the Department with further relevant information, and the Department is aware of no other independent source of information that would enable it to further corroborate the remaining components of the margin calculation in the petition. The implementing regulation for section 776 of the Act, codified at 19 CFR 351.308(c) states, ''[t]he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' Additionally, we note that the SAA at 870 specifically states that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. Accordingly, we find, for purposes of this preliminary determination, that this information is corroborated to the extent practicable.

*All Others Rate*

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the ''all others'' rate, the simple average of the margins in the petition. We have done so in this case. *See, e.g., Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand,* 65 FR 5520, 5528 (February 4, 2000).

*Suspension of Liquidation*

For entries of SSHP from Japan, we are directing the U.S. Customs Service to suspend liquidation of those entries that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Sanyo Special Tube | 156.81 |
| Sumitomo Metal Industries | 156.81 |
| All Others | 62.14 |

*ITC Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of the preliminary determination or 45 days after the date of our final determination.

*Public Comment*

Case briefs must be submitted no later than 30 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 10 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of issuance of this preliminary determination.

This determination is published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 21, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–10691 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–848]**

### Notice of Extension of Time Limit for Preliminary Results of Administrative Antidumping Review and New Shipper Reviews: Freshwater Crawfish Tail Meat From the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** May 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Arrowsmith or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–4052 or (202) 482–3020, respectively.

**The Applicable Statute**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351 (1999).

**Background**

In accordance with 19 CFR § 351.213(b)(2), the Department received requests from the following companies that we conduct an administrative review of their sales: Huaiyin Foreign Trade Corp. (30); Huaiyin Foreign Trade Corp. (5); Huaiyin Foreign Trade Corp.; Yancheng Baolong Biochemical Products Co., Ltd.; Qingdao Rirong Foodstuff Co., Ltd.; Lianyungang Haiwang Aquatic Products Co., Ltd.; Yancheng Haiteng Aquatic Products and Foods Co., Ltd.; and Yancheng Foreign Trade Corp. Petitioner in the proceeding, the Crawfish Processors Alliance, also requested an administrative review of the following:

China Everbright Trading Company; Binzhou Prefecture Foodstuffs Import & Export Corp.; Huaiyin Foreign Trade Corporation; Huaiyin Foreign Trade Corporation (5); Yancheng Foreign Trade Corporation; Jiangsu Cereals, Oils & Foodstuffs Import & Export Corp.; Yancheng Baolong Aquatic Foods Co.; Huaiyin Ningtai Fisheries Co., Ltd.; Nantong Delu Aquatic Food Co., Ltd.; Ningbo Nanlian Frozen Foods Company, Ltd.; Qingdao Rirong Foodstuff Co.; Lianyungang Haiwang Aquatic Products Company Ltd.; Yancheng Baolong Biochemical Products Co., Ltd.; Zhenfeng Foodstuff Co.; Weishan Hongfa Lake Foodstuff Co., Ltd.; Ever Concord; Hua Yin Foreign Trading; Huaiyin Foreign Trading; Lianyungang Hailong Aquatic Product; Qiafco; Seatrade International; Weishan Jinmuan Foodstuff; Welly Shipping, aka Kenwa Shipping; Yancheng Foreign Trading; Jiangsu Baolong Group; Asia-Europe; Jiangsu Aquatic Products Freezing Plant; and Yupeng Fishery. We published a notice of initiation of this antidumping duty administrative review on November 4, 1999 (64 FR 60161).

On February 1, 2000, the Crawfish Processor Alliance, petitioner in this case, withdrew their request for review for the following companies: China Everbright Trading Company; Binzhou Prefecture Foodstuffs Import & Export Corp.; Jiangsu Cereals, Oils & Foodstuffs Import & Export Corp.; Yancheng Baolong Aquatic Foods Co.; Huaiyin Ningtai Fisheries Co., Ltd.; Nantong Delu Aquatic Food Co., Ltd.; Ever Concord; Lianyungang Hailong Aquatic Product; Qiafco; Seatrade International; Welly Shipping, aka Kenwa Shipping; and Yancheng Foreign Trading.

In accordance with 19 CFR § 351.214, Yixing Ban Chang Foods Co., Ltd.; Fujian Pelagic Fishery Group Company; Shantou SEZ Yangfeng Marine Products Company; Yangzhou Lakebest Foods, Co., Ltd.; Suquian Foreign Trade Co., Ltd.; and Qingdao Zhengri Seafood Co. Ltd. requested that we conduct a new shipper review of their sales. We published a notice of initiation of these new shipper reviews on November 15, 1999 (64 FR 61833).

On February 25, 2000, Yixing Ban Chang Foods Co., Ltd. withdrew its request for review.

### Extension of Time Limits for Preliminary Results

The Department has determined that the issues are extraordinarily complicated and it is not practicable to complete this review within the time limits mandated by section 751(a)(2)(B)(iv) of the Act and sections 351. 213(h)(2) and 351.214(i)(2) of the Department's regulations. See the *Memorandum from Edward C. Yang to Joseph A. Spetrini, Extension of Time Limits for the Preliminary Results of Administrative Review and New Shipper Reviews of Freshwater Crawfish Tail Meat from the People's Republic of China,* dated April 7, 2000.

Therefore, in accordance with these sections, the Department is extending the time limits for the preliminary results to August 27, 2000.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for AD/CVD Enforcement III.*

[FR Doc. 00–10808 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–570–848]**

## Notice of Extension of Time Limit for Preliminary Results of New-Shipper Antidumping Review: Freshwater Crawfish Tail Meat From the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** May 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Sarah Ellerman or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4106 and (202) 482–3020, respectively.

### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

### Background

On March 30, 1999,the Department received a request from Yancheng Haiteng Aquatic Products & Foods Co., Ltd. to conduct a new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China. On May 6, 1999, the Department published its initiation of this new shipper review covering the period of September 1, 1998 through February 28, 1999 (64 FR 24328). On March 15, 2000, the Department published the preliminary results of review (65 FR 13939).

### Extension of Time Limits for Final Results

Because of the complexities enumerated in the *Memorandum from Edward C. Yang to Joseph A. Spetrini, Extension of Time Limit for the Final Results of New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China,* dated April 7, 2000, we find this review to be extraordinarily complicated and thus are unable to complete these reviews within the time limits mandated by section 351.214(i)(2) of the Department's regulations.

Therefore, in accordance with section 351.214(i)(2) of the Department's regulations, the Department is extending the time period for issuing the final results of review until June 23, 2000.

Dated: April 7, 2000.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary, AD/CVD Enforcement Group III.*

[FR Doc. 00–10807 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

## International Trade Administration

## Notice of Initiation of Five-Year (''Sunset'') Reviews of Antidumping Duty Orders: Furfuryl Alcohol From the People's Republic of China and Thailand

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of the antidumping duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders.

**FOR FURTHER INFORMATION CONTACT:** Martha V. Douthit, or Carole A. Showers, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–5050, or (202) 482–3217, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

**SUPPLEMENTARY INFORMATION:**

## Initiation of Reviews

In accordance with 19 CFR 351.218 (see Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping and countervailing duty orders or suspended investigations:

| DOC Case No. | ITC Case No. | Country | Product |
|---|---|---|---|
| A–570–835 | A–731–703 | China | Furfuryl Alcohol. |
| A–549–812 | A–731–705 | Thailand | Furfuryl Alcohol. |

## Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping duty (''AD'') order will be revoked unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping, and (2) material injury to the domestic industry.

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and in 19 CFR part 351 (1999) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

## Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the Sunset Regulations and Sunset Policy Bulletin, the Department's schedule of sunset reviews, case history information (*e.g.,* previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset internet website at the following address: ''http://www.ita.doc.gov/import_admin/records/sunset/''.

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. We ask that parties notify the Department in writing of any additions or corrections to the list. We also would appreciate written notification if you no longer represent a party on the service list.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306 (*see Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order,* 63 FR 24391 (May 4, 1998)).

## Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1998)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the Sunset Regulations at 19 CFR 351.218(d)(1)(ii). In accordance with the Sunset Regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive a notice of intent to participate from a domestic interested party, the Sunset Regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response are set forth in the Sunset Regulations at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Sunset Regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR part 351 (1998) for definitions of terms and for other general information concerning antidumping duty order proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: April 25, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–10804 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–201–802]**

## Gray Portland Cement and Clinker: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of extension of time limit for preliminary results of antidumping duty administrative review.

**EFFECTIVE DATE:** May 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** George Callen or Robin Gray, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0180 and (202) 482–4023 respectively.

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations,* 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

**The Applicable Statute**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 C.F.R. Part 351 (1998).

**Extension of Time Limit for Preliminary Results**

The Department of Commerce (the Department) received a request to conduct an administrative review of the antidumping duty order on Gray Portland Cement and Clinker from Mexico. On October 1, 1999, the Department initiated this administrative review covering the period August 1, 1998, through August 31, 1999.

Because of the complexity and timing of certain issues in this case, it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Act. Following initiation of the administrative review, we received an allegation of sales below cost. We have completed our analysis of the cost allegation and are in the process of conducting a cost investigation. However, since we did not receive the allegation of sales below cost until more than three months after initiation of the administrative review, we are unable to complete our analysis before the current deadline. Therefore, the Department is extending the time limit for the preliminary results to August 30, 2000. The Department intends to issue the final results of review 120 days after the publication of the preliminary results. This extension of the time limit is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: April 19, 2000.

**Richard Moreland,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 00–10806 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## ENVIRONMENTAL PROTECTION AGENCY

## Coastal Nonpoint Pollution Control Program: Approval Decision on California Coastal Nonpoint Pollution Control Program

**AGENCY:** National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and The U.S. Environmental Protection Agency.

**ACTION:** Notice of intent to approve the California Coastal Nonpoint Program.

**SUMMARY:** Notice is hereby given of the intent to fully approve the California Coastal Nonpoint Pollution Control Program (coastal nonpoint program) and of the availability of the draft Approval Decisions on conditions for the California coastal nonpoint program. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. NOAA and EPA conditionally approved the California coastal nonpoint program on June 30, 1998. NOAA and EPA have drafted approval decisions describing how California has satisfied the conditions placed on its program and therefore has a fully approved coastal nonpoint program.

NOAA and EPA are making the draft decisions for the California coastal nonpoint program available for a 30-day public comment period. If no comments are received, the California program will be approved. If comments are received, NOAA and EPA will consider whether such comments are significant enough to affect the decision to fully approve the program.

Copies of the draft Approval Decisions can be found on the NOAA website at http://www.nos.noaa.gov/ocrm/czm/ or may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3121, extension 201, e-mail joseph.flanagan@noaa.gov.

**DATES:** Individuals or organizations wishing to submit comments on the draft Approval Decisions should do so by May 31, 2000.

**ADDRESSES:** Comments should be made to Joseph A. Uravitch, Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, tel. 301–713–3155 extension 195, e-mail *joseph.uravitch@noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Keelin Kuipers, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3155, extension 175, e-mail *keelin.kuipers@noaa.gov* or Sam Ziegler, EPA Region 9 (WTR–3), 75 Hawthorne Street, San Francisco, CA 94105, tel. 415–744–1990, e-mail ziegler.sam@epa.gov.

Federal Domestic Assistant Catalog 11.419 Coastal Zone Management Program Administration.

Dated: April 26, 2000.

**Captain Ted I. Lillestolen,**

*Deputy Assistant, Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.*

**J. Charles Fox,**

*Assistant Administrator, Office of Water, Environmental Protection Agency.*

[FR Doc. 00–10778 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–08–M

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 042400F]**

## Western Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Western Pacific Fishery Council will hold its 74th Scientific and Statistical Committee (SSC) meeting.

**DATES:** The meeting will be held May 16–18, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The 74th SSC meeting will be held at the Western Pacific Fishery Management Council office conference

room, 1164 Bishop St., Suite 1400, Honolulu, Hawaii; telephone: (808–522–8220).

*Council address*: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone 808–522–8220.

**SUPPLEMENTARY INFORMATION:**

**Meeting Dates, Times and Agenda**

The SSC will discuss and may make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

*Tuesday, May 16, 2000, 9 a.m.*

1. Sustainable Fisheries Act amendment revisions
A. Bycatch (bottomfish, pelagics)
B. Overfishing (bottomfish, crustaceans, pelagics)
2. Ecosystems and habitat (coral reefs)
A. Draft Coral Reef Ecosystem Fishery Management Plan (FMP)/Preliminary Draft Environmental Impact Statement (EIS)
B. Federal and state initiatives and research plans
(1) Federal agencies (NMFS, Fish and Wildlife Service)
(2) Islands (American Samoa, Guam, Hawaii, Northern Mariana Islands (NMI))
(3) Congressional coral reef bills
(4) U.S. Coral Reef Task Force National Action Plan
C. Advisory body recommendations
(1) Coral Reef Ecosystem Plan Team (PT)
(2) Ecosystem & Habitat Advisory Panel (AP)
(3) Bottomfish PT/AP
(4) Crustaceans PT/AP
(5) Precious Corals PT/AP
(6) Native & Indigenous Rights AP

*Wednesday, May 17, 2000, 8:30 a.m.*

1. Pelagic FMP issues
A. 1st quarter 2000 Hawaii and American Samoa longline fishery report
B. American Samoa framework measure
C. Shark management
(1) Shark catch and disposition in 1st quarter 2000 in Hawaii longline fishery
(2) Blue shark stock assessment
(3) Pelagics FMP amendment for shark management
D. Seabird management: status of amendment
E. Turtle management
(1) Outcome of review of time/area closures
(2) Status of lawsuit
F. International: Outcome of 6th Multilateral High Level Conference (MHLC6)
G. Recreational Fisheries Data Task Force: Survey of small-vessel pelagics fisheries production in Hawaii
H. Pelagics AP recommendations
I. Pelagics PT recommendations

*Thursday, May 18, 2000, 8:30 a.m.*

1. Precious corals fishery
A. Status of framework amendment
B. Stock monitoring
2. Status of the Bottomfish, Crustaceans and Precious Corals EISs
3. Status of amendment to add NMI and Pacific Remote Insular Areas to FMPs
4. Crustaceans FMP issues
A. 1999 Annual Report
B. Status of the fishery/stock assessment strategy
C. Discards and high-grading: economic and biological review
D. Consideration of amendment to replace lobster assessment model
E. Research plans
F. Possible additions to Crustaceans Management Unit Species
G. Crustaceans PT/AP recommendations
5. Bottomfish FMP issues
A. Annual report
B. Research plans
C. Mau Zone new entry criteria
D. Bottomfish PT recommendations
6. Other business

Although non-emergency issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax) at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 24, 2000.

**Richard W. Surdi,**

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

[FR Doc. 00–10688 Filed 4–28–00; 8:45 am]

**BILLING CODE 3510–22–F**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 041900D]**

### Endangered Species; Permits

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

**ACTION:** Issuance of a scientific research permit (1227) and modifications to existing permits (1136, 1141).

**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 issued a permit to Dr. Peter Dutton, of NMFS' Southwest Fisheries Science Center (PD–SWFSC) (1227); and NMFS has issued modifications to scientific research permits to the Oregon Cooperative Fishery and Wildlife Research Unit at Corvallis, OR (OCFWRU) (1136) and Public Utility District No. 2 of Grant County at Ephrata, WA (GCPUD) (1141).

**ADDRESSES:** The applications, permits, and related documents are available for review in the indicated office, by appointment:

For permits 1136 and 1141: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (ph: 503–230–5400, fax: 503–230–5435).

For permit 1227: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (ph: 301–713–1401, fax: 301–713–0376).

Documents may also be reviewed 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:**

For permit 1227: Terri Jordan, Silver Spring, MD (ph: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov).

For permits 1136 and 1141: Robert Koch, Portland, OR (ph: 503–230–5424, fax: 503–230–5435, e-mail: Robert.Koch@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).

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, runs, and evolutionarily significant units (ESU's) are covered in this notice:

*Sea Turtles*

Endangered leatherback turtle (*Dermochelys coriacea*).

*Fish*

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Snake River (SnR) fall, threatened SnR spring/summer, endangered upper Columbia River (UCR) spring.

Sockeye salmon (*O. nerka*): Endangered SnR.

Steelhead (*O. mykiss*): Endangered UCR.

**Permits and Modifications Issued**

Notice was published on April 26, 1999 (64 FR 20266), that OCFWRU had applied for a modification to permit 1136. Modification 1 to permit 1136 was issued on April 13, 2000, and authorizes OCFWRU to capture fish at two additional locations: Little Goose Dam on the Snake River and John Day Dam on the Columbia River. Modification 1 also authorizes OCFWRU annual takes of juvenile naturally produced and artificially propagated UCR spring chinook salmon. Lethal take and indirect mortalities of juvenile naturally produced and artificially propagated UCR spring chinook salmon associated with the research are also authorized. A second notice of receipt was published on May 13, 1999 (64 FR 25873) because NMFS had received an amended modification request seeking an increase in the annual take of ESA-listed fish associated with the research. The additional take is authorized to accommodate expected increased abundance of some species in 1999. Modification 1 is valid for the duration of permit 1136, which expires on December 31, 2000.

Notice was published on March 25, 1999 (64 FR 14432), that GCPUD had applied for a modification to scientific research permit 1141. Modification 1 to permit 1141 was issued on May 5, 1999 (64 FR 25873) but did not include annual takes of UCR spring chinook salmon. Permit 1141 authorizes GCPUD annual takes of adult and juvenile naturally produced and artificially propagated UCR steelhead associated with four scientific research studies at or in the vicinity of Wanapum and Priest Rapids Dams located on the upper Columbia River in Washington. The purpose of Study 1 is to monitor outmigrating adult and juvenile steelhead condition, survival, and travel time relative to spill effectiveness at the dams. The purpose of Study 2 is to substantiate and document hydroacoustic accuracy at Wanapum Dam. The purpose of Study 3 is to evaluate the relative abundance of the fish fauna inhabiting the Priest Rapids project area. The purpose of Study 4 is to assess the survival of juvenile, artificially propagated, UCR steelhead as they migrate past Wanapum and Priest Rapids Dams. Notice is hereby given that NMFS issued an amendment to permit 1141 on April 13, 2000. The permit amendment authorizes GCPUD annual takes of adult and juvenile naturally produced and artificially propagated UCR spring chinook salmon associated with Studies 1 and 3. The permit amendment also authorizes the take of ESA-listed salmon and steelhead associated with Study 3 annually for the duration of the permit. The amendment is valid for the duration of permit 1141, which expires on December 31, 2002.

Notice was published on October 22, 1999 (64 FR 57069), that PD–SWFSC had applied for a scientific research permit. Permit 1227 was issued on April 18, 2000, and authorizes takes of leatherback turtles in Monterey Bay, CA as part of a stock identification and movement study. Permit 1227 expires on December 31, 2002.

Dated: April 23, 2000.

**Wanda L. Cain,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 00–10796 Filed 4–28–00; 8:45 am]

BILLING CODE 3510–22–F

## CONSUMER PRODUCT SAFETY COMMISSION

### Submission for OMB Review; Comment Request—Follow-Up Activities for Product-Related Injuries

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** As required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Commission announces that it has submitted to the Office of Management and Budget a request for an extension of the existing approval of collections of information conducted during follow-up activities for product-related injuries.

**DATES:** Written comments must be received on or before May 31, 2000.

**ADDRESSES:** Written comments should be captioned ''Product-Related Injuries'' and mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CPSC, 725 17th Street, NW., Washington, DC 20503. Copies of comments also may be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814, telephone (301) 504–0800; telefacsimilied to (301) 504–0127; or emailed to cpsc-os@cpsc.gov.

**FOR FURTHER INFORMATION OR A COPY CONTACT:** Linda Glatz, Consumer Product Safety Commission, Washington, D.C. 20207; 301–504–0416 ext. 2226 or by email to lglatz@cpsc.gov.

**SUPPLEMENTARY INFORMATION:**

**1. Background**

Section 5(a) of the Consumer Product Safety Act (15 U.S.C. 2054(a)) requires the Commission to collect information related to the cause and prevention of death, injury, and illness associated with consumer products, and to conduct continuing studies and investigations of deaths, injuries, diseases, and economic losses resulting from accidents involving consumer products. The Commission uses this information to support rulemaking proceedings, development and improvement of voluntary standards, information and education programs, and administrative and judicial proceedings to remove unsafe products from the marketplace and consumers' homes.

Persons who have been involved with, or who have witnessed, incidents associated with consumer products are an important source of information

about deaths, injuries, and illnesses resulting from such incidents. From consumer complaints, newspaper accounts, death certificates, hospital emergency room reports, and other sources, the Commission selects a limited number of accidents for investigation. These investigations may involve face-to-face or telephone interviews with accident victims, witnesses, or other persons having relevant knowledge.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) (PRA), the Commission obtained the approval of the Office of Management and Budget (OMB) for this collection of information (OMB control No. 3041–0029). The current approval expires May 31, 2000. The extension is requested through May 31, 2003.

In the **Federal Register** of January 4, 2000 (65 FR 290), the Consumer Product Safety Commission published a notice, required by the PRA, to announce the agency's intention to seek extension of approval of this collection of information, through May 31, 2003. The estimated burden of this collection of information is 752 hours per year lower than the burden estimated for the currently approved collection. The Commission received one comment, from representatives of seven manufacturers of all-terrain vehicles (ATV's). A summary of this comment, and the Commission's response, is provided later in this notice.

**2. Additional Details About the Request for Approval of a Collection of Information**

*Agency address:* Consumer Product Safety Commission, Washington, DC 20207.

*Title of information collection:* Follow-Up Activities for Product-Related Injuries.

*Type of request:* Extension of approval.

*Frequency of collection:* One time for each respondent.

*General description of respondents:* Persons who have been involved in, have witnessed, or otherwise have knowledge of incidents associated with consumer products.

*Estimated number of respondents:* Total 8,500: 1,600 subjects of in-depth investigations (IDI's) to be interviewed by telephone and 400 IDI's to be interviewed at the incident site; 2,500 persons who fill out forms on the Commission's internet web site or in Commission publications; and 4,000 persons to be interviewed by CPSC's Hotline operators.

*Estimated annual average number of hours per respondent:* 20 min. for each telephone interview; 5.0 hours for each on-site interview; 12 min. to fill out a form; 10 min. for each Hotline interview.

*Estimated total annual number of hours for all respondents:* 3,700.

**3. Comments on the Commission's Federal Register Notice Announcing its Intention to Request an Extension of the Approval of this Collection of Information**

As noted above, the Commission received one comment, from representatives of seven manufacturers of all-terrain vehicles (ATV's), on its previous **Federal Register** notice announcing its intention to request an extension of the approval of this collection of information. A summary of this comment, and the Commission's response, is given below.

*Comment 1.* ''The Proposed Extension Notice Indicates CPSC Is Shifting Away From In-Depth Investigations and Increasingly Relying on Unverified Information Submitted By Consumers or Their Legal Representatives.''

*Response.* The lower number of IDI's between the submissions to OMB in the year 1997 and the year 2000 does not reflect any basic change in CPSC's investigation philosophy.

In 1997, the clearance request covered 700 on-site and 2200 telephone investigations, so that CPSC would have clearance to follow up on every case CPSC analysts determined required an investigation. However, fewer cases than estimated were actually conducted. The 2000 clearance request (400 on-site and 1600 telephone investigations) is consistent with the actual number of investigations now being conducted annually and with the Commission's current resource allocations.

To broaden the scope of data collection, the Commission continues to use multiple data sources, including some anecdotal sources. Newsclips, consumer complaints, coroner reports, and reports received through our Hotline are examples of such anecdotal data sources used by the Commission. The addition of Internet sites to the data collection sources reflects CPSC's continuing efforts to broaden the scope of data collection efforts by identifying and using additional sources as appropriate.

Anecdotal data may help identify hazard patterns that deserve further attention. However, anecdotal data are not used as the basis for product safety determinations. Those determinations use data provided by in-depth investigations. Often, the extent to which an incident is susceptible to independent verification cannot be determined until some follow up, covered by this approval request, is conducted.

*Comment 2.* ''Information Submitted to CPSC Through the Hotline or Over the Internet Regarding Products Such as ATVs is Unverified, Inherently Suspect and Thus of No Practical Utility for Hazard Identification or Analysis.''

*Response.* Although anecdotal data are collected and utilized by the Commission, these data are not treated as a scientific sample and are not used to make safety determinations about ATV's. Except where states forbid contact with next-of-kin or the initiation of investigations when the source of information is a death certificate, all ATV-related death incidents reported to the Commission are substantiated by exhaustive IDI's. Therefore, the number of ATV investigations is directly related to the number of reports received through the various data sources utilized by the Commission. For ATV-related injuries, the Commission relies upon the scientific sample provided by its National Electronic Injury Surveillance System (NEISS), a stratified cluster sample of reports of hospital emergency-room-treated product-related injuries.

The increase in the number of callers to the Commission's Hotline reflected in the submission to OMB results, at least in part, from Commission efforts to expand and improve information approaches in order to increase public awareness about its role in product safety. For the year 2000 request, CPSC has used the number of incidents expected to be reported to the Hotline (4000) as the number of persons expected to be interviewed by telephone.

Incident reports received through the Hotline are also an important source of incidents assigned for investigation. The decision whether to investigate a product-related incident can involve a number of factors, including the perceived seriousness of the hazard and the number of similar incidents reported.

The Commission's use of the Internet as a data source is a fairly recent example of efforts to expand data collection efforts. The increase in the number of incident reports gathered from the Internet reflects increased use of the Internet. The Internet is a new source of very important incident data, but very few of these reports pertain to ATV's.

These reports are never used as a substitute for investigations. CPSC has historically investigated every ATV-related death. This practice has not changed.

*Comment 3.* ''CPSC Must Be Careful To Avoid Mischaracterization In Its IDIs Regarding ATVs''

*Response.* CPSC investigators are trained to report the sequence of events in ATV incidents, not just the precipitating event. In each of the cases cited by the commenters as examples of mischaracterization, the investigator correctly reported a collision. Any overturn was reported as an action subsequent to the collision. The incidents are reflected in the database accordingly. The CPSC staff is not aware of any investigation being reported solely as an overturn where it is apparent that some other event preceded the overturn.

Further, when these data are coded for entering into the All-Terrain Vehicle Death (ATVD) database, the first event (such as a collision) is coded as the primary hazard pattern, followed by any subsequent events (such as rollover).

Discrepancies are often encountered in various documents gathered during an investigation. Investigators do their best to resolve such discrepancies and correctly note such information in the investigation report.

**4. Comments to OMB on This Request for Extension**

Comments on this request for extension of approval of collection of information should be submitted by May 31, 2000, to the addresses given at the beginning of this notice.

Copies of the request for extension of the information collection and supporting documentation are available from Linda Glatz, Management and Program Analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0416, ext. 2226, email lglatz@cpsc.gov.

Dated: April 26, 2000.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 00–10833 Filed 4–28–00; 8:45 am]

BILLING CODE 6355–01–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Closed Meeting of the Board of Visitors for the Department of Defense Centers for Regional Security Studies

**AGENCY:** Department of Defense.

**ACTION:** Notice of closed meeting.

**SUMMARY:** Under the provisions of Public Law 92–463, the ''Federal Advisory Committee Act,'' notice of a meeting of the Board of Visitors for Department of Defense Centers for Regional Security must be published.

The Board will meet in closed session at the Pentagon on April 26 from 0900 to 1330.

The purpose of the meeting is to allow the Board of Visitors to provide advice on the role the Centers for Regional Security play in the broader U.S. national security context. The Board will hold classified discussions on various national security policies to be handled by the regional centers as outlined in the Defense Planning Guidance and related to the Theater Engagement Plans of the Commanders-in-Chief of the Unified Commands. This notice is being published less than fifteen days prior to the meeting because of a scheduling oversight.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II (1982), it has been determined that this meeting concerns matters listed in 5 U.S.C. § 552b (c)(1)(1982), and that accordingly this meeting will be closed to the public.

**FOR FURTHER INFORMATION CONTACT:** John Berry, (703) 695–6386.

Dated: April 21, 2000.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 00–10749 Filed 4–28–00; 8:45 am]

BILLING CODE 5000–10–V

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0114]**

### Proposed Collection; Comment Request Entitled Right of First Refusal of Employment

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0114).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Right of First Refusal of Employment. This OMB clearance currently expires on August 31, 2000.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Comments may be submitted on or before June 30, 2000.

**ADDRESSES:** Comments including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), Room 4035 1800 F Street, NW, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Ralph DeStefano, Office of Federal Acquisition Policy Division, GSA (202) 501–1758.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Right of First Refusal of Employment is a regulation which establishes policy regarding adversely affected or separated Government employees resulting from the conversion from in-house performance to performance by contract. The policy will enable these employees to have an opportunity to work for the contractor who is awarded the contract.

The information gathered will be used by the Government to gain knowledge of which employees, adversely affected or separated as a result of the contract award, have gained employment with the contractor within 90 days after contract performance begins.

**B. Annual Reporting Burden**

*Number of Respondents:* 130.
*Responses Per Respondent:* 1.
*Total Responses:* 130.
*Average Burden Hours Per Response:* 3.
*Total Burden Hours:* 390.

*Obtaining Copies of Proposals*

Requester may obtain a copy of the proposal from the General Services

Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0114, Right of First Refusal of Employment, in all correspondence.

Dated: April 26, 2000.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

[FR Doc. 00–10747 Filed 4–28–00; 8:45 am]

BILLING CODE 6820–34–P

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0113]**

## Proposed Collection; Comment Request Entitled Acquisition of Helium

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0113).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Acquisition of Helium. This OMB clearance expires on August 31, 2000.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Comments may be submitted on or before June 30, 2000.

**ADDRESSES:** Comments including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), Room 4035 1800 F Street, NW, Washington, DC 20405. Please cite OMB Control No. 9000–0113 in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Linda Nelson, Office of Federal Acquisition Policy Division, GSA (202) 501–1900.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

The Helium Act (Pub. L. 86–777) (50 U.S.C. 167a, *et seq.*) and the Department of the Interior's implementing regulations (30 CFR Parts 601 and 602) require Federal agencies to procure all major helium requirements from the Bureau of Land Management, Department of the Interior.

The FAR requires offerors responding to contract solicitations to provide information as to their forecast of helium required for performance of the contract. Such information will facilitate enforcement of the requirements of the Helium Act and the contractual provisions requiring the use of Government helium by agency contractors, in that it will permit corrective action to be taken if the Bureau of Land Management, after comparing helium sales data against helium requirement forecasts, discovers apparent serious discrepancies.

The information is used in administration of certain Federal contracts to ensure contractor compliance with contract clauses. Without the information, the required use of Government helium cannot be monitored and enforced effectively.

### B. Annual Reporting Burden

*Number of Respondents:* 20.

*Responses Per Respondent:* 1.

*Total Responses:* 20.

*Average Burden Hours Per Response:* 1.

*Total Burden Hours:* 20.

*Obtaining Copies of Proposals*

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0113, Acquisition of Helium, in all correspondence.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

[FR Doc. 00–10746 Filed 4–28–00; 8:45 am]

BILLING CODE 6820–34–P

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0096]**

## Proposed Collection; Comment Request Entitled Patents

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for comments regarding an extension to an existing OMB clearance (9000–0096).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Patents. This OMB clearance currently expires on August 31, 2000.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Comments may be submitted on or before June 30, 2000.

**ADDRESSES:** Comments including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), Room 4035 1800 F Street, NW, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Victoria Moss, Office of Federal Acquisition Policy Division, GSA (202) 501–4764.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

The patent coverage in FAR subpart 27.2 requires the contractor to report

each notice of a claim of patent or copyright infringement that came to the contractor's attention in connection with performing a Government contract above a dollar value of $25,000 (sections 27.202–1 and 52.227–2). The contractor is also required to report all royalties anticipated or paid in excess of $250 for the use of patented inventions by furnishing the name and address of licensor, date of license agreement, patent number, brief description of item or component, percentage or dollar rate of royalty per unit, unit price of contract item, and number of units (sections 27.204–1, 52.227–6, and 52.227–9). The information collected is to protect the rights of the patent holder and the interest of the Government.

**B. Annual Reporting Burden**

*Number of Respondents:* 30.
*Responses Per Respondent:* 1.
*Total Responses:* 30.
*Average Burden Hours Per Response:* .5.
*Total Burden Hours:* 15.

*Obtaining Copies of Proposals*

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0096, Patents, in all correspondence.

Dated: April 26, 2000.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

[FR Doc. 00–10748 Filed 4–28–00; 8:45 am]

BILLING CODE 6820–34–P

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Meeting of the Board of Visitors of Marine Corps University

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** The Board of Visitors of the Marine Corps University (BOV MCU) will meet to review, develop and provide recommendations on all aspects of the academic and administrative policies of the University; examine all aspects of professional military education operations; and provide such oversight and advice as is necessary to facilitate high educational standards and cost effective operation. Board will be reviewing the fiscal plan for next year, the University's College of Continuing Education, Board presiding officer restrictions contained in the regional accrediting guidelines, and the status of the review and update of the Board By-laws. All sessions of the meeting will be open to the public.

**DATES:** The meeting will be held on Tuesday and Wednesday, June 6–7, from 9 a.m. to 4 p.m.

**ADDRESSES:** The meeting will be held at the Marine Corps University Research Center, 2040 Broadway Street, Room 164, Quantico, Virginia 22134.

**FOR FURTHER INFORMATION CONTACT:** Garry Smith, Executive Secretary, Marine Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, (703) 784–4037.

Dated: April 20, 2000.

**J.L. Roth,**

*Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 00–10777 Filed 4–28–00; 8:45 am]

BILLING CODE 3810–FF–P

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before May 31, 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: April 25, 2000.

**William Burrow,**

*Leader, Information Management Group, Office of the Chief Information Officer.*

**Office of Student Financial Assistance Programs**

*Type of Review:* New
*Title:* Federal Family Education Loan Program Federal Consolidation Loan Application and Promissory Note
*Frequency:* One Time
*Affected Public:*
Individual or households; Businesses or other for-profit; Not-for-profit institutions
*Reporting and Recordkeeping Hour Burden:*
Responses: 263,000
Burden Hours: 263,000

*Abstract:* This application form and promissory note is the means by which a borrower applies for a Federal Consolidation Loan and promises to repay the loan, and a lender or guaranty agency certifies the borrower's eligibility to receive a Consolidation loan.

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, DC 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 Jacqueline Montague at (202) 708–9266 or via her internet address Jackie_Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal

Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–10732 Filed 4–28–00; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Federal Interagency Coordinating Council Meeting (FICC)

**AGENCY:** Federal Interagency Coordinating Council, Education.

**ACTION:** Notice of a public meeting.

**SUMMARY:** This notice describes the schedule and agenda of a forthcoming meeting of the Federal Interagency Coordinating Council (FICC), and invites people to participate. Notice of this meeting is required under section 644(c) of the Individuals with Disabilities Education Act (IDEA) and is intended to notify the general public of their opportunity to attend the meeting. The meeting will be accessible to individuals with disabilities. The FICC will attend to ongoing work including reports from committees and task forces. A Policy Forum on Outcomes for Young Children with Disabilities and their Families sponsored by the Office of Special Education Programs, will be held on Thursday, June 8, 2000 from 9:00 a.m.–12:00 noon in the Barnard Auditorium, U.S. Department of Education, 400 Maryland Ave. SW, Washington, DC 20202. The meeting is open to the public.

**DATE AND TIME:** FICC Meetings Thursday, June 8, 2000 from 1:30 p.m. to 5:00 p.m.

**ADDRESSES:** U.S. Department of Education, Barnard Auditorium, 400 Maryland Avenue, SW, Washington, DC, 20202 (near the Federal Center Southwest and L'Enfant metro stops).

**FOR FURTHER INFORMATION CONTACT:** Bobbi Stettner-Eaton or Obral Vance, U.S. Department of Education, 330 C Street, SW, Room 3080, Switzer Building, Washington, DC, 20202 Telephone: (202) 205–5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–9754.

**SUPPLEMENTARY INFORMATION:** The Federal Interagency Coordinating Council (FICC) is established under section 644(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1484a). The Council is established to: (1) minimize duplication across Federal, State and local agencies of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families and preschool services for children with disabilities; (2) ensure effective coordination of Federal early intervention and preschool programs, including Federal technical assistance and support activities; and (3) identify gaps in Federal agency programs and services and barriers to Federal interagency cooperation. To meet these purposes, the FICC seeks to: (1) Identify areas of conflict, overlap, and omissions in interagency policies related to the provision of services to infants, toddlers, and preschoolers with disabilities; (2) develop and implement joint policy interpretations on issues related to infants, toddlers, and preschoolers that cut across Federal agencies, including modifications of regulations to eliminate barriers to interagency programs and activities; and (3) coordinate the provision of technical assistance and dissemination of best practice information. The FICC is chaired by the Assistant Secretary for Special Education and Rehabilitative Services.

The meeting of the FICC is open to the public and is physically accessible. Anyone requiring accommodations such as an interpreter, materials in Braille, large print, or cassette please call Obral Vance at (202) 205–5507 (voice) or (202) 205–9754 (TDD) ten days in advance of the meeting.

Summary minutes of the FICC meetings will be maintained and available for public inspection at the U.S. Department of Education, 330 C Street, SW, Room 3080, Switzer Building, Washington, DC 20202, from the hours of 9:00 a.m. to 5:00 p.m., weekdays, except Federal Holidays.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 00–10704 Filed 4–28–00; 8:45 am]

BILLING CODE 4000–01–M

## DEPARTMENT OF ENERGY

### Energy Information Administration

### Agency Information Collection Under Review; by the Office of Management and Budget

**AGENCY:** Energy Information Administration, Department of Energy.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response × proposed frequency of response per year × estimated number of likely respondents.)

**DATES:** Comments must be filed on or before May 31, 2000. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

**ADDRESSES:** Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, DC 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Grace Sutherland, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mrs. Sutherland may be telephoned at (202) 426–1068, FAX (202) 426–1083, or e-mail at grace.sutherland@eia.doe.gov.

**SUPPLEMENTARY INFORMATION:** The energy information collection submitted to OMB for review was:

1. NWPA–830R G, ''Standard Remittance Advice for Payment of Fees.''

2. Office of Civilian Radioactive Waste Management; OMB No. 1901–0260; Extension of Currently Approved Collection; Mandatory.

3. The NWPA–830R G is designed to serve as the service document for entries into DOE accounting records to transmit

data from Purchasers concerning payment of their contribution to the Nuclear Waste Fund. The Remittance Advice (RA) must be submitted by Purchasers who signed the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste.

4. Business or other for-profit organization.

5. 2,574 hours (5.5 hrs. × 4 responses per year × 117 respondents).

**Statutory Authority:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC April 19, 2000.

**Nancy J. Kirkendall,**

*Acting Director, Statistics and Methods Group, Energy Information Administration.*

[FR Doc. 00–10752 Filed 4–28–00; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–253–000]**

### Columbia Gas Transmission Corporation; Notice of Refund Report

April 25, 2000.

Take notice that on April 19, 2000, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Commission its Refund Report on the flow back to customers on March 10, 2000, of $2,959.92 representing the time value of money associated with the deferred taxes applicable to certain lines and meters sold to Columbia Natural Resources, Inc. pursuant to Stipulation II, Article III, Section G(2) of Columbia's approved settlement in Docket No. RP95–408, *et al.* (see Columbia Gas Transmission Corp. 79 FERC ¶ 61,044 (1997)) Columbia credited its customers' invoices issued on March 10, 2000 or issued checks on that date.

Columbia states that a copy of this report is being provided to all recipients of a share of the flowback and all state commissions whose jurisdiction includes the location of any such recipient.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and Regulations. All such motions or protests must be filed on or before May 2, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 00–10721 Filed 4–28–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–252–000]**

### Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 25, 2000.

Take notice that on April 19, 2000, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, effective May 1, 1999, the following tariff sheets:

Thirty-Ninth Revised Sheet No. 8A
Thirty-First Revised Sheet No. 8A.01
Thirty-First Revised Sheet No. 8A.02
Thirty-Fifth Revised Sheet No. 8B
Twenty-Eighth Revised Sheet No. 8B.01

FGT states that on February 29, 2000, in Docket No. RP00–194–000, FGT filed to establish a Base Fuel Reimbursement Charge Percentage (''Base FRCP'') of 2.99% for the six-month Summer Period beginning April 1, 2000. The Base FRCP of 2.99% was accepted by Commission letter order issued March 23, 2000. In the instant filing, FGT is making a flex adjustment of 0.01% to be effective May 1, 2000, which results in an Effective Fuel Reimbursement Charge Percentage of 3.00% when combined with the Base FRCP of 2.99%. FGT states that it is making the instant filing at the request of customers who have stated that an FRCP of 3.00% will be easier to administer when arranging for supply and submitting their nominations.

FGT states that the tariff sheets listed above are being filed pursuant to Section 27A.2.b of the General Terms and Conditions of FGT's Tariff, which provides for flex adjustments to the Base FRCP. Pursuant to the terms of Section 27A.2.b, a flex adjustment shall become effective without prior FERC approval provided that such flex adjustment does not exceed 0.50% from the Base FRCP, is effective at the beginning of a month, is posted on FGT's EBB at least five working days prior to the nomination deadline, and is filed no more than sixty and at least seven days before the proposed effective date. The instant filing comports with these provisions and FGT has posted notice of the flex adjustment prior to the instant filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 00–10720 Filed 4–28–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. GT00–19–002]**

### Kinder Morgan Interstate Gas Transmission LLC; Notice of Tariff Filing

April 25, 2000.

Take notice that on April 20, 2000, Kinder Morgan Interstate Gas Transmission LLC (KMIGT), formerly K N Interstate Gas Transmission Co. (KNI) tendered for filing to become part of its FERC Gas Tariff, Fourth Revised Volume Nos. 1–A and 1–B, and Second Revised Volume Nos. 1–C and 1–D, the following revised tariff sheets, with an effective date of December 28, 1999:

*Fourth Revised Volume No. 1–A*

Substitute Original Sheet No. 0

*Fourth Revised Volume No. 1–B*

Substitute Original Sheet No. 0

*Second Revised Volume No. 1–C*

Substitute Original Sheet No. 0

*Second Revised Volume No. 1–D*

Substitute Original Sheet No. 0

KMIGT states that the purpose of this filing is to submit revised tariff sheets reflecting that KMIGT's Fourth Revised Volume Nos. 1–A and 1–B, and Second Revised Volume Nos. 1–C and 1–D cancel and supersede KNI's FERC Gas Tariff, Third Revised Volume Nos 1–A and 1–B, and First Revised Volume Nos. 1–C and 1–D, respectively.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 00–10719 Filed 4–28–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL00–70–000]**

## New York State Electric & Gas Corporation, Complainant v. New York Independent System Operator, Inc., Respondent; Notice of Complaint

April 25, 2000.

Take notice that on April 24, 2000, New York State Electric & Gas Corporation (NYSEG) submitted a Complaint pursuant to Section 206 of the Federal Power Act against the New York Independent System Operator (NYISO) and a request for an emergency technical conference. The Complaint seeks to suspend market-based rates and to require suppliers within the New York Control Area (NYCA) to use cost-based bids for energy markets in the NYCA, or alternative proposed remedies, in advance of the summer peak season.

Copies of the filing were served upon the NYISO and other interested parties.

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 May 5, 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 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 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 May 5, 2000.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 00–10718 Filed 4–28–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER00–1463–001, et al.]**

## Orion Power MidWest, L.P., et al.; Electric Rate and Corporate Regulation Filings

April 24, 2000.

Take notice that the following filings have been made with the Commission:

### 1. Orion Power MidWest, L.P.

[Docket No. ER00–1463–001]

Take notice that on April 19, 2000, Orion Power MidWest, L.P., with an office located at c/o Orion Power Holdings, Inc., 7 E. Redwood Street, 10th Floor, Baltimore, Maryland 21202, filed with the Federal Energy Regulatory Commission (Commission) a revised FERC Electric Rate Schedule No. 1 in compliance with the Commission's Order of March 29, 2000.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 2. Central Maine Power Company

[Docket No. ER00–2063–001]

Take notice that on April 19, 2000, Central Maine Power Company (CMP), tendered for filing unexecuted local network operating agreements (LNOAs) for the following customers: (1) Gates Formed Fiber; (2) Maine Energy Recovery Co.; (3) Perrier Group of America; (4) Regional Waste Systems; (5) Rumford Power Assoc.; and (6) Skygen Services—AELLC.

The LNOAs were inadvertently omitted from CMP's initial filing in this proceeding on March 30, 2000.

Copies of this filing have been served upon the Maine Public Utilities Commission and copies of this filing (specific to the particular customer only) have been sent to the customers listed above.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 3. Carolina Power & Light Company

[Docket No. ER00–2237–000]

Take notice that on April 19, 2000, Carolina Power & Light Company (CP&L) tendered for filing an executed Power Purchase Agreement with The City of Camden, South Carolina under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4.

CP&L is requesting an effective date of July 1, 2000 for this Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 4. Cinergy Services, Inc.

[Docket No. ER00–2238–000]

Take notice that on April 19, 2000, Cinergy Services, Inc. (Cinergy) and El Paso Merchant Energy, L.P. (El Paso), as successor in interest to Sonat Power Marketing, L.P., filed a request for termination of Non-Firm Service Agreement No. 9 under Cinergy Operating Companies, FERC Open Access Transmission Tariff Volume No. 5.

Cinergy and El Paso are requesting an effective date of April 23, 2000.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 5. Cinergy Services, Inc.

[Docket No. ER00–2239–000]

Take notice that on April 19, 2000, Cinergy Services, Inc. (Cinergy) and El Paso Merchant Energy, L.P. (El Paso), as successor in interest to Sonat Power Marketing, L.P., filed a request for termination of Firm Service Agreement No. 64, under Cinergy Operating Companies, FERC Open Access Transmission Tariff Volume No. 5.

Cinergy and El Paso are requesting an effective date of April 23, 2000.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**6. Cinergy Services, Inc.**

[Docket No. ER00–2240–000]

Take notice that on April 19, 2000, Cinergy Services, Inc. (Cinergy) and El Paso Merchant Energy, L.P. (El Paso), as successor in interest to Sonat Power Marketing, L.P., filed a request for termination of Network Service Agreement No. 141 under FERC Open Access Transmission Tariff Volume No. 5.

Cinergy and El Paso are requesting an effective date of April 23, 2000.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**7. American Electric Power Service Corporation**

[Docket No. ER00–2241–000]

Take notice that on April 19, 2000, the American Electric Power Service Corporation (AEPSC), as agent for Indiana Michigan Power Company (I&M), tendered for filing with the Federal Energy Regulatory Commission, Modification No. 13 to the Interconnection Agreement, dated February 21, 1964 between I&M and PSI Energy, Inc. (PSI).

AEPSC requests an effective date of March 1, 2000 for the tendered Modification.

A copy of the filing was served upon PSI, Indiana Municipal Power Agency, and the Indiana Utility Regulatory Commission.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**8. Central Maine Power Company**

[Docket No. ER00–2242–000]

Take notice that on April 19, 2000, Central Maine Power Company (CMP) tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Federal Energy Regulatory Commission's Regulations (18 CFR Part 35), an unexecuted service agreement for local network transmission service and an unexecuted local network operating agreement between CMP and Northeast Empire Limited Partnership #1 (Northeast).

Copies of this filing have been served upon the Maine Public Utilities Commission and Northeast.

CMP respectfully requests that these Agreements become effective on March 19, 2000.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**9. The Dayton Power and Light Company**

[Docket No. ER00–2243–000]

Take notice that on April 19, 2000, The Dayton Power and Light Company (Dayton) tendered for filing under Section 205 of the Federal Power Act, revised tariff sheets constituting a modified version of Schedule 7 (Real Power Losses Service) of Dayton's open access transmission tariff (Tariff), Dayton's FERC Electric Tariff, Second Revised Volume No. 5, and a modified version of each of the Tariff's forms of service agreement reflecting changes to Schedule 7.

Dayton requests that its revised tariff sheets be placed into effect as of May 1, 2000.

A copy of this filing was served upon all customers under Dayton's open access transmission tariff and the Public Utilities Commission of Ohio.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**10. Florida Power Corporation**

[Docket No. ER00–2244–000]

Take notice that on April 19 , 2000, Florida Power Corporation (FPC) tendered for a filing a service agreement between Constellation Power Source, Inc. and FPC under FPC's Market-Based Wholesale Power Sales Tariff (MR–1), FERC Electric Tariff, Original Volume Number 8. This Tariff was accepted for filing by the Commission on June 26, 1997, in Docket No. ER97–2846–000.

The service agreement with Constellation Power Source, Inc. is proposed to be effective April 12, 2000.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**11. Tampa Electric Company**

[Docket No. ER00–2245–000]

Take notice that on April 19, 2000, Tampa Electric Company (Tampa Electric) tendered for filing an executed service agreement with the City of Tallahassee, Florida (Tallahassee) under Tampa Electric's market-based sales tariff to supersede the unexecuted agreement with Tallahassee that is currently on file with the Commission.

Tampa Electric requests that the executed service agreement be made effective on April 19, 2000.

Copies of the filing have been served on Tallahassee and the Florida Public Service Commission.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**12. Hardee Power Partners Limited**

[Docket No. ER00–2246–000]

Take notice that on April 19, 2000, Hardee Power Partners Limited (HPP) tendered for filing an executed service agreement with the Orlando Utilities Commission (Orlando) under HPP's market-based sales tariff, to supersede the unexecuted agreement with OUC that is currently on file with the Commission.

HPP requests that the executed service agreement be made effective on April 19, 2000.

Copies of the filing have been served on OUC and the Florida Public Service Commission.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**13. Columbus Southern Power Company**

[Docket No. ER00–2247–000]

Take notice that on April 19, 2000, American Electric Power Service Corporation (AEP), on behalf of Columbus Southern Power Company (CSP) tendered for filing with the Federal Energy Regulatory Commission, a Facilities, Operations, Maintenance and Repair Agreement (Agreement) dated January 1, 2000, between CSP and Buckeye Rural Electric Cooperative, Inc. (BREC) and Buckeye Power, Inc. (Buckeye).

Buckeye has requested CSP provide a delivery point, to be known as Bolins Mill Delivery Point (88–17), pursuant to provisions of the Power Delivery Agreement between CSP, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Ohio Power Company and Toledo Edison Company, dated January 1, 1968.

CSP requests an effective date of August 1, 2000 for the tendered agreements.

CSP states that copies of its filing were served upon Buckeye Rural Electric Cooperative, Inc. and the Public Utilities Commission of Ohio.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**14. Energy Trading Company, Inc.**

[Docket No. ER00–2248–000]

Take notice that on April 19, 2000, Energy Trading Company, Inc. (ETC) petitioned the Commission for acceptance of ETC Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

ETC intends to engage in wholesale electric power and energy purchases and sales as a marketer. ETC is not in the business of generating or transmitting electric power. ETC is a wholly-owned subsidiary of ETC Buggy Whips Manufacturing Corporation, which, through its affiliates, produces farm equipment and produces and distributes building supplies.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**15. Alliant Energy Corporate Services, Inc.**

[Docket No. ER00–2249–000]

Take notice that on April 19, 2000, Alliant Energy Corporate Services, Inc. (Alliant Energy) tendered for filing executed Network Service and Network Operating Agreements, establishing MidAmerican Energy Company a Network Transmission Customer under the terms of the Alliant Energy's Open Access Transmission Tariff.

Alliant Energy Corporate Services, Inc. requests an effective date of September 21, 2000, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

*Comment date:* May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

**16. New England Power Pool**

[Docket No. ER00–2250–000]

Take notice that on April 20, 1999, New England Power Pool (NEPOOL) Participants Committee submitted the Fifty-Fourth Agreement Amending the New England Power Pool Agreement (the Fifty-Fourth Agreement) which extends the current method of payment and reimbursement of certain specified expenses of restructuring NEPOOL incurred before May 1, 1999 (the Early Restructuring Expense) for an additional eight months to January 1, 2001.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the NEPOOL Participants.

*Comment date:* May 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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–10717 Filed 4–28–00; 8:45 am]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6586–4]**

## Agency Information Collection Activities: Proposed Collection; Comment Request; Part 71 Federal Operating Permit Rules

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Part 71 Federal Operating Permit Rules, EPA ICR Number 1713.04, OMB Control Number 2060–0336, expiration date May 31, 2000. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before June 30, 2000.

**ADDRESSES:** For a copy of the draft ICR estimates, contact Scott Voorhees at (919) 541–5348 or ''voorhees.scott@epa.gov'' and refer to EPA ICR Number 1713.04.

**FOR FURTHER INFORMATION CONTACT:** Scott Voorhees at (919) 541–5348 and e-mail address listed above.

**SUPPLEMENTARY INFORMATION:**

*Affected entities:* Entities potentially affected by this action are those which must apply for and obtain a federally issued operating permit under title V of the Clean Air Act (Act). These, in general, include sources which are defined as ''major'' under any title of the Act.

*Title:* Part 71 Federal Operating Permit Rules (OMB Control No.2060–0336; EPA ICR No. 1713.04.) expiring May 31, 2000.

*Abstract:* The part 71 program is a Federal operating permits program that will be implemented for sources located in Indian Country, Outer Continental Shelf sources, and also in those areas without acceptable part 70 programs. Title V of the Clean Air Act imposes on States the duty to develop, administer and enforce operating permit programs which comply with title V and requires EPA to stand ready to issue Federal operating permits when States fail to perform this duty. Section 502(b) of the Act requires EPA to promulgate regulations setting forth provisions under which States will develop operating permit programs and submit them to EPA for approval. Pursuant to this section, EPA promulgated 40 CFR part 70 on July 21, 1992 (57 FR 32250) which specifies the minimum elements of State operating permit programs.

Pursuant to regulations promulgated by EPA on February 19, 1999 (64 FR 8247) EPA has authority to establish part 71 programs within Indian Country and EPA began administering the program in Indian country on March 22, 1999. Since many Indian tribes lack the resources and capacity to develop operating permit programs, EPA will administer and enforce part 71 programs in the areas that comprise Indian Country in order to protect the air quality of areas under tribal jurisdiction.

The EPA intends to protect tribal air quality through the development of implementation plans, permits programs and other means, including direct assistance to tribes in developing comprehensive and effective air quality management programs. The EPA will consult with tribes to identify their particular needs for air program development assistance and will provide ongoing assistance as necessary.

The EPA will also issue permits to ''outer continental shelf'' (OCS) sources (sources located in offshore waters of the United States) pursuant to the requirements of section 328(a) of the Act. For sources beyond 25 miles (40 km) of the States' seaward boundaries, EPA is the permitting authority, and the provisions of part 71 will apply to the permitting of those OCS sources. Permits for sources located within 25 miles of a State's seaward boundaries are issued by the Administrator (or a

State or local agency which has been delegated the OCS program in accordance with 40 CFR part 55 of this chapter) pursuant to the part 70 or part 71 program which is effective in the corresponding onshore area.

Investigation of the OCS ICR indicates currently there are only two OCS sources which fall under the jurisdiction of the Federal program. There are approximately 95 sources in Indian Country that require part 71 permits.

The EPA will also establish a part 71 program for a State when interim approval of a State program expires, if corrective program provisions have not been adopted and submitted to EPA in time for full approval. Since the suspension of the Federal program requirement runs out with the expiration of interim approval, the requirement that EPA promulgate a Federal program is effective immediately upon that expiration.

The EPA has the authority to establish a partial part 71 program in limited geographical areas of a state if EPA has approved a part 70 program (or combination of part 70 programs) for the remaining areas of the State. The EPA will promulgate a part 71 program for a permitting authority if EPA finds that a permitting authority is not adequately administering or enforcing its approved program and it fails to correct the deficiencies that precipitated EPA's finding.

The EPA may use part 71 in its entirety or any portion of the regulations, as needed. Similarly, EPA may use only portions of the regulations to correct and issue a State permit without, for example, requiring an entirely new application. Section 71.4(f) also authorizes EPA to exercise its discretion in designing a part 71 program. The EPA may promulgate a part 71 program based on the national template described in part 71 or may modify the national template by adopting appropriate portions of a State's program as part of the Federal program for that State, provided the resulting program is consistent with the requirements of title V.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Burden Statement:* The projected cost for implementing the part 71 program for the 3 years from June 1, 2000 until May 31, 2003 is approximately $18 million in annualized direct costs to sources. These costs represent the direct administrative costs for 2,059 major sources, for a cost of $8,803 per source. The Agency expects Federal costs will be $19.8 million ($9,622 per source). The Agency anticipates administering a part 71 program for approximately 95 sources in Indian Country and the Outer Continental Shelf. The expected scope of the part 71 program will result in an anticipated average per ton of emissions cost of $26.85 in 1994 dollars. For a permit program which is fully contracted by the Agency, the expected Federal cost would be $47.1 million ($22,901 per source), or $63.89 per ton in 1994 dollars. These costs provide an upper and lower bound to the expected cost of the part 71 regulation. The Agency anticipates that these burden estimates will change as the number of State and Local operating permitting programs to be administered by the Agency as Federal programs changes over time. These changes to the burden estimate will be reflected in the ICR document. 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.

During the period of this ICR, EPA (in addition to general administration of the program) primarily will be issuing permits required by the program, revising permits that have already been issued, and reviewing semi-annual compliance monitoring reports for issued permits. Sources in the part 71 program primarily will be interacting with EPA on permit issuance (for those that have not been issued), preparing semi-annual compliance monitoring reports, revising their permits as needed, carrying out periodic monitoring that was created as a result of the program, and preparing applications for permit renewal as necessary.

Dated: April 20, 2000.

**Robert G. Kellam,**

*Acting Director, Information Transfer and Program Integration Division.*

[FR Doc. 00–10767 Filed 4–28–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6587–3]**

## Agency Information Collection Activities: Proposed Collection; Comment Request; Conflict of Interest

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Conflict of Interest, EPA ICR No. 1550.05 and OMB Control No. 2030–0023, expires 5/31/00. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before June 30, 2000.

**ADDRESSES:** 1200 Pennsylvania Ave. NW, Ariel Rios Building, Attn 3802R, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Leigh Pomponio, (202) 564–4364, e-mail: *pomponio.leigh@epamail.epa.gov.* A hard copy of the ICR may be obtained by contacting the named individual.

**SUPPLEMENTARY INFORMATION:**

*Affected entities:* Entities potentially affected by this action are those which are awarded contracts supporting the Superfund program.

*Title:* Conflict of Interest OMB Control No. 2030–0023; EPA ICR No. 1550.05 expiring 5/31/00.

*Abstract:* Contractors performing at Superfund sites will be required to disclose business relationships and corporate affiliations to determine whether EPA's interests are jeopardized by such relationships. Because EPA has the dual responsibility of cleanup and enforcement and because its contractors are often involved in both activities, it is imperative that contractors are free from conflicts of interest so as not to prejudice response and enforcement actions. Contractors will be required to maintain a database of business relationships and report information to EPA on either an annual basis or when each work assignment is issued. Responses to the collection are required prior to award of a contract. Submissions will be protected from public release as Confidential Business Information in accordance with 40 CFR 2.201. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of infor-mation technology, e.g., permitting electronic submission of responses.

*Burden Statement:* Public burden is estimated to average 1969 hours per respondents. Total number of respondents covered by this collection is 165. Therefore, total burden hours are estimated at 324,885. No capital or start up costs are expected. 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, in-stall, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 24, 2000.

**Thomas D. McEntegart,**

*Manager, Policy Service Center.*

[FR Doc. 00–10768 Filed 4–28–00; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6587–4]**

## Agency Information Collection Activities: Proposed Collections; Comment Request; Information Requirements for Importation of Nonconforming Vehicles; Information Requirements for Importation of Nonconforming Nonroad Compression Ignition (CI) and Small Spark Ignition (SI) Engines

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB): Information Requirements for Importation of Nonconforming Vehicles, OMB Control Number 2060–0095; Information Requirements for Nonconforming Nonroad Compression Ignition (CI) and Small Spark Ignition (SI) Engines, OMB Control Number 2060–0294. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before June 30, 2000.

**ADDRESSES:** Interested persons may obtain a copy of the ICRs without charge by contacting: Certification and Compliance Division, 1200 Pennsylvania Avenue, NW (6405J), Washington, DC 20460, Attn: Imports.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leonard Lazarus, telephone (202) 564–9240, telefax (202) 565–2057.

**SUPPLEMENTARY INFORMATION:** *Affected entities:* Entities potentially affected by this action include individuals and businesses (including Independent Commercial Importers) importing on and off-road motor vehicles, motor vehicle engines, or nonroad engines, including nonroad engines incorporated into nonroad equipment or nonroad vehicles.

*Title:* Information Requirements for Importation of Nonconforming Vehicles, OMB #2060–0095, expiration date 8/31/00; Information Requirements for Nonconforming Nonroad Compression Ignition (CI) and Small Spark Ignition (SI) Engines, OMB #2060–0294, expiration date 8/31/00.

*Abstract:* Individuals and businesses importing on and off-road motor vehicles, motor vehicle engines, or nonroad engines, including nonroad engines incorporated into nonroad equipment or nonroad vehicles report and keep records of vehicle importations, request prior approval for vehicle importations, or request final admission for vehicles conditionally imported into the U.S. The collection of this information is mandatory in order to ensure compliance of nonconforming vehicles with Federal emissions requirements. Joint EPA and Customs regulations at 40 CFR 85.1501 *et seq.*, 89.601 *et seq.*, 90.601 *et seq.*, and 19 CFR 12.73 and 12.74 promulgated under the authority of Clean Air Act Sections 203 and 208 give authority for the collection of information. This authority was extended to nonroad engines under section 213(d). The information is used by program personnel to ensure that all Federal emission requirements concerning imported nonconforming motor vehicles and nonroad engines are met. Any information submitted to the Agency for which a claim of confidentiality is made is safeguarded according to policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see CFR 2), and the public is not permitted access to information containing personal or organizational identifiers. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.7 hours per response (OMB #2060–0095), and 0.5 hours per response (OMB #2060–0294) respectively. 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.

**OMB #2060–0095**

*Respondents/Affected entities:* Individuals and businesses importing motor vehicles, motor vehicle engines.

*Estimated Number of Respondents:* 13,000

*Frequency of Response:* 1.6 responses/year

*Estimated Total Annual Hour Burden:* 14,200

*Estimated Total Annualized Costs Burden:* $1,296,000

**OMB #2060–0294**

*Respondents/Affected entities:* Individuals and businesses importing compression-ignition nonroad engines and small spark-ignition nonroad engines, including those incorporated into nonroad equipment or vehicles.

*Estimated Number of Respondents:* 1500

*Frequency of Response:* 100 responses/year

*Estimated Total Annual Hour Burden:* 75,385

*Estimated Total Annualized Costs Burden:* $4,686,450

Dated: April 20, 2000.

**Robert Brenner,**

*Acting Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 00–10769 Filed 4–28–00; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6586–5]**

## Agency Information Collection Activities: Proposed Collection; Comment Request; 2000 Meat Products Industry Survey

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): 2000 Meat Products Industry Survey (EPA ICR No. 1961.01). This industry includes red meat and poultry slaughtering, processing and rendering. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before June 30, 2000.

**ADDRESSES:** Comments may be mailed to Ms. Samantha Lewis, U.S. EPA (4303), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments may also be submitted electronically to *lewis.samantha@epa.gov.*

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the information collection request, including a draft of the survey instrument, contact Ms. Samantha Lewis at (202)–260–7149.

**SUPPLEMENTARY INFORMATION:**

*Affected Entities:* Entities potentially affected by this action include red meat and poultry slaughtering, processing and rendering facilities. The survey is intended to identify and collect data from meat product facilities that generate and discharge process wastewater associated with industrial activities.

*Title:* 2000 Meat Products Industry Survey (EPA ICR No. 1961.01).

*Abstract:* The survey is intended to collect technical and economic information required by EPA to develop revised effluent limitations guidelines for the meat products industry point source category. The current meat product regulations at 40 CFR 432 do not contain effluent limitations guidelines or pretreatment standards for the poultry slaughtering or processing industry. EPA is required by section 304(m) of the Clean Water Act (33 U.S.C. 1314(m)) to review effluent limitations guidelines and standards periodically. These reviews determine whether the current regulations remain appropriate in light of changes in the industrial category caused by advances in manufacturing technologies, in-process pollution prevention, or end-of-pipe wastewater treatment. EPA is also required by the terms of a Consent Decree with the Natural Resources Defense Council (NRDC), to develop revised effluent limitations guidelines and standards for the Meat Products Industry (D.D.C. Civ. No. 89–2980, January 31, 1992, as modified). This survey is being conducted pursuant to those legislative and judicial requirements.

This survey instrument will be issued under authority of section 308 of the Clean Water Act of 1987 (Federal Water Pollution Control Act, 5 U.S.C. 1318); responses from data collection survey instrument recipients will be mandatory. The survey instrument will be mailed to respondents after OMB approves the ICR. The ICR submitted by EPA to OMB will include discussion of the comments received in response to today's announcement.

The proposed survey instrument is a necessary part of the effluent limitations guidelines development process. The proposed survey instrument will provide EPA with the technical and economic data required to evaluate effective pollution control technologies and the economic achievability of any final rule that the Agency issues. Any burden reduction suggestions must consider the need to collect information on the pollutants being discharged by the industries, the processes that generate the pollutants, alternative controls, the economic achievability of the proposed regulations, and the benefits derived from reducing pollution in our oceans, lakes, rivers, and streams. EPA will consider both technical performance and economic achievability when making final decisions on 40 CFR part 432.

Regulations governing the confidentiality of business information

are contained in the Code of Federal Regulations (CFR) at Title 40 Part 2, Subpart B. A business confidentiality claim may be submitted by the respondent covering part or all of the response to this survey, *other than effluent data,* as described in 40 CFR 2.203(b):

(b) Method and time of asserting business confidentiality claim. A business which is submitting information to EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice complying language such as 'trade secret,' 'proprietary,' or 'company confidential.' Allegedly confidential portions of otherwise nonconfidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.

If no business confidentiality claim accompanies the information when it is received by EPA, EPA may make the information available to the public without further notice.

The proposed survey instrument was developed in such a manner as to reduce burden and improve clarity. EPA has conducted one outreach meeting with the major industry trade associations. Additionally, the survey instrument was distributed in advance of this notice to industry trade associations, including: American Meat Institute, National Chicken Council, and the National Renderers Association.

Because of the complexity of the industry and the substantial changes in the meat products industry since 40 CFR Part 432 was promulgated over twenty years ago, EPA has decided to prepare a survey instrument to characterize accurately current conditions in the meat products industry as a basis for establishing equitable regulations.

EPA sometimes develops and distributes a screener questionnaire in order to better define the target population for a regulation. The screener allows the agency to eliminate facilities from consideration which are not anticipated to fit under the scope of the regulation. However, for the meat products industry, a number of factors make this additional step unnecessary. These factors include the existence of well-organized trade associations, facility lists from a variety of data sources, and past agency experience. EPA believes that the facilities potentially affected by this regulation can be adequately characterized by sending the questionnaire to only a percentage of facilities in the industry (approximately 250 facilities). (This number may change before the survey is mailed as we refine our methodology for determining the percentage of facilities to receive the questionnaire.) Therefore, there will be no screener questionnaire. The Agency solicits comment on this decision.

Finally, EPA will maintain a temporary, toll-free telephone number once the survey instrument has been mailed that survey recipients may call to obtain assistance in completing the survey instrument. EPA believes that the toll-free telephone number will greatly reduce burden by helping recipients to answer specific questions within the context of their individual operations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

*Burden Statement:* Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The EPA burden estimate on industrial facilities is based on an estimated 250 facilities completing the questionnaire with different configurations of meat product processes (large complex slaughterhouses to small stand alone facilities). EPA estimates that the total cost burden will be approximately $521,250 and the hour burden will be 7,500 hours, as described in more detail in the tables below.

RESPONDENT AVERAGE BURDEN PER SURVEY RESPONSE ACTIVITY

| Respondent activity | Total burden per activity (hours) |
|---|---|
| Read Instructions | 3 |
| Gather Information/Data | 12 |
| Complete Survey Form | 12 |
| Review Survey Responses | 3 |
| All Activities | 30 |

COLLECTION OF MEAT PRODUCTS INDUSTRY DATA, TOTAL RESPONDENT BURDEN AND COSTS

| Total number of responses | Average burden per respondent (in hours) | Total burden (in hours) | Average labor costs per respondent (in dollars) | Total labor costs (in dollars) | Average O&M costs per respondent (in dollars) | Total O&M cost (in dollars) | Total costs (in dollars) |
|---|---|---|---|---|---|---|---|
| 250 | 30 | 7,500 | $2,076 | $519,000 | $9.00 | $2,250 | $521,250 |

In addition, EPA also solicits comments and suggestions regarding the substance and form of the draft survey instrument. For example, are the directions and questions clear and concise; are the definitions consistent

with industry jargon and use of terms; are the right questions in the survey; if not, please suggest more appropriate ones; do the questions adequately cover all pertinent factors relevant to developing equitable guidelines; if not, what needs to be added? EPA is also soliciting comments on means of reducing the data collection burden.

Dated: April 24, 2000.

**James Hanlon,**

*Acting Director, Office of Science and Technology.*

[FR Doc. 00–10771 Filed 4–28–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6587–2]**

## Notice of Availability of the Project XL Proposed Final Project Agreement: Naval Station Mayport Project—Beneficial Reuse of Dredged Material; Regulatory Reinvention (XL) Pilot Projects

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability of the Project XL Proposed Final Project Agreement: Naval Station Mayport Project—Beneficial Reuse of Dredged Material.

**SUMMARY:** EPA is requesting comments on a proposed Project XL Final Project Agreement (FPA) for Naval Station Mayport (hereafter ''NS Mayport''). The FPA is a voluntary agreement developed collaboratively by NS Mayport, the Jacksonville District of the U.S. Army Corps of Engineers (COE), the Florida Department of Environmental Protection (DEP), the City of Jacksonville (Jacksonville) and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the flexibility to develop alternative strategies that will replace or modify specific regulatory or procedural requirements on the condition that they produce greater environmental benefits. EPA has set a goal of implementing fifty XL projects undertaken in full partnership with the states.

In order to maintain operations at NS Mayport, 600,000 cubic yards of sediment must be dredged every 18–24 months from the facility's entrance channel and turning basin. Since 1993, NS Mayport has been disposing of this material into the ocean. To reduce and eventually eliminate ocean disposal, NS Mayport proposes to use this excess dredged material as the foundation for the production of construction blocks and artificial reef material. Initially, the dredged material for construction of the building blocks and the artificial reef material will be derived from two existing upland holding sites. In the future, the dredged material will come (either directly or indirectly through temporary storage at the upland holding sites) from the facility's maintenance dredging projects thereby eliminating the need for ocean disposal of this material. By the year 2020, NS Mayport has estimated that without this project, it will have disposed of approximately ten (10) million cubic yards of dredged material into the ocean. Additionally, NS Mayport is considering use of excess flyash produced by Jacksonville's electrical generating plant as a solidification material for the construction blocks. No flyash will be used to make materials for artificial reefs.

In order for NS Mayport to dredge its entrance channel and turning basin, and dispose of the material into the ocean, it is required to obtain two permits from the COE: a Section 10 permit for dredging and a Section 103 permit for ocean disposal. COE 103 permits for ocean disposal are subject to EPA concurrence. NS Mayport is also required to obtain from Florida DEP an Environmental Resource Permit and any associated Sovereign Submerged Land authorizations. As noted above, NS Mayport is currently required to obtain three permits, with three different time-lines, to dredge and dispose of its maintenance dredged material. This creates a confusing process during the permit's renewal and public comment periods. Through Project XL, NS Mayport is asking EPA to participate in a partnership with COE, Florida DEP, Jacksonville, and interested Stakeholders to synchronize the dredging and ocean disposal permitting process. The COE regulations state that ocean disposal permits will not exceed three (3) years. These regulations, however, allow the COE district engineer to grant permit extensions. Though the regulations allow extensions, EPA Region 4 and the Jacksonville District of the COE do not have procedures for such extensions. This Project establishes procedures for EPA Region 4 and the Jacksonville District of the COE by proposing a five-year (5) permit sequence, consisting of a three-year (3) permit with a two-year (2) permit extension when appropriate.

This XL project has no bearing on the separate discussions surrounding the Agency's final regulatory determination for flyash. Further, this **Federal Register** Notice is not soliciting comments on the Agency's final regulatory determination for flyash. NS Mayport is not seeking any relief from regulatory requirements, including any that may result from EPA action pursuant to the regulatory determination for flyash.

**DATES:** The period for submission of comments ends on May 22, 2000.

**ADDRESSEES:** All comments on the proposed Final Project Agreement should be sent to: Ms. Michelle Glenn, US EPA, Region 4, 61 Forsyth Street, Atlanta, GA 30303, or Ms. Lisa Reiter US EPA, Ariel Rios Building, Mail Code 1802, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Comments may also be faxed to Michelle Glenn (404) 562–8063 or Lisa Reiter (202) 260–3125. Comments may also be received via electronic mail sent to: *glenn.michelle@epa.gov* or *reiter.lisa@epa.gov.*

**FOR FURTHER INFORMATION:** To obtain a copy of the Project Fact Sheet or the proposed Final Project Agreement, contact: Michelle Glenn, US EPA, Region 4, 61 Forsyth Street, Atlanta, GA 30303, or Lisa Reiter, US EPA, Mail Code 1802, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. The FPA and related documents are also available via the Internet at the following location: *http://www.epa.gov/ProjectXL.* In addition, the proposed FPA will be available at the Beaches Branch Public Library—600 Third St., Neptune Beach, FL. Questions to EPA regarding the documents can be directed to Michelle Glenn at (404) 562–8674 or Lisa Reiter at (202) 260–9041. To be included on the NS Mayport Project XL mailing list about future public meetings, XL progress reports and other mailings from NS Mayport on the XL project, contact Cheryl Mitchell, Environmental Director, NS Mayport, Mayport, FL 32228–0067 or (904) 270–6730. For information on all other aspects of the XL Program, contact Christopher Knopes at the following address: Office of Policy and Reinvention, US EPA, Mail Code 1802, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet at http://www.epa.gov/ProjectXL.

Dated: April 25, 2000.

**Elizabeth A. Shaw,**

*Deputy Associate Administrator, Office of Reinvention Programs.*

[FR Doc. 00–10766 Filed 4–28–00; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

April 25, 2000.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before June 30, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval Number:* 3060–0531.

*Title:* Local Multipoint Distribution Service (LMDS).

*Form Number:* N/A.

*Type of Review:* Extension of existing collection.

*Respondents:* Individuals or households; Businesses or other for-profit; State, Local or Tribal Governments; small businesses or organizations.

*Number of Respondents:* 1,476.

*Estimated Time Per Response:* 8 hour per response.

*Total Annual Burden:* 11,808 hours.

*Needs and Uses:* The information requested will be used by FCC personnel to determine whether applicants for the Local Multipoint Distribution Service (LMDS) are qualified legally and technically to be licensed to use the radio spectrum.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00–10760 Filed 4–28–00; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

**[DA–00–868]**

### Telecommunications Services Between the United States and Cuba

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** On April 13, 2000, the FCC approved the application of CODETEL International Communications Corporation (CIC) to provide international message telephone service (IMTS) between the United States and Cuba transiting the Dominican Republic, subject to specific conditions.

CIC plans to offer service to Cuba using facilities of Compania Dominicana de Telefonos (CODETEL), the dominant carrier in the Dominican Republic, with which CIC is affiliated within the meaning of 47 CFR 63.09(e). The U.S.-Dominican Republic portion of the traffic will be carried over a submarine cable owned by CODETEL. The Dominican Republic-Cuba portion of the traffic will travel over satellite circuits already in use for CODETEL's traffic with Cuba.

The FCC found that granting CIC's application would serve the public interest under Section 214 of the Act, by increasing competition on the U.S.-Cuba international services route and providing more choices to U.S. consumers.

**DATES:** April 13, 2000.

**FOR FURTHER INFORMATION, CONTACT:** J. Breck Blalock, Chief, Policy and Facilities Branch, (202) 418–1460.

Federal Communications Commission.

**Rebecca Arbogast,**

*Chief, Telecommunications Division, International Bureau.*

[FR Doc. 00–10754 Filed 4–28–00; 8:45 am]

BILLING CODE 6712–01–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 May 15, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Marion Edwin Lowery, Franklin, Tennessee; to acquire voting shares of Commerce Bancshares, Inc., Brownsville, Tennessee, and thereby indirectly acquire voting shares of Bank of Commerce, Trenton, Tennessee.

Board of Governors of the Federal Reserve System, April 25, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00–10702 Filed 4–28–00; 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 May 25, 2000.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Compass Bancshares, Inc., Birmingham, Alabama; to merge with Founders Bancorp, Inc., Scottsdale, Arizona, and thereby indirectly acquire Founders Bank of Arizona, Scottsdale, Arizona.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Keene Bancorp, Inc., 401(k) Employee Stock Ownership Plan and Trust, Keene, Texas; to acquire 46.29 percent of the voting shares of Keene Bancorp, Inc., Keene, Texas, and thereby indirectly acquire Nichols Bancshares, Inc., Dover, Delaware, and First State Bank, Keene, Texas.

Board of Governors of the Federal Reserve System, April 25, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00–10701 Filed 4–28–00; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60 Day–00–35]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

*Proposed Projects:* A Research Program to Develop Optimal NIOSH Alerts for Occupational Safety and Health—New—The mission of the National Institute of Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Alert is one of the primary publications by which NIOSH communicates health and safety recommendations to at-risk workers. The Alert is mailed to workers affected by a particular health or safety hazard and contains information about the nature of the hazard, as well as recommendations for avoiding or controlling it. Despite the important role of the Alert in conveying health and safety information to workers, these publications have not been routinely pretested and evaluated for effectiveness. Therefore, the degree to which the NIOSH Alerts actually produce risk awareness, as well as comprehension, acceptance and use of the recommended health and safety measures, is unknown.

NIOSH proposes to apply recent theoretical advances in communication research to the development of NIOSH Alerts in order to ensure maximal effectiveness in conveying health and safety information to workers. The Elaboration Likelihood Model (ELM) is a communication theory that has received much empirical support. During the past year, an initial test (still in progress) was conducted to compare a standard Alert to an Alert with revised content and format based on the postulates of the ELM. Although this initial study will be informative, much additional research of this nature is necessary to gain an understanding of the communication variables that contribute to high levels of worker awareness, comprehension, acceptance, and use of safety recommendations.

According to the ELM, the greatest impact on long-term health/safety attitudes and behaviors should occur when workers are motivated and able to elaborate upon a message, and when a message contains strong arguments. Therefore, the current investigation aims to (1) examine variables that will increase level of message-related elaboration and (2) create messages that contain strong arguments. The effectiveness of the standard version of the Alert for Preventing Injuries and Deaths from Skid-Steer Loaders will be compared with revised versions of this Alert that incorporate variables known to increase message elaboration and strong arguments selected through pretesting. Specifically, the revised Alerts will use high imagery language to increase message elaboration. After the initial messages are developed, they will be pretested using a sample of 60 farmers and 60 West Virginia University Agricultural Sciences students. Following this pretesting phase, data will be gathered from: (1) 300 volunteer farmers who attend an on-site testing, (2) a national random sample of 300 farmers, and (3) 600 West Virginia University Agricultural Science students. In each of these cases, participants will be randomly assigned to receive either a standard or revised version of the Alert, and the effect of the different Alert formats on safety attitudes and behaviors will be assessed.

Data collected in this investigation should further our understanding of the variables that increase effectiveness in communicating health and safety information to workers. By continuing to systematically apply postulates of the ELM to the design of the Alerts, it should become possible to develop a

standard communication template to use in future NIOSH publications.

| Type of respondent | Number of respondents | Number of responses/respondent | Avg. burden/response (in hrs.) | Total (in hrs.) |
|---|---|---|---|---|
| Farmers (pretesting) | 60 | 1 | .5 | 30 |
| Student (pretesting) | 60 | 1 | .5 | 30 |
| Farmers | 300 | 1 | .333 | 100 |
| Farmers | 300 | 2 | .333 | 200 |
| Students | 600 | 1 | .5 | 300 |
| Total | 1320 | | | 660 |

**Charles W. Gollmar,**

*Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 00–10736 Filed 4–28–00; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 00067]**

## Cooperative Agreement to the Association of State and Territorial Health Officials; Notice of Availability of Funds

### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement with the Association of State and Territorial Health Officials (ASTHO) to act as a conduit of information exchange between the States and the National Immunization Program, keep abreast and inform its constituency of current, proposed, and new legislation regarding immunization, work to create partnerships between State health departments and private health care organizations, and create mechanisms to communicate with and inform their constituency and partners. This program addresses the ''Healthy People 2010,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus area of Immunization and Infectious Diseases. For a conference copy of ''Healthy People 2010,'' visit the internet site: http://www.health.gov/healthypeople.

### B. Eligible Applicants

Assistance will be provided only to ASTHO. No other applications are solicited. ASTHO is the most appropriate and qualified agency to conduct the activities under this cooperative agreement because ASTHO represents the chief public health official of each State and territory. Through its own membership, ASTHO has developed unique knowledge and understanding of the needs and operations of State health agencies. ASTHO has already developed a wealth of experience in immunization policy, support of State immunization programs, and collaborating to conduct immunization activities.

### C. Availability of Funds

Approximately $250,000 will be available to fund one cooperative agreement. It is expected that this award will begin on or about September 30, 2000, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

*Use of Funds*

Funds cannot be used for construction or renovation, to purchase or lease vehicles or vans, to purchase a facility to house project staff or carry out project activities, or to substitute new activities and expenditures for current ones.

### D. Programmatic Requirements

In conducting activities to achieve the purpose of this Cooperative Agreement, ASTHO will be responsible for achieving the activities under Item 1. Recipient Activities. The CDC will be responsible for activities under Item 2. CDC Activities.

*1. Recipient Activities*

A. Coordinate immunization efforts with existing ASTHO health projects, associations of public health officials, Women Infants and Children Program (WIC), The Council of State and Territorial Epidemiologists (CSTE), Association of Immunization Managers (AIM), and other organized health related associations where immunization programs can have an impact.

B. Facilitate outreach to private providers, non-profit organizations and entities involved in comprehensive school health to increase participation in the Vaccines for Children and Children's Health Insurance Program.

C. Attend meetings and keep State health officers and other partners informed of issues addressed by the Advisory committee on Immunization Practices, the National Vaccine Advisory Committee, and ASTHO Affiliate Immunization Committees.

D. Provide information on key immunization developments to State health officials, State immunization coordinators, appropriate adult or adolescent groups, and school health contacts via newsletters, conference calls, and other multimedia sources.

E. Organize and convene meetings and workshops on an as-needed basis for the purpose of exchanging information and program updates.

F. Collaborate with CDC on immunization issues regarding vaccine safety, immunization registries, immunization coverage studies, and the development and coordination of immunization national policy and evaluation.

*2. CDC Activities*

A. Provide technical assistance in implementing activities, identifying major immunization issues, effective programs, and setting priorities related to the cooperative agreement.

B. Provide scientific collaboration for appropriate aspects of the activities, including information on disease impact, vaccination coverage levels, and prevention strategies.

C. Assist in development and review of relevant immunization information made available to federal, State, and local health agencies, health care providers, and volunteer organizations.

D. Provide assistance to the grantee in establishing and implementing mechanisms for evaluating the reach of the program and effectiveness of the materials produced.

**E. Application Content**

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The application should be no more than 35 double-spaced pages, printed on one side, with one inch margins, and 12 point font not including attachments.

*Organization Profile*

A. Provide a narrative, including background information and information on the applicant organization, evidence of relevant experience in coordinating activities among constituents, and a clear understanding of the purpose of the project.

B. Include details of past experiences working with the target population(s). Provide information on organizational capability to conduct proposed project activities.

C. Profile qualified and experienced personnel who are available to work on the project and provide evidence of an organizational structure that can meet the terms of the project. Include an organizational chart of the applicant organization specifying the location and staffing plan for the proposed project.

*Program Plan*

A. Include goals and measurable impact and process objectives that are specific, realistic, measurable, and time-phased. Include an explanation of how the objectives contribute to the purposes of the request for assistance and evidence that demonstrates the potential effectiveness of the proposed objectives.

B. Detail an action plan, including a timeline of activities and personnel responsible for implementing each segment of the plan.

C. Prepare a plan to include impact and process evaluation utilizing both quantitative and qualitative measures for the achievement of program objectives to determine the reach and effectiveness of the message promoted by the grantee, and monitor the implementation of proposed activities. Indicate how the quality of services provided will be ensured.

D. Provide a plan for disseminating project results indicating when, to whom, and in what format the material will be presented.

E. Provide a plan for obtaining additional resources from non-federal sources to supplement program activities and ensure continuation of the activities after the end of the project period.

*Collaboration Activities*

A. Obtain and include letters of support from local organizations and constituents indicating or committing to support the activities of this program.

B. Provide any memoranda of agreement from collaborating organizations indicating a willingness to participate in the project, the nature of their participation, period of performance, names and titles of individuals who will be involved in the project, and the process of collaboration. Each memorandum should also show an understanding and endorsement of immunization activities.

C. Provide evidence of collaborative efforts with health departments, provider organizations, coalitions, and other local organizations.

*Budget Information*

Provide a detailed budget with justification. The budget proposal should be consistent with the purpose and program plan of the proposed project.

**F. Submission and Deadline**

Submit the original and two copies of the application PHS 5161–1. Forms are available at the following Internet address: www.cdc.gov/...Forms, or the application kit.

On or before June 15, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

**G. Evaluation Criteria**

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

(1) *Background and Need:* The extent to which the applicant understands the problem of underimmunization and proposes a plan to address the issues specific to their constituents. (15 points)

(2) *Capability:* The ability of the applicant to implement proposed activities as measured by relevant past experience. (10 points)

(3) *Management:* The extent to which the applicant can provide a sound management structure, and staff qualifications, including the appropriateness of their proposed roles and responsibilities and job descriptions. (15 points)

(4) *Program Plan:* The feasibility and appropriateness of the applicant's action plan to identify immunization issues, communicate with, and reach, targeted populations, coordinate efforts with partner groups such as private provider organizations and associations, non-profit organizations, and State immunization programs. (30 points)

(5) *Collaboration:* The extent to which the applicant can show support from partner groups such as private provider organizations and associations, non-profit organizations, and State immunization programs. (20 points)

(6) *Evaluation Plan:* The extent to which the applicant proposes to evaluate the proposed plan including impact and process evaluation as well as quantitative and qualitative measures for achievement of program objectives, determining the health effect on the population, and monitoring the implementation of proposed activities. (10 points)

(7) *Budget and Justification:* The extent to which the proposed budget is adequately justified, reasonable, and consistent with proposed project activities and this program announcement. (Not Scored)

**H. Other Requirements**

Provide CDC with original plus two copies of:

1. Progress reports (semiannual). The CDC will provide specific guidelines for documenting and reporting on program activities.

2. Financial Status Reports, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Addendum I in the application kit.

AR–10—Smoke-Free Workplace
AR–11—Healthy People 2010
AR–12—Lobbying Restriction
AR–14—Accounting System Requirements
AR–15—Proof of Non-Profit Status
AR–20—Conference Support

**I. Authority and Catalog of Federal Domestic Assistance Number**

This program is authorized under section 311 [42 U.S.C. 243] and 317(k)(2) [42 U.S.C. 247b(k)(2)] of the Public Health Service Act as amended. The Catalog of Federal Domestic Assistance number is 93.185.

**J. Where to Obtain Additional Information**

Please refer to Program Announcement Number 00067 when requesting information.

For business management technical assistance contact:

Mattie B. Jackson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341–4146. Telephone: (770) 488–2718. Email Address: mij3@cdc.gov.

Other CDC Announcements can be downloaded from the internet at http://www.cdc.gov (Click on funding).

For program technical assistance, contact:

Duane Kilgus, Community Outreach and Planning Branch, Immunization Services Division, National Immunization Program, Centers for Disease Control and Prevention, 1600 Clifton Road, M/S E–52, Atlanta, Georgia 30333, Telephone: (404) 639–8784, Email address—dgk9@cdc.gov.

Dated: April 25, 2000.

**Henry S. Cassell III,**

*Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 00–10735 Filed 4–28–00; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 00041]**

## Public Health Leadership Institute; Notice of Availability of Funds

### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for Public Health Leadership Institute. This program addresses the ''Healthy People 2010'', focus area 23–8, which states that the goal is to: ''Increase the proportion of Federal, Tribal, State, and local agencies that incorporate specific competencies in the essential public health services into personnel systems.'' The purpose of this cooperative agreement program is to enhance the leadership knowledge and skills of State and local health officials and other public health professionals by conducting an annual Public Health Leadership Program. The program is intended to provide participants with a learning experience, highlighted by an intensive on-site program. It will provide an opportunity for public health leaders to interact and create a network of leaders who can be instrumental in influencing the future direction of public health. Participants will be periodically evaluated during the program to determine the impact of the experience on their level of leadership ability and their organization's effectiveness and efficiency. The results of these evaluations, along with the participants' recommendations for improvement, will be used in planning activities for future leadership programs.

The long-term objectives of the cooperative agreement are to:

1. Provide an annual forum for discussions and the critical analysis of current public health issues.
2. Develop a network of public health leaders who can provide ongoing support to the public health infrastructure following attendance at the program.
3. Strengthen the relationship between public health practice and academia by providing a model for such interaction.
4. Enhance and develop leadership skills and abilities of participants in areas that are vital to the operation of their health agencies.

The core faculty of the program will consist of recognized leaders from academia. Leaders from the private sector, professional and voluntary organizations, government agencies and legislative staffs will also be recruited when specialized expertise is required.

### B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

**Note:** Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

### C. Availability of Funds

Approximately $500,000 is available in FY 2000 to fund one award. It is expected that the award will begin on September 30, 2000 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports, and the availability of funds.

*Use of Funds*

The proposed budget should include travel costs for two meetings at the Centers for Disease Control and Prevention during each year to discuss programmatic issues and concerns.

### D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

*1. Recipient Activities*

a. Coordinate a steering committee which should include leaders from academia, health organizations such as the Association of State and Territorial Health Officials (ASTHO), the National Association of County and City Health Officials (NACCHO), the National Governor's Association (NGA), the National Association of County Officials (NACO), and the American Association of Hospital Professionals (AAHP) and alumni from other leadership development programs.

b. Develop and present a comprehensive advanced leadership program to enhance existing leadership skills and abilities of participants in the areas that are critical to the operation of State and local public health systems.

c. Demonstrate how the curriculum supports the improved capacity of public health leaders to achieve significant progress in advancing public health effectiveness as measured by the National Public Health Performance Standards.

d. Provide a conference facility for at least one on-site forum to engage in discussions and critical analysis of current health issues as well as continuing discussions during the year-long experience.

e. Develop a network of public health leaders who can strengthen the public health infrastructure after attending the program.

f. Develop a model for interaction between public health practice and academia.

g. Documentation and certification that the applicant has the ability to provide CCU or CME credits.

h. Provide expenses for participants to attend the on-site week.

i. Develop an evaluation plan to determine the impact of the leadership experience on participants ability to enhance organizational effectiveness and efficiency.

j. Develop a funding plan that demonstrates efforts for sustainability of

the program and includes options for both applicant and participant costs.

k. Demonstrate a plan that ensures continued educational opportunities and collaborative efforts between the current class participants and previous graduates of this national public health leadership program.

*2. CDC Activities*

a. Provide technical assistance and consultation in all phases of the planning, preparation and presentation of the Institute.

b. Assist as needed in the development of goals and objectives of the program and curriculum.

c. Provide technical assistance, as needed, with identification of potential faculty members to be recruited from the private sector, legislative staffs, and other health agencies.

**E. Application Content**

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

**F. Submission and Deadline**

*Letter of Intent (LOI)*

Your letter of intent (LOI) should include the following information: A brief letter stating that the applicant intends to submit a full proposal on or before the final application submission date. The LOI is not required and will not be used for accepting or evaluating applications, but for CDC planning purposes only. The LOI should be submitted by U.S. postal mail on or before June 15, 2000 to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

*Application*

Submit the original and two copies of the PHS Form 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov.od/pgo/forminfo.htm or in the application kit.

On or before July 15, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline

Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the Independent Review Group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

**G. Evaluation Criteria**

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

*1. Plan (25 Points)*

Extent to which the applicant understands the issues to be addressed in accordance with the purpose of the cooperative agreement. This plan should demonstrate the willingness to develop a partnership with other nationally recognized, advanced leadership and management programs in both public and private sectors, in health and non-health settings, and how these programs would assist to develop, execute and evaluate the proposed program. Applicant should be able to demonstrate the ability to develop a public health leadership development program model. Applicants must be able to recruit nationally recognized core faculty from academic institutions, State and/or Federal Governmental Agencies, professional and voluntary organizations and private industries who have demonstrated background and knowledge in the research and applications to leadership skill building activities. Applicant must relate their understanding of the existing literature and data on advanced leadership development programs. A detailed work plan which includes measurable objectives must be submitted. The plan should demonstrate a clear understanding of contemporary issues and concerns of practicing public health practitioners.

*2. Objectives (30 Points)*

Extent to which the applicant has a clear description of the objectives of the project and the specific and measurable steps to be taken in the measurable implementation of the program. The respective responsibilities of any other partners should be clearly described. Applicant must include goals that are feasible to be accomplished during the budget period, address all activities necessary to accomplish them and a time-line which shows the objectives are specific, time-phased and measurable. A description of activities that the applicant has been involved with which would indicate an ability to accomplish this project should be included.

*3. Methods (25 Points)*

Extent to which the applicant provides a detailed description of the proposed activities which are likely to achieve each objective and overall program goals. The description should include: (1) A reasonable and complete schedule for implementing all activities, (2) designation of responsibility for each action, (3) position descriptions, Curriculum Vitae (CV's) and lines of responsibility appropriate to accomplishment of program goals and objectives, (4) letters of support from other partners or constituents involved and their concurrence with the applicant's plans, and (5) suggested geographical location for the on-site program and facilities including space and equipment needed to deliver the Institute.

*4. Evaluation (20 Points)*

The extent to which the proposed evaluation system is detailed and will document program progress, effectiveness, impact and outcome. The extent to which the applicant demonstrates potential data sources for evaluation proposed, and documents staff availability, expertise, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is included. Plans for short-term and long-term evaluation with a baseline of data to be collected and measured throughout the entire program covered under the cooperative agreement. Documentation and certification that the applicant has the ability to provide Continuing Education Units (CEU) or Continuing Medical Education (CME) credits.

*5. Budget (Not Scored)*

Applicant must provide justification for budget expenditures as well as appropriateness to activities proposed in their application. Costs for each component of the program (design and development, on-site program,

evaluation, personnel, travel, etc.) must be included. If applicant expects to receive funds from other partners or sources these must be clearly stated and detailed according to the costs that will be covered.

**H. Other Requirements**

*Technical Reporting Requirements*

Provide CDC with original plus two copies of:

1. Semi-annually progress reports;
2. Financial Status Report (FSR), no more than 90 days after the end of the budget period; and
3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions

**I. Authority and Catalog of Federal Domestic Assistance Number**

This program is authorized under section 1704 of the Public Health Service Act, 42 U.S.C. section 300u–3, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

**J. Where To Obtain Additional Information**

This and other CDC announcements may be found on the CDC home page on the Internet: http://www.cdc.gov. To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave you name and address and will be instructed to identify the announcement number of interest. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number (770) 488–2764, email vxm7@cdc.gov.

For program technical assistance, contact: Donna C. Carmichael, Public Health Practice Program Office 4770 Buford Highway, MS K–39, Atlanta, GA 39341, Telephone: (770) 488–2417 email dcc0@cdc.gov.

Dated: April 25, 2000.

**John L. Williams,**

*Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 00–10734 Filed 4–28–00; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 00066]**

## Using Private Provider Partnerships To Strengthen the Immunization Message; Notice of Availability of Funds

**A. Purpose**

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program with national private provider organizations to inform their constituency on immunization issues, identify best practices and successful immunization programs, promote the improvement of immunization coverage in primary care settings, enhance and create partnerships with, State and local health departments, non-governmental organizations, and other professional organizations to collaborate on immunization programs around the country. This program addresses the ''Healthy People 2010,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus area of Immunization and Infectious Diseases. For a conference copy of ''Healthy People 2010,'' visit the internet site: http://www.health.gov/healthypeople.

This cooperative agreement will:

1. Establish partnerships with national private provider organizations and associations to effectively utilize the combined resources of the public and private health care delivery systems.
2. Establish a mechanism to promote successful immunization programs, distribute current immunization information to the recipients constituency, and to gather information regarding the status of current programs at the grass-roots level.
3. Obtain access to the recipient organization for the purpose of promoting the goals and objectives of the National Immunization Program.

**B. Eligible Applicants**

Assistance will be provided to non-profit tax-exempt national private provider professional associations with active memberships of at least 3,000 health care providers who's members provide primary care services to preschool-aged children, adolescents, and/or adults. Tax-exempt status may be confirmed by either providing a copy of the pages from the Internal Revenue Service's (IRS most recent list of 501(c)(3) tax-exempt organizations or a copy of the current IRS Determination Letter. Proof of tax-exempt status must be provided in the application.

**Note:** Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

**C. Availability of Funds**

Approximately $450,000 will be available to fund up to five cooperative agreements. It is expected that the average award will range from $100,000 to $150,000. It is expected that this award will begin on or about September 30, 2000, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

*Use of Funds*

Funds cannot be used for construction or renovation, to purchase or lease vehicles or vans, to purchase a facility to house project staff or carry out project activities, or to substitute new activities and expenditures for current ones.

**D. Program Requirements**

In conducting activities to achieve the purpose of this Cooperative Agreement, the recipient will be responsible for achieving the activities under Item 1. Recipient Activities. The CDC will be responsible for activities under Item 2. CDC Activities.

*1. Recipient Activities*

A. Utilize recommendations by the National Immunization Program (NIP), Advisory Committee on Immunization Practice (ACIP), American College of Physicians (ACP), American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP) to create and distribute new materials to promote the understanding, adoption, and use of those recommendations by

the health care providers, parents, and patients.

B. Establish and implement mechanisms for promoting effective immunization practices and programs and support the incorporation of such practices within the facilities operated by your affiliates.

C. Establish and implement a mechanism for distribution of current immunization news, practices, and strategies to health care providers within your constituency.

D. Participate in the planning of your organization's conferences and meetings on the National, regional, and State levels to ensure that appropriate priority is placed on strategies and model programs that increase immunization coverage levels.

E. Establish and implement mechanisms for evaluating the effectiveness of communication with your constituency, regarding increased awareness, knowledge, and participation in immunization programs, and the practice of health care provider affiliates.

*2. CDC Activities*

A. Provide technical assistance in implementing activities, identifying major immunization issues, effective programs, and assist with setting program priorities as related to the cooperative agreement.

B. Provide scientific collaboration for appropriate aspects of the activities, including information on disease impact, vaccination coverage levels, and prevention strategies.

C. Assist in the review of relevant immunization information.

D. Assist the recipient in evaluating the reach of the program and effectiveness of the materials produced.

**E. Application Content**

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The application should be no more than 35 double-spaced pages, printed on one side, with one inch margins, and 12 point font not including attachments.

*Organization Profile*

A. Provide a narrative, including background information and information on the applicant organization, evidence of relevant experience in coordinating activities among constituents, and a clear understanding of the purpose of the project.

B. Include details of past experiences working with your constituency regarding promotion and education of immunization issues. Provide information on organizational capability to conduct proposed project activities.

C. Profile qualified and experienced personnel who are available to work on the project and provide evidence of an organizational structure that can meet the terms of the project. Include an organizational chart of the applicant organization specifying the location and staffing plan for the proposed project.

*Program Plan*

A. Include goals and measurable impact and process objectives that are specific, realistic, and time-phased. Include an explanation of how the objectives contribute to the purposes of the request for assistance and evidence that demonstrates the potential effectiveness of the proposed objectives.

B. Detail an action plan, including a timeline of activities and personnel responsible for implementing each segment of the plan.

C. Prepare a plan to include impact and process evaluation utilizing both quantitative and qualitative measures for the achievement of program objectives to determine the reach and effectiveness of the message promoted by the grantee, and monitor the implementation of proposed activities. Indicate how the quality of services provided will be ensured.

D. Provide a plan for disseminating project results indicating when, to whom, and in what format the material will be presented.

E. Provide a plan for obtaining additional resources from non-federal sources to supplement program activities and ensure continuation of the activities after the end of the project period.

*Collaboration Activities*

A. Obtain and include letters of support from local organizations and constituents indicating or committing to support the activities of this program.

B. Provide any memoranda of agreement from collaborating organizations indicating a willingness to participate in the project, the nature of their participation, period of performance, names and titles of individuals who will be involved in the project, and the process of collaboration. Each memorandum should also show an understanding and endorsement of immunization activities.

C. Provide evidence of collaborative efforts with health departments, provider organizations, coalitions, and other local organizations.

*Budget Information*

Provide a detailed budget with justification. The budget proposal should be consistent with the purpose and program plan of the proposed project.

**F. Submission and Deadline**

Submit the original and two copies of the application PHS 5161–1, (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov/* * *Forms, or the application kit.

On or before July 6, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

*Deadline*

Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date; or

B. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*Late Applications*

Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

**G. Evaluation Criteria**

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. *Background and Need:* The extent to which the applicant understands the problem of under-immunization and proposes a plan to address the issues specific to their constituents (20 points)

2. *Capability:* The extent to which the applicant appears likely to succeed in implementing proposed activities as measured by relevant past experience, a sound management structure, and staff qualifications, including the appropriateness of their proposed roles and responsibilities and job descriptions.(40 points)

The applicant must:

a. Have a demonstrated history of a constituency that provides immunization services including services to under-served, low-income, or minority populations.

b. Have a system in place for communicating with their constituents and providing them information in a timely manner.

*3. Program Plan:* The feasibility and appropriateness of the applicant's action plan to identify immunization issues and new developments, communicate with and reach targeted populations, and translate technical immunization information into appropriate formats. (30 points)

4. *Evaluation Plan:* The extent to which the applicant proposes to evaluate the proposed plan, including impact and process evaluation, as well as quantitative and qualitative measures for achievement of program objectives, determining the improvement in level of immunization knowledge among your constituency, identify improvements made in immunization delivery by providers within your constituency, and monitoring the implementation of proposed activities. (10 points)

5. *Budget and Justification:* The extent to which the proposed budget is adequately justified, reasonable, and consistent with the proposed project activities and this program announcement. (Not Scored)

**H. Other Requirements**

Provide CDC with original plus two copies of:

1. Progress reports (semiannual) The CDC will provide specific guidelines for documenting and reporting on program activities.

2. Financial Status Reports, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Addendum I in the application kit.

AR–10—Smoke-Free Workplace
AR–11—Healthy People 2010
AR–12—Lobbying Restriction
AR–14—Accounting System Requirements
AR–15—Proof of Non-Profit Status
AR–20—Conference Support

**I. Authority and Catalog of Federal Domestic Assistance Number**

This program is authorized under section 311 [42 U.S.C. 243] and 317 (k)(2) [42 U.S.C. 247b (k) (2)] of the Public Health Service Act as amended. The Catalog of Federal Domestic Assistance number is 93.185.

**J. Where to Obtain Additional Information**

This and other CDC announcements may be downloaded through the CDC homepage on the Internet at http://www.cdc.gov (Click on funding). Please refer to Program Announcement Number 00066 when requesting information. To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave you name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Mattie B. Jackson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2718, Email Address: mij3@cdc.gov.

For program technical assistance, contact: Duane Kilgus, Community Outreach and Planning Branch, Immunization Services Division, National Immunization Program, Centers for Disease Control and Prevention, 1600 Clifton Road, M/S E–52, Atlanta, Georgia 30333, Telephone: (404) 639–8784, Email address—dgk9@cdc.gov.

Dated: April 25, 2000.

**Henry S. Cassell III,**

*Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 00–10733 Filed 4–28–00; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* National Child Abuse and Neglect Data System.

*OMB No.:* 0980–0256 and 0980–0229.

*Description:* The Child Abuse and Treatment Act (42 U.S.C. 5101 *et seq.*) as amended requires States that receive the CAPTA State Child Abuse and Neglect Grant ''to annually work with the Secretary to provide, to the maximum extent practicable, a report that includes (the 12 data items listed in the statute.'' The National Child Abuse and Neglect Data System (NCANDS), administered by the Children's Bureau, meets this reporting requirement. The two components of the NCANDS, the Detailed Case Data Component (DCDC) and the Summary Data Component (SDC) are being updated in order to address all items in the legislation and to be consistent with each other.

*Respondents:* State Child Welfare Agencies.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| DCDC | 30 | 1 | 130 | 3,900 |
| SDC | 22 | 1 | 40 | 880 |
| Estimated Total Annual Burden Hours | | | | 4,780 |

*Additional Information:* Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the

proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: April 25, 2000.

**Bob Sargis,**

*Reports Clearance Officer.*

[FR Doc. 00–10694 Filed 4–28–00; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Head Start Family and Child Experiences Survey (FACES).

*OMB No.:* OMB No. 0970–0151.

*Description:* The Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF) of the Department of Health and Human Services (DHHS) is requesting Office of Management and Budget (OMB) clearance for interview instruments to be used in the Head Start Family and Child Experiences Survey (FACES). This study is being conducted under contract with Westat, Inc. (with Ellsworth Associates as their subcontractor (#105–96–1912)) to collect information on Head Start performance measures. This revision is intended to follow-on to the current design in order to follow the sample through the end of their first grade year of school.

FACES currently involves five phases of data collection. The first phase was a Spring 1997 Field test in which approximately 2400 parents and children were studied in a nationally stratified random sample of 40 Head Start programs. The second and third phases occurred in Fall 1997 (Wave 1) and Spring 1998 (Wave 2) when data were collected on a sample of 3200 children and families in the same 40 programs. Spring 1998 data collection included assessments of both Head Start children completing the program and former Head Start children completing kindergarten (kindergarten field test) as well as interviews with their parents and ratings by their kindergarten teachers. In the fourth and fifth phases, follow-up continued for a second program year, plus a kindergarten follow-up. The current plan is to extend data collection in spring of the first-grade year for both cohorts of children, those completing kindergarten in spring 1999, and those completing kindergarten in spring 2000.

This schedule of data collection is necessitated by the mandates of the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62), which requires that the Head Start Bureau move expeditiously toward development and testing of Head Start Performance Measures, and by the 1994 reauthorization of Head Start (Head Start Act, as amended, May 18, 1994, Section 649 (d)), which requires assessment of Head Start's quality and effectiveness. These mandates were reinforced by the Head Start Act Reauthorization of October, 1998, which called for planning for a study of Head Start children to continue follow-up through first grade.

*Respondents:* Federal Government, Individuals or Households, and Not-for-profit institutions.

ANNUAL BURDEN ESTIMATES

| Instrument | Estimated number of respondents | Estimated number of responses per respondent | Average burden hours per response | Estimated total annual burden hours requested |
|---|---|---|---|---|
| Year 1 (2000): | | | | |
| First grade parents | 1604 | 1 | .33 | 535 |
| First grade children | 1604 | 1 | .75 | 1203 |
| First grade teachers | 1604 | 1 | .50 | 802 |
| Year 2 (2001): | | | | |
| All parents | 2770 | 1 | .08 | 231 |
| First grade parents | 1166 | 1 | .33 | 389 |
| First grade children | 1166 | 1 | .75 | 875 |
| First grade teachers | 1166 | 1 | .50 | 583 |
| Annualized totals: | | | | |
| Year 1 | 2540 | | | |
| Year 2 | 2078 | | | |
| Estimated total annual burden hours | | | | 2309 |

Note: The 2309 annual hours is based on an average of 2000 and 2001 estimated burden hours.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information and collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Desk Officer for ACF.

Dated: April 25, 2000.

**Bob Sargis,**

*Reports Clearance Officer.*

[FR Doc. 00–10744 Filed 4–28–00; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 98F–0184]**

### Rohm and Haas Co.; Withdrawal of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) in announcing the withdrawal, without prejudice to a

future filing, of a food additive petition (FAP 8A4588) proposing that the food additive regulations be amended to provide for the safe use of completely hydrolyzed copolymer of acrylonitrile and trivinylcyclohexane ion-exchange resin for use in treating potable water and aqueous, acidic, and alcoholic foods.

**FOR FURTHER INFORMATION CONTACT:** Parvin M. Yasaei, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3023.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of April 1, 1998 (63 FR 15851), FDA announced that a food additive petition (FAP 8A4588) had been filed by Rohm and Haas Co., 5000 Richmond St., Philadelphia, PA 19137. The petition proposed to amend the food additive regulations in § 173.25 *Ion-exchange resins* (21 CFR 173.25) to provide for the safe use of completely hydrolyzed copolymer of acrylonitrile and trivinylcyclohexane ion-exchange resin for use in treating potable water and aqueous, acidic, and alcoholic foods. Rohm and Haas Co. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: March 24, 2000.

**Laura M. Tarantino,**

*Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 00–10689 Filed 4–28–00; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; Submission for OMB Review; Comment Request: The Framingham Study

**SUMMARY:** Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 30, 1999, page 73564 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**Proposed Collection**

Title: The Framingham Study. Type of Information Collection Request: Revision of a currently approved collection (OMB No. 0925–0216). Need and Use of Information Collection: This project involves physical examination and testing of the surviving members of the original Framingham Study cohort and the surviving members of the offspring cohort. Investigators will contact doctors, hospitals, and nursing homes to ascertain participants' cardiovascular events occurring outside the study clinic. Information gathered will be used to further describe the risk factors, occurrence rates, and consequences of cardiovascular disease in middle aged and older men and women. Frequency of Response: The cohort participants respond every two years; the offspring participants respond every four years. Affected Public: Individuals or households; Businesses or other for-profit; Small businesses or organizations. Type of Respondents: Middle aged and elderly adults; doctors and staff of hospitals and nursing homes. The annual reporting burden is as follows: Estimated Number of Respondents: 2,865; Estimated Number of Responses per Respondent: 3.398; Average Burden Hours Per Response: 0.6321; and Estimated Total Annual Burden Hours Requested: 6,154. The annualized cost to respondents is estimated at $80,485 assuming respondents time at the rate of $10 per hour and physician/medical staff time at the rate of $55 per hour. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

ESTIMATE OF HOUR BURDEN

| Type of respondents | Estimated number of respondents | Estimated number of responses per respondent | Average burden hours per response | Estimated total annual burden hours requested |
|---|---|---|---|---|
| Framingham Original Cohort | 340 | 3.912 | 0.3496 | 465 |
| Framingham Offspring Cohort | 1,267 | 5.642 | 0.7300 | 5,218 |
| Physician, hospital, nursing home staff | 629 | 1.000 | 0.6700 | 421 |
| Framingham next-of-kin | 629 | 1.000 | 0.0800 | 50 |
| Total | 2,865 | 3.398 | 0.6321 | 6,154 |

**Request for Comments**

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Direct Comments to OMB**

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Paul Sorlie, Project Officer, NIH, NHLBI, 6701 Rockledge Drive, MSC 7934, Bethesda, MD 20892–7934, or call non-

toll-free number (301) 435–0456 or E-mail your request, including your address to: SorlieP@nih.gov.

**Comments Due Date**

Comments regarding this information collection are best assured of having their full effect it received on or before June 30, 2000.

Dated: April 20, 2000.

**Peter Savage,**

*Acting Director, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute.*

[FR Doc. 00–10793 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Fogarty International Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Fogarty International Center Advisory Board.

*Date:* May 16, 2000.

*Open:* 8:30 a.m. to 12 p.m.

*Agenda:* Report of the Director, plans for Fogarty International Center in-house research activities, International Epidemiology, Science Policy, and Putting Mental Health on the International Agenda: Role of the FIC and NIH.

*Place:* Lawton Chiles International House, 16 Center Drive, (Building 16), Bethesda, MD 20892.

*Closed:* 1 p.m. to adjournment.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* Lawton Chiles International House, 16 Center Drive, (Building 16), Bethesda, MD 20892.

*Contact Person:* Irene W. Edwards, Information Officer, Fogarty International Center, National Institutes of Health, Building 31, Room B2C08, 31 Center Drive MSC 2220, Bethesda, MD 20892, 301–496–2075.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: April 21, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–10786 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Eye Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion and evaluation of individual intramural programs and projects conducted by the National Eye Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, National Eye Institute.

*Date:* June 5–6, 2000.

*Open:* June 5, 2000, 9 a.m. to 10 a.m.

*Agenda:* Opening remarks by the Director, Intramural Research Program, on matters concerning the intramural program of the NEI.

*Place:* Building 10, Room 10B16, Bethesda, MD 20892.

*Closed:* June 5, 2000, 10 a.m. to 5 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* Building 10, Room 10B16, Bethesda, MD 20892.

*Closed:* June 6, 2000, 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* Building 10, Room 10B16, Bethesda, MD 20892.

*Contact Person:* Robert B. Nussenblatt, MD, Director, Intramural Research Program, National Eye Institute, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892, 301–496–3123.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: April 21, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–10785 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

*Date:* May 22, 2000.

*Time:* 8:30 a.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Aftab A. Ansari, Scientific Review Administrator, National Institutes of

Health, NIAMS, Natcher Bldg., Room 5As25N, Bethesda, MD 20892, 301–594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS).

Dated: April 21, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–10787 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, NIDDK.

*Date:* June 14–16, 2000.

*Time:* 6:00 pm to 11:00 am.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.

*Contact Person:* Ira W. Levin, Acting Director, Division of Intramural Research, National Institute of Diabetes and Digestive, and Kidney Diseases, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 21, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–10788 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIAID.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, NIAID.

*Date:* June 5–7, 2000.

*Time:* 8 a.m. to 12 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, Building 10, Sheldon M. Wolff Memorial Conference Room (11S235), 10 Center Drive, Bethesda, MD 20892.

*Contact Person:* Thomas J. Kindt, PhD, Director, Division of Intramural Research, National Inst. of Allergy and Infections Diseases, Building 10, Room 4A31, Bethesda, MD 20892, 301 496–3006, tk9c@nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 21, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–10789 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Deafness And Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council. The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Deafness and Other Communication Disorders Advisory Council.

*Date:* May 24, 2000.

*Open:* 8:30 AM to 12 pm.

*Agenxa:* Staff reports on divisional, programmatic and special activities.

*Place:* 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

*Closed:* 12:00 PM to 3:00 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

*Contact Person:* Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: April 21, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy*

[FR Doc. 00–10790 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* April 28, 2000.

*Time:* 12 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Michael J. Moody, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–3367.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 24, 2000.

**Anna P. Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–10791 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–1 M1 P.

*Date:* April 26, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22203.

*Contact Person:* Carolyn Miles, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 641, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–1 (M4).

*Date:* May 11, 2000.

*Time:* 9:30 a.m. to 11:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 6707 Democracy Blvd, Two Democracy Plaza, 6th Floor, Room 641, MSC 5452, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Carolyn Miles, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 641, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 24, 2000.

**Anna Snouffer,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–10792 Filed 4–28–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Refugee Resettlement Program; Proposed Availability of Formula Allocation Funding for FY 2000 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need

**AGENCY:** Office of Refugee Resettlement (ORR), ACF, HHS.

**ACTION:** Notice of proposed availability of formula allocation funding for FY 2000 targeted assistance grants to States for services to refugees in local areas of high need.

**SUMMARY:** This notice announces the proposed availability of funds and award procedures for FY 2000 targeted assistance grants for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee populations, high refugee concentrations, and high use of public assistance, and where specific needs exist for supplementation of currently available resources.

This notice continues the eligibility of those 50 counties located in 29 States that previously qualified for and received targeted assistance program (TAP) grants beginning in FY 1999 as a result of the three-year qualification process. The FY 2000 TAP formula allocations are based on the same formula as in FY 1999, updated to reflect arrivals during the five-year period from FY 1995 through FY 1999.

**DATES:** Comments on this notice must be received by May 31, 2000.

**ADDRESSES:** Address written comments, in duplicate, to: Gayle A. Smith, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

**APPLICATION DEADLINE:** The deadline for applications will be established by the final notice. Applications should not be sent in response to this notice of proposed allocations.

**FOR FURTHER INFORMATION CONTACT:** Gayle Smith, Director, Division of Refugee Self-Sufficiency, (202) 205–3590.

**SUPPLEMENTARY INFORMATION:**

## I. Purpose and Scope

This notice announces the proposed availability of funds for grants for targeted assistance for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,477,000 in FY 2000 funds for the targeted assistance program (TAP) as part of the FY 2000 appropriation for the Department of Health and Human Services (Pub. L. No. 106–113).

The Director of the Office of Refugee Resettlement (ORR) proposes to use the $49,477,000 in targeted assistance funds as follows:

$44,529,300 will be allocated to States under the five-year population formula, as set forth in this notice.

$4,947,700 (10 percent of the total) will be used to award discretionary grants to States under a separate grant announcement.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available ''(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.''

## II. Authorization

Targeted assistance projects are funded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. No. 99–605), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. No. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. No. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100–461), 1990 (Pub. L. No. 101–167), and 1991 (Pub. L. No. 101–513).

## III. Use of Funds

Targeted assistance funding must be used to assist refugee families to achieve economic independence in accordance with regulations at 45 CFR Part 400. The term ''refugee'' includes persons who meet all requirements of 45 CFR 400.43 (as amended by 65 FR 15409 (March 22, 2000)) and 45 CFR 401.2 (Cuban and Haitian entrants). In addition to the statutory requirement that TAP funds be used ''primarily for the purpose of facilitating refugee employment'' (section 412(c)(2)(B)(i)), funds awarded under this program are intended to help fulfill the Congressional intent that ''employable refugees should be placed on jobs as soon as possible after their arrival in the United States'' (section 412(a)(1)(B)(i) of the INA). Therefore, in accordance with 45 CFR 400.313, targeted assistance funds must be used primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Under 45 CFR 400.316, a State may provide the same scope of services under targeted assistance as may be provided to refugees under 45 CFR 400.154 and 45 CFR 400.155, with the exception of 45 CFR 400.155(h). Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

States may not provide services funded under this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (five years).

In accordance with 45 CFR 400.314, States are required to provide targeted assistance services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) Refugees who are cash assistance recipients, particularly long-term recipients; (b) unemployed refugees who are not receiving cash assistance; and (c) employed refugees in need of services to retain employment or to attain economic independence.

In accordance with 45 CFR 400.317, if targeted assistance funds are used for the provision of English language training, such training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities.

Refugees who are participating in TAP-funded or social services-funded employment services or have accepted employment are eligible for day care services for children. For an employed refugee, TAP-funded day care should be limited to one year after the refugee becomes employed. States and counties, however, are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are encouraged to work with service providers to assure maximum access to other publicly funded resources for day care.

Reflecting section 412(a)(1)(A)(iv) of the INA, States must ''ensure that women have the same opportunities as men to participate in training and instruction.'' In addition, in accordance with 45 CFR 400.317, targeted assistance services must be provided, to the maximum extent feasible, in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women.

In accordance with 45 CFR 400.317, targeted assistance services must be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background, to the maximum extent feasible. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Services funded under this notice must be refugee-specific services that are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Vocational or job-skills training, on-the-job training, or English language training, however, need not be refugee-specific.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of Mutual Assistance Associations (MAAs), voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this notice will be contingent upon the completeness of a State's application as described in section VIII below.

## IV. (Reserved for Discussion of Comments in the Final Notice)

## V. Eligible Grantees

Eligible grantees are those agencies of State governments that are responsible for the refugee program under 45 CFR 400.5 in States containing counties that qualify for FY 2000 targeted assistance awards.

The Director of ORR proposes to determine the eligibility of counties for inclusion in the FY 2000 targeted assistance program on the basis of the method described in section VI of this notice.

The use of targeted assistance funds for services to Cuban and Haitian entrants are limited to States that have an approved State plan under the Cuban/Haitian Entrant Program (CHEP). The State agency will submit a single application on behalf of all county governments that are qualified counties in that State. Subsequent to the approval of the State's application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in the final notice, in accordance with § 400.319, the FY 2000 allocations proposed by the State must be based on the State's population of refugees who arrived in the U.S. during the most recent five-year period. A State may use welfare data as an additional factor in the allocation of its targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. In addition, if a State chooses to allocate its FY 2000 targeted assistance funds in a manner different from the formula set forth in the final notice, the FY 2000 allocations and methodology proposed by the State must be included in the State's application for ORR review and approval.

Applications submitted in response to the final notice are not subject to review by State and area-wide clearinghouses under Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

## VI. Qualification and Allocation

### *A. Qualification*

The Director of ORR will determine the qualification of counties for targeted assistance once every three years, as stated in the FY 1999 notice of proposed availability of targeted assistance allocations to States which was published in the **Federal Register** on March 10, 1999 (64 FR 11927). Since ORR determined the qualification of counties for targeted assistance in FY 1999, those qualifying counties determined eligible in FY 1999 and listed in this notice as qualified to apply for FY 2000 TAP funding would remain qualified for TAP funding through FY 2001 on the basis of the most current five-year refugee/entrant arrival data. ORR does not plan to consider the eligibility of additional counties for TAP funding until FY 2002, when ORR will again review data on all counties that could potentially qualify for TAP funds.

### *B. Allocation Formula*

Of the funds available for FY 2000 for targeted assistance, $44,529,300 would be allocated by formula to States for qualified counties based on the initial placements of refugees, Amerasians, entrants (including Havana parolees), and Kurdish asylees in these counties during the five-year period from FY 1995 through FY 1999 (October 1, 1994–September 30, 1999).

With regard to Havana parolees, in the absence of reliable data on the State-by-State resettlement of this population, we are crediting 47,805 Havana parolees who arrived in the U.S. during the past five years according to the Immigration and Naturalization Service (INS), using the following methodology. For FY 1999, we credited the qualifying counties with Havana parolees according to arrival numbers supplied to us by the Parolee Orientation Program funded by the International Affairs Office of the INS. For FY 1995 through FY 1998, the Havana parolees for each qualifying county in Florida are based on actual arrival data submitted by the State of Florida; Havana parolees credited to qualifying counties in other States were prorated based on the counties' proportion of the four-year (FY 1995 through FY 1998) entrant population in the U.S.

If a qualifying county does not agree with ORR's population estimate and believes that its five-year population for FY 1995–FY 1999 was undercounted and wishes ORR to reconsider its population estimate, the county must provide the following evidence: The county must submit to ORR a letter from each local voluntary agency that resettled refugees in the county that attests to the fact that the refugees/entrants listed in an attachment to the letter were resettled as initial placements during the five-year period from FY 1995–FY 1999 in the county making the claim. Documentation must include the name, alien number, date of birth and date of arrival in the U.S. for each refugee/entrant claimed. Listings of refugees who are not identified by their alien numbers will not be considered. Counties should submit such evidence separately from comments on the proposed formula no later than 30 days from the date of publication of this notice and should be addressed to: Loren Bussert, Division of Refugee Self-Sufficiency, Office of Refugee Resettlement, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447; telephone, (202) 401–4732; E-mail: lbussert@acf.dhhs.gov. Failure to submit the required documentation within the required time period will result in forfeiture of consideration.

## VII. Allocations

Table 1 lists the qualifying counties; the number of refugee (column 3) and entrant (column 4) arrivals in those counties during the five-year period from October 1, 1994–September 30, 1999; the number of Havana parolees (column 5) credited to each county during this period, the total number of arrivals; and the proposed amount of each county's allocation based on its five-year arrival population.

TABLE 1.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 2000

| County | State | Refugees [1] | Entrants | Havana parolees [2] | Total arrivals FY 1995–1999 | Total FY 2000 proposed |
|---|---|---|---|---|---|---|
| 1Maricopa County | Arizona | 8,929 | 818 | 514 | 10,261 | $1,214,851 |
| 2 Fresno County | California | 1,799 | 2 | 1 | 1,802 | 213,348 |
| 3 Los Angeles County | California | 13,313 | 351 | 390 | 14,054 | 1,663,923 |
| 4 Orange County | California | 8,367 | 24 | 19 | 8,410 | 995,702 |
| 5 Sacramento County | California | 11,646 | 4 | 7 | 11,657 | 1,380,130 |
| 6 San Diego County | California | 6,973 | 397 | 344 | 7,714 | 913,299 |
| 7 San Francisco | California | 6,288 | 33 | 34 | 6,355 | 752,400 |
| 8 Santa Clara County | California | 8,322 | 47 | 37 | 8,406 | 995,228 |
| 9 Yolo County | California | 1,341 | 5 | 3 | 1,349 | 159,715 |
| 10 Denver County | Colorado | 3,085 | 1 | 5 | 3,091 | 365,959 |
| 11 District of Columbia | Dist. of Col | 3,626 | 15 | 14 | 3,655 | 432,734 |
| 12 Broward County | Florida | 788 | 1,402 | 1,277 | 3,467 | 410,475 |
| 13 Dade County | Florida | 7,870 | 26,214 | 37,721 | 71,805 | 8,501,350 |
| 14 Duval County | Florida | 4,236 | 21 | 51 | 4,308 | 510,046 |
| 15 Hillsborough County | Florida | 1,648 | 634 | 1,120 | 3,402 | 402,780 |
| 16 DeKalb County | Georgia | 7,902 | 12 | 9 | 7,923 | 938,043 |
| 17 Fulton County | Georgia | 5,145 | 196 | 153 | 5,494 | 650,462 |
| 18 Cook/Kane | Illinois | 15,790 | 368 | 297 | 16,455 | 1,948,189 |
| 19 Polk County | Iowa | 3,612 | 1 | 3 | 3,616 | 428,116 |
| 20 Jefferson County [3] | Kentucky | 3,813 | 1,353 | 621 | 5,787 | 685,152 |
| 21 Hampden County | Massachusetts | 2,281 | 9 | 6 | 2,296 | 271,835 |
| 22 Suffolk County | Massachusetts | 4,285 | 53 | 59 | 4,397 | 520,583 |
| 23 Ingham County | Michigan | 1,927 | 647 | 290 | 2,864 | 339,083 |
| 24 Kent County | Michigan | 2,836 | 73 | 34 | 2,943 | 348,436 |
| 25 Hennepin County | Minnesota | 6,601 | 3 | 4 | 6,608 | 782,354 |
| 26 Ramsey County | Minnesota | 2,024 | 10 | 7 | 2,041 | 241,644 |
| 27 City of St. Louis | Missouri | 8,606 | 1 | 1 | 8,608 | 1,019,144 |
| 28 Lancaster County | Nebraska | 2,378 | 38 | 25 | 2,441 | 289,002 |
| 29 Clark County [4] | Nevada | 1,566 | 1,261 | 867 | 3,694 | 437,351 |
| 30 Hudson County | New Jersey | 1,327 | 665 | 825 | 2,817 | 333,519 |
| 31 Bernalillo County | New Mexico | 1,051 | 1,006 | 828 | 2,885 | 341,570 |
| 32 Monroe County | New York | 2,730 | 833 | 453 | 4,016 | 475,474 |
| 33 New York | New York | 42,317 | 590 | 532 | 43,439 | 5,142,960 |
| 34 Oneida County | New York | 4,698 | 1 | 1 | 4,700 | 556,456 |
| 35 Guilford County | North Carolina | 2,430 | 7 | 11 | 2,448 | 289,831 |
| 36 Cass County | North Dakota | 1,791 | 3 | 2 | 1,796 | 212,637 |
| 37 Cuyahoga County | Ohio | 3,600 | 7 | 8 | 3,615 | 427,998 |
| 38 Multnomah | Oregon | 11,319 | 776 | 404 | 12,499 | 1,479,819 |
| 39 Erie County | Pennsylvania | 1,922 | 0 | 0 | 1,922 | 227,555 |
| 40 Philadelphia County | Pennsylvania | 4,833 | 44 | 37 | 4,914 | 581,793 |
| 41 Minnehaha County [5] | South Dakota | 1,592 | 0 | 0 | 01,592 | 188,485 |
| 42 Davidson County | Tennessee | 3,248 | 54 | 42 | 3,344 | 395,913 |
| 43 Dallas/Tarrant | Texas | 11,248 | 525 | 485 | 12,258 | 1,451,286 |
| 44 Harris County | Texas | 8,525 | 348 | 137 | 9,010 | 1,066,739 |
| 45 Davis/Salt Lake | Utah | 5,135 | 1 | 3 | 5,139 | 608,432 |
| 46 Fairfax County | Virginia | 3,152 | 7 | 10 | 3,169 | 375,194 |
| 48 City of Richmond | Virginia | 2,310 | 103 | 72 | 2,485 | 294,212 |
| 48 King/Snohomish | Washington | 13,378 | 51 | 34 | 13,463 | 1,593,952 |
| 49 Pierce County | Washington | 2,421 | 10 | 7 | 2,438 | 288,647 |
| 50 Spokane County | Washington | 3,255 | 0 | 1 | 3,256 | 385,494 |
| Total | | 289,279 | 39,024 | 47,805 | 376,108 | 44,529,300 |

[1] Refugees includes refugees, Kurdish asylees, and Amerasian immigrants from Vietnam.

[2] For FY 1999, the Havana parolees for all counties are based on actual data. For previous years, the Havana parolees of Florida counties are based on actual data, while parolees from other counties are prorated based on each county's proportion. of the four-year (FY 1995–1998) entrant population.

[3] The allocation for Jefferson County, Kentucky will be awarded to the Kentucky Wilson/Fish project.

[4] The allocation for Clark County, Nevada will be awarded to the Nevada Wilson/Fish.

[5] The allocation for Minnehaha County, South Dakota will be awarded to the South Dakota Wilson/Fish project.

Table 2 provides State totals for proposed targeted assistance allocations.

TABLE 2.—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 2000

| State | FY 2000 |
|---|---|
| Arizona | $1,214,851 |
| California | 7,073,745 |
| Colorado | 365,959 |
| District of Columbia | 432,734 |
| Florida | 9,824,651 |
| Georgia | 1,588,505 |
| Illinois | 1,948,189 |
| Iowa | 428,116 |
| Kentucky | 685,152 |
| Massachusetts | 792,418 |
| Michigan | 687,519 |
| Minnesota | 1,023,998 |
| Missouri | 1,019,144 |
| Nebraska | 289,002 |
| Nevada | 437,351 |
| New Jersey | 333,519 |
| New Mexico | 341,570 |
| New York | 6,174,890 |
| North Carolina | 289,831 |
| North Dakota | 212,637 |
| Ohio | 427,998 |
| Oregon | 1,479,819 |
| Pennsylvania | 809,348 |
| South Dakota | 188,485 |
| Tennesee | 395,913 |
| Texas | 2,518,025 |
| Utah | 608,432 |
| Virginia | 669,406 |
| Washington | 2,268,093 |
| Total | $44,529,300 |

## VIII. Application and Implementation Process

States that are currently operating under approved management plans for their FY 1999 targeted assistance program and wish to continue to do so for their FY 2000 grants may provide the following in lieu of resubmitting the full currently approved plan:

The State's application for FY 2000 funding shall provide:

- Assurance that the State's current management plan for the administration of the targeted assistance program, as approved by ORR in FY 1999, will continue to be in full force and effect for the FY 2000 targeted assistance program, subject to any additional assurances or revisions required by this notice which are not reflected in the current plan. Any proposed modifications to the approved plan will be identified in the application and are subject to ORR review and approval, e.g., if the State assumes local administration of the program or if the State chooses to determine county allocations differently. Any proposed changes must address and reference all appropriate portions of the FY 1999 application content requirements to ensure complete incorporation in the State's management plan.
- A line item budget and justification for State administrative costs limited to a maximum of five percent of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project.
- All applicants must submit targeted assistance performance goals as described under Section IX.

## IX. Results or Benefits Expected

All applicants must establish targeted assistance proposed performance goals for each of the six ORR performance outcome measures for each targeted assistance county's proposed service contract(s) or sub-grants for the next contracting cycle. Proposed performance goals must be included in the application for each performance measure. The six ORR performance measures are: entered employments, cash assistance reductions due to employment, cash assistance terminations due to employment, 90-day employment retentions, average wage at placement, and job placements with available health benefits. Targeted assistance program activity and progress achieved toward meeting performance outcome goals are to be reported quarterly on the ORR–6, the ''Quarterly Performance Report.''

## X. Reporting Requirements

States will be required to submit quarterly reports on the outcomes of the targeted assistance program, using the same form which States use for reporting on refugee social services formula grants. This is Schedule A and Schedule C, pages 1 and 2 of the ORR–6 Quarterly Performance Report form (OMB #0970–0036).

## XI. The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.584

Dated: April 25, 2000.

**Lavinia Limon**

*Director, Office of Refugee Resettlement.*

[FR Doc. 00–10782 Filed 4–28–00; 8:45 am]

BILLING CODE 4184–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Administration for Children and Families

## Refugee Resettlement Program: Proposed Notice of Allocations to States of FY 2000 Funds for Refugee Social Services

**AGENCY:** Office of Refugee Resettlement (ORR), ACF, HHS.

**ACTION:** Proposed notice of allocations to States of FY 2000 funds for refugee social services.

**SUMMARY:** This notice establishes the proposed allocations to States of FY 2000 funds for social services under the Refugee Resettlement Program (RRP). In the final notice, allocation amounts could be adjusted slightly based on final adjustments in FY 1999 arrivals in some States.

This notice includes a $15.5 million set-aside to: (1) Provide outreach and referral services to ensure that eligible refugees access the State Children's Health Insurance Program (SCHIP)and other programs for low income working populations; and (2) provide specialized interpreter training and the hiring of interpreters to enable refugees to have equal access to medical and legal services.

**DATES:** Comments on this notice must be received by May 31, 2000.

**ADDRESSES:** Address written comments, in duplicate, to: Barbara R. Chesnik, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Washington, DC 20447.

**FOR FURTHER INFORMATION CONTACT:** Barbara R. Chesnik, Division of Refugee Self-Sufficiency, (202) 401–4558.

**SUPPLEMENTARY INFORMATION:**

## I. Amounts for Allocation

The Office of Refugee Resettlement (ORR) has available $143,953,000 in FY 2000 refugee social service funds as part of the FY 2000 appropriation for the Department of Health and Human Services (Pub. L. No. 106–113).

The FY 2000 House Appropriations Committee Report (H.R. Rept. No. 106–370) reads as follows with respect to social services funds:

> The bill provides $140,000,000 for social services, about the same as the fiscal year 1999 appropriation and $7,990,000 below the budget request. Funds are distributed by formula as well as through the discretionary grant making process for special projects. The Committee agrees that $19,000,000 is available for assistance to serve communities affected by the Cuban and Haitian entrants and refugees whose arrivals in recent years have increased. The Committee has set aside

$26,000,000 for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance. Finally, the Committee has set aside $14,000,000 to address the needs of refugees and communities impacted by recent changes in Federal assistance programs relating to welfare reform. The Committee urges ORR to assist refugees at risk of losing, or who have lost benefits, including SSI, TANF and Medicaid, in obtaining citizenship.

In addition, the House report provides:

It is estimated that approximately $20,000,000 will be available in FY 2000 from carryover funds, and the Committee intends that these funds be used under social services to increase educational support to schools with a significant proportion of refugee children and for the development of alternative cash assistance programs that involve case management approaches to improve resettlement outcomes. Such support should include intensive English language training and cultural assimilation programs.

The FY 2000 Senate Appropriations Committee Report (S. Rept. No. 106–166) recommended $147,990,00 for social services in the FY 2000 budget:

The Committee provides $19,000,000 to serve communities affected by the Cuban and Haitian entrants and refugees, the same as the amount contained in last year's appropriation. The Committee also includes $14,000,000 to address the needs of refugees and communities affected by recent changes in Federal assistance programs, and $16,000,000 to assist communities with large concentrations of refugees whose cultural differences make assimilation difficult. These funds are included in the social services line item.

The FY 2000 Conference Report on Appropriations (H.R. Conf. 106–479) reads as follows concerning social services:

The conference agreement includes $20,000,000 from carryover funds that are to be used under social services to increase educational support to schools with a significant proportion of refugee children and for the development of alternative cash assistance programs that involve case management approaches to improve resettlement outcomes. Such support should include intensive English language training and cultural assimilation programs.

The agreement also includes $26,000,000 for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance.

The Conference report provided $143,995,000 in social services funds.

The Departments of Labor, Health, and Human Services, and Education, and Related Agencies Appropriations Act (Pub L. No. 106–113, appendix E, section 301) rescinded discretionary budget authority government-wide by .38 percent. Agencies, however, were provided flexibility regarding how the recission would be applied. Accordingly, ORR's total social services appropriation was reduced from $143,995,000 to $143,953,000. In accordance with Congressional report language, the Director of the Office of Refugee Resettlement (ORR) proposes to use the $143,953,000 appropriated for FY 2000 social services as follows:

- $72,203,750 will be allocated under the 3-year population formula, as set forth in this notice for the purpose of providing employment services and other needed services to refugees.
- $12,749,250 will be awarded as social service discretionary grants through competitive grant announcements that will be issued separately from this notice.
- $19,000,000 will be awarded to serve communities most heavily affected by recent Cuban and Haitian entrant and refugee arrivals. These funds would be awarded through a discretionary grant announcement that will be issued separately from this notice.
- $26,000,000 will be awarded through discretionary grants for communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance. Awards will be made through announcements issued separately from this notice.
- $14,000,000 will be awarded to address the needs of refugees and communities impacted by recent changes in Federal assistance programs relating to welfare reform. Awards will be made through announcements issued separately from this notice.
- $20,000,000 will be awarded in prior year funds to increase educational support to schools with a significant proportion of refugee children and for the development of alternative cash assistance programs that involve case management approaches to improve resettlement outcomes. This support will include intensive English language training and cultural assimilation programs. Awards will be made through an announcement issued separately from this notice.

In addition, we are proposing to add $15,500,000 in prior year funds to the FY 2000 formula social services allocation as a set-aside for referral and interpreter services, increasing the total amount available for the formula social services program in FY 2000 to $87,703,750.

Congress provided ORR with broad carry-over authority in the FY 2000 HHS appropriations law to use unexpended FY 1998 and FY 1999 CMA funds for assistance and other activities in the refugee program provided through September 30, 2001. The appropriations law states:

That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 105–78 for fiscal year 1998 and under Public Law 105–227 for fiscal year 1999 shall be available for the costs of assistance provided and other activities through September 30, 2001.

*Refugee Social Service Funds*

The population figures for the social services allocation include refugees, Cuban/Haitian entrants, Amerasians from Vietnam, and Kurdish asylees since these populations may be served through funds addressed in this notice. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program or indicate in its refugee program State plan that Cuban/Haitian entrants will be served in order to use funds on behalf of entrants as well as refugees.)

The Director is proposing to allocate $72,203,750 to States on the basis of each State's proportion of the national population of refugees who had been in the U.S. 3 years or less as of October 1, 1999 (including a floor amount for States which have small refugee populations).

The use of the 3-year population base in the allocation formula is required by section 412(c)(1)(B) of the Immigration and Nationality Act (INA) which states that the ''funds available for a fiscal year for grants and contracts [for social services] * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.''

As established in the FY 1991 social services notice published in the **Federal Register** of August 29, 1991, section I, ''Allocation Amounts'' (56 FR 42745), a variable floor amount for States which have small refugee populations is calculated as follows: If the application of the regular allocation formula yields less than $100,000, then—

(1) A base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) For a State with more than 50 refugees who have been in the U.S. 3 years or less: (a) A floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (b) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

The Director is also proposing to allocate an additional $15.5 million from prior year carry-over funds as a set-aside to: (1) Provide referral services, including outreach, to ensure that refugees are able to access the State Children's Health Insurance Program (SCHIP) and other programs for low income populations; and (2) provide for the hiring of interpreters and special interpreter training to enable refugees to have equal access to medical and certain legal services. Depending upon the existing capacity and need in the community, we encourage States to use the funds equally for both activities. Both types of services are not subject to the 5-year limitation and may be provided to refugees regardless of their length of time in the U.S. See 45 CFR 400.152(b).

Eligible refugee families often are not aware of, or do not know how to access, other Federal support programs available to low income working families in the community. We believe that these programs, including SCHIP, Food Stamps, Low Income Home Energy Assistance Program (LIHEAP), Medicaid, Head Start, low-income housing, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), child care assistance, adult day care for aged dependents, and other support programs for low-income families, are important for the well-being of working refugees, particularly refugee families, and are necessary to help these refugees maintain employment and move toward full self-sufficiency.

The organizations funded by the set-aside amount are expected to conduct outreach into the community to identify low-income refugees and to help these refugees enroll in and to be familiar with the services available and the participation requirements of these programs. We expect States to fund community-based organizations, to the maximum extent possible, to provide hands-on assistance, which means having the application forms available and helping refugees to fill out the application, accompanying the refugee to the eligibility office, assisting in the communication between the family and the eligibility worker, closely following the application process until the family has been found eligible, and then helping the family effectively use the service or support program in which they have been enrolled. For example, there may be different levels of medical coverage available to a family, depending on the ages of the children and the income level of the family, each with different requirements. It is important for the caseworkers/advocates funded through this initiative to understand the program requirements (such as a co-payment structure) in order to help the family make decisions and fully participate.

The organizations funded under this set-aside should develop effective ways to provide an on-going link between these services, the population they serve, and the targeted low income programs. Methods might include: partnering with schools to identify refugee children who may be eligible for SCHIP by virtue of their eligibility for the school lunch program; connecting with local Head Start programs to help identify refugee children who are eligible for SCHIP and other health care programs; arranging to have Medicaid eligibility workers visit the Mutual Assistance Association (MAA) or other participating organization on a scheduled basis; and working with other groups serving low income families, such as hospitals, WIC programs, low-income housing programs, and food assistance programs to make these services widely known to the refugee community being served.

It is also important that States provide as high a standard as possible in interpretation to non-English speaking and to Limited-English-Proficient (LEP) refugees, particularly in regard to medical and legal issues. As mentioned earlier, we are therefore including funding in the set-aside for States to improve the availability and quality of interpreter services for refugees in their communities. The set-aside funds are to be used by States: (1) To fund specialized interpreter training for medical and legal services; and (2) to pay for the hiring and employment of these trained interpreters by MAAs, voluntary agencies, and other community-based organizations serving refugees, to the maximum extent possible, in order to increase the number of skilled interpreters in the community.

Interpretation requires a great deal of skill—interpreters need to be fluent in English and the language spoken by the refugee. They must have the ability to quickly understand the message and terminology, if technical, in one language and to express it as quickly and correctly in another language. In addition to fluency in two languages, interpreters must have the skills to handle confidential client information and to deal with a variety of professionals in the medical, legal, law enforcement, social services, and other fields.

States should use qualified training programs or trainers to provide the interpreter training. Several strategies may be employed, *e.g.,* the direct training of interpreters in a group setting, paying the course tuition and associated expenses for individuals at a community college or university, and the training of trainers in order to establish and maintain an efficient training capacity in the community. To the extent possible, we would expect States to use an established curriculum rather than incurring costs to develop a new one. Funding of interpreter services should be directed to areas of greatest need and to the most linguistically isolated communities.

States must determine a community's capacity to ensure refugee access to medical and other services, and then examine how best to fund and maintain interpreter services for refugees based upon the need and size of refugee population. For example, an interpreter bank with dedicated interpreters may be a preferred option if the needs of the community can justify full-time interpreters. However, because the provision of interpreter services may not fully occupy funded staff in some locations or in certain languages, States may choose to train bilingual caseworkers at voluntary resettlement agencies, MAAs and refugee service providers. States may also consider cross-training of interpreters so that they may also assist, for example, in enrolling clients in SCHIP, Medicaid, or other services for low-income clients, and/or serve as case managers or in other staff positions. Staff with both bilingual interpreter skills and knowledge of the family services network, such as child protective services and the domestic violence system, are also highly desirable.

We also encourage States to set up creative ways to maintain and expand the availability of interpreter services in the community, such as seeking reimbursement for services from the courts, hospitals, and agencies which may be able to pay for interpreter services but have been otherwise hindered in providing these services by the lack of available and appropriately trained individuals. Fees from low-income refugee clients, however, may not be sought.

In light of the unique position that refugee MAAs have in the communities where refugees reside, we are asking that States give special consideration to MAAs in using the set-aside amount, where possible, to provide these services to refugee families. However, qualified community based organizations with refugee experience, voluntary resettlement agencies, or refugee service providers may be funded as well.

A State that can demonstrate that the total amount of set-aside funds awarded is not needed to provide the services described above may submit a written request to the Director to use a portion of the funds for another non-employment service. This request must fully describe how the need for the specified set-aside services is already being met in the State, as well as a description of the additional service proposed, why it is needed, and how it will be provided.

*Population To Be Served and Allowable Services*

Eligibility for refugee social services includes persons who meet all requirements of 45 CFR 400.43 (as amended by 65 FR 15409 (March 22,2000)) and 45 CFR 401.2 (Cuban and Haitian entrants).

Services to refugees must be provided in accordance with the rules of 45 CFR Part 400 Subpart I—Refugee Social Services. Although the allocation formula is based on the 3-year refugee population, States are not required to limit social service programs to refugees who have been in the U.S. only 3 years. However, under 45 CFR 400.152, States may not provide services funded by this notice, except for referral and interpreter services and citizenship and naturalization preparation services, to refugees who have been in the United States for more than 60 months (5 years).

Allowable social services are those indicated in 45 CFR 400.154 and 400.155. Additional services not included in these sections which the State may wish to provide must be submitted to and approved by the Director of ORR (§ 400.155(h)).

**Service Priorities**

In the past, a number of States have focused primarily on serving refugee cash assistance (RCA) recipients because of the need to help these refugees become employed and self-sufficient within the 8-month RCA eligibility period. Now, with the passage of welfare reform, refugee recipients of Temporary Assistance for Needy Families (TANF) also face a time limit for cash assistance and need appropriate services as quickly as possible to become employed and self-sufficient. In order for refugees to move quickly off TANF, we believe it is crucial for these refugees to receive refugee-specific services that are designed to address the employment barriers that refugees typically face.

Some States are doing remarkably well in helping refugees achieve self-sufficiency. For this reason, this may be a good time for these States to re-examine the range of services they currently offer to refugees and expand the range of services beyond employment services to address the broader needs that refugees have in order to successfully integrate into the community.

States should also expect that these funds will be made available to pay for social services which are provided to refugees who participate in Wilson/Fish projects. Section 412(e)(7)(A) of the INA provides that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (64 FR 19793, April 22, 1999).

**II. (Reserved for Discussion of Comments in Final Notice)**

**III. Allocation Formulas**

Of the funds available for FY 2000 for social services, $72,203,750 is allocated to States in accordance with the formula specified below. In addition, $15.5 million in set-aside funds are allocated in accordance with the formula specified below. A State's allowable allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—
2. The total number of refugees, Cuban/Haitian entrants, Amerasians from Vietnam, and Kurdish asylees who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the ORR Refugee Data System. The resulting per capita amount is multiplied by—
3. The number of persons in item 2, above, in the State as of October 1, 1999, adjusted for estimated secondary migration.

The calculation above yields the formula allocation for each State. Minimum allocations for small States are taken into account.

**IV. Basis of Population Estimates**

The population estimates for the allocation of funds in FY 2000 are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 1999, for estimated secondary migration. The data base includes refugees of all nationalities, Amerasians from Vietnam, Cuban and Haitian entrants, and Kurdish asylees.

For fiscal year 2000, ORR's proposed formula allocations for the States for social services are based on the numbers of refugees, Amerasians, Kurdish asylees, and entrants who arrived during the preceding three fiscal years: 1997, 1998, and 1999, based on arrival data by State. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1996, and September 30, 1999, who are thought to be living in each State as of October 1, 1999.

The estimates of secondary migration were based on data submitted by all participating States on Form ORR–11 on secondary migrants who have resided in the U.S. for 36 months or less, as of September 30, 1999. The total migration reported by each State was summed, yielding in-and out-migration figures and a net migration figure for each State. The net migration figure was applied to the State's total arrival figure, resulting in a revised population estimate.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians and Kurdish asylees are included in the refugee figures.

Havana parolees (HP's) are enumerated in a separate column in Table 1, below because they are tabulated separately from other entrants. For FY 1999, Havana parolee arrivals for all States are based on actual data. For FY 1998, Florida's HP's (10,183) are based on actual data, while HP's in other States (3,258) are prorated according to the States proportion of the three-year ((FY 1996–FY 1998) entrant populations. For FY 1997, Florida's HP's (3,957) are based on actual data, while HP's in other States (2,035) were prorated according to their proportions of the three-year entrant population.

If a State does not agree with ORR's population estimate and wishes ORR to reconsider its population estimate, it should submit written evidence to ORR, including a list of refugees identified by name, alien number, date of birth, and date of arrival. Listings of refugees who are not identified by their alien number will not be considered. Such evidence should be submitted separately from comments on the proposed allocation formula no later than 30 days from the date of publication of this notice and should be addressed to: Loren Bussert, Division of Refugee Self-Sufficiency,

Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone: (202) 401–4732.

Table 1, below, shows the estimated 3-year populations, as of October 1, 1999, of refugees (col. 1), entrants (col. 2), Havana parolees (col. 3); total refugee/entrant population, (col. 4); the proposed formula amounts which the population estimates yield (col. 5); the proposed allocation amounts after allowing for the minimum amounts (col. 6); the proposed set-aside amount (col. 7); and the proposed total allocation (col. 8).

## V. Proposed Allocation Amounts

Funding subsequent to the publication of this notice will be contingent upon the submittal and approval of a State annual services plan that is developed on the basis of a local consultative process, as required by 45 CFR 400.11(b)(2) in the ORR regulations.

The following amounts are for allocation for refugee social services in FY 2000:

TABLE 1.—ESTIMATED THREE-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND PROPOSED SOCIAL SERVICE FORMULA AMOUNT AND PROPOSED ALLOCATIONS FOR FY 2000—

| State | Refugees [1] (1) | Entrants (2) | Havana parolees [2] (3) | Total population (4) | Proposed formula amount (5) | Proposed allocation (6) | Set-aside | Total proposed allocation |
|---|---|---|---|---|---|---|---|---|
| Alabama | 570 | 4 | 69 | 643 | $162,891 | $162,891 | $35,145 | $198,036 |
| Alaska [3] | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Arizona | 7,141 | 367 | 292 | 7,800 | 1,975,977 | 1,975,977 | 426,326 | 2,402,303 |
| Arkansas | 64 | 0 | 10 | 74 | 18,746 | 75,000 | 4,045 | 79,045 |
| California | 30,770 | 41 | 476 | 31,287 | 7,925,949 | 7,925,949 | 1,710,058 | 9,636,007 |
| Colorado | 3,402 | 3 | 6 | 3,411 | 864,110 | 864,110 | 186,435 | 1,050,545 |
| Connecticut | 3,084 | 19 | 150 | 3,253 | 824,084 | 824,084 | 177,800 | 1,001,884 |
| Delaware | 74 | 7 | 2 | 83 | 21,026 | 75,000 | 4,537 | 79,537 |
| Dist. of Columbia | 1,666 | 1 | 10 | 1,677 | 424,835 | 424,835 | 91,660 | 516,495 |
| Florida | 12,854 | 7,288 | 27,085 | 47,227 | 11,964,036 | 11,964,036 | 2,581,293 | 14,545,329 |
| Georgia | 10,578 | 18 | 129 | 10,725 | 2,716,969 | 2,716,969 | 586,198 | 3,303,167 |
| Hawaii | 100 | 0 | 0 | 100 | 25,333 | 75,000 | 5,466 | 80,466 |
| Idaho [4] | 2,045 | 0 | 0 | 2,045 | 518,061 | 518,061 | 111,774 | 629,835 |
| Illinois | 12,003 | 7 | 239 | 12,249 | 3,103,044 | 3,103,044 | 669,495 | 3,772,539 |
| Indiana | 1,750 | 0 | 11 | 1,761 | 446,115 | 446,115 | 96,251 | 542,366 |
| Iowa | 6,075 | 0 | 4 | 6,079 | 1,539,996 | 1,539,996 | 332,261 | 1,872,257 |
| Kansas | 868 | 0 | 8 | 876 | 221,917 | 221,917 | 47,880 | 269,797 |
| Kentucky [5] | 3,675 | 918 | 503 | 5,096 | 1,290,972 | 1,290,972 | 278,533 | 1,569,505 |
| Louisiana | 1,495 | 57 | 93 | 1,645 | 416,729 | 416,729 | 89,911 | 506,640 |
| Maine | 638 | 0 | 0 | 638 | 161,625 | 161,625 | 34,871 | 196,496 |
| Maryland | 2,755 | 6 | 61 | 2,822 | 714,898 | 714,898 | 154,242 | 869,140 |
| Massachusetts | 6,711 | 67 | 99 | 6,877 | 1,742,153 | 1,742,153 | 375,877 | 2,118,030 |
| Michigan | 8,433 | 432 | 263 | 9,128 | 2,312,400 | 2,312,400 | 498,910 | 2,811,310 |
| Minnesota | 8,362 | 0 | 10 | 8,372 | 2,120,882 | 2,120,882 | 457,590 | 2,578,472 |
| Mississippi | 116 | 2 | 11 | 129 | 32,680 | 75,000 | 7,051 | 82,051 |
| Missouri | 7,553 | 2 | 16 | 7,571 | 1,917,965 | 1,917,965 | 413,809 | 2,331,774 |
| Montana | 59 | 0 | 0 | 59 | 14,946 | 75,000 | 3,225 | 78,225 |
| Nebraska | 2,338 | 4 | 30 | 2,372 | 600,900 | 600,900 | 129,647 | 730,547 |
| Nevada [5] | 1,077 | 520 | 479 | 2,076 | 525,914 | 525,914 | 113,468 | 639,382 |
| New Hampshire | 1,496 | 0 | 0 | 1,496 | 378,982 | 378,982 | 81,767 | 460,749 |
| New Jersey | 3,327 | 167 | 801 | 4,295 | 1,088,054 | 1,088,054 | 234,752 | 1,322,806 |
| New Mexico | 460 | 256 | 375 | 1,091 | 276,383 | 276,383 | 59,631 | 336,014 |
| New York | 26,881 | 818 | 692 | 28,391 | 7,192,304 | 7,192,304 | 1,551,771 | 8,744,075 |
| North Carolina | 3,860 | 3 | 39 | 3,902 | 988,495 | 988,495 | 213,272 | 1,201,767 |
| North Dakota | 1,509 | 0 | 1 | 1,510 | 382,529 | 382,529 | 82,532 | 465,061 |
| Ohio | 4,285 | 5 | 36 | 4,326 | 1,095,907 | 1,095,907 | 236,447 | 1,332,354 |
| Oklahoma | 501 | 0 | 9 | 510 | 129,199 | 129,199 | 27,875 | 157,074 |
| Oregon | 4,881 | 285 | 266 | 5,432 | 1,376,091 | 1,376,091 | 296,898 | 1,672,989 |
| Pennsylvania | 7,532 | 62 | 201 | 7,795 | 1,974,711 | 1,974,711 | 426,052 | 2,400,763 |
| Rhode Island | 397 | 1 | 6 | 404 | 102,345 | 102,345 | 22,081 | 124,426 |
| South Carolina | 268 | 1 | 9 | 278 | 70,426 | 100,000 | 15,195 | 115,195 |
| South Dakota [5] | 1,037 | 0 | 0 | 1,037 | 262,704 | 262,704 | 56,679 | 319,383 |
| Tennessee | 3,767 | 4 | 140 | 3,911 | 990,775 | 990,775 | 213,764 | 1,204,539 |
| Texas | 12,944 | 637 | 622 | 14,203 | 3,598,052 | 3,598,052 | 776,295 | 4,374,347 |
| Utah | 3,526 | 0 | 2 | 3,528 | 893,750 | 893,750 | 192,830 | 1,086,580 |
| Vermont | 1,048 | 0 | 0 | 1,048 | 265,490 | 265,490 | 57,281 | 322,771 |
| Virginia | 4,538 | 101 | 111 | 4,750 | 1,203,320 | 1,203,320 | 259,621 | 1,462,941 |
| Washington | 17,779 | 4 | 41 | 17,824 | 4,515,362 | 4,515,362 | 974,209 | 5,489,571 |
| West Virginia | 16 | 0 | 0 | 16 | 4,053 | 75,000 | 875 | 75,875 |
| Wisconsin | 1,755 | 2 | 7 | 1,764 | 446,875 | 446,875 | 96,415 | 543,290 |
| Wyoming [3] | 0 | 0 | 0 | 0 | ..... | ..... | ..... | ..... |
| Total | 238,063 | 12,109 | 33,414 | 283,586 | 71,840,960 | 72,203,750 | 15,500,000 | 87,703,750 |

[1] Includes: refugees, Kurdish asylees, and Amerasian immigrants from Vietnam adjusted for secondary migration.

[2] For FY 1999, Havana Parolee arrivals for all States are based on actual data. For FY 1998, Florida's HP's (10,183) are based on actual data, while HP's in other States (3,258) are prorated according to the State's proportion of the three-year (FY 1996-FY 1998) entrant population. For FY 1997, Florida's HP's (3,957) are based on actual data, while HP's in other States (2,035) were prorated according to their proportions of the three-year entrant population.

[3] Alaska and Wyoming no longer participate in the Refugee Program.

[4] The allocation for Idaho is expected to be awarded to the State replacement designee.

[5] The allocations for South Dakota, Kentucky, and Nevada are expected to be awarded to Wilson/Fish projects.

## VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

[Catalog of Federal Domestic Assistance No. 93.566 Refugee Assistance—State Administered Programs]

Dated: April 25, 2000.

**Lavinia Limon,**

*Director, Office of Refugee Resettlement.*

[FR Doc. 00–10783 Filed 4–28–00; 8:45 am]

BILLING CODE 4184–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This Notice is available on the internet at the following website: *http://wmcare.samhsa.gov*

**FOR FURTHER INFORMATION CONTACT:** Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

**Special Note:** Please use the above address for all surface mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

**SUPPLEMENTARY INFORMATION:** Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000, (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (Formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P. O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories *, 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 80–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

Gamma-Dynacare Medical Laboratories *, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ON Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102–5037, 860–545–6023

Integrated Regional Laboratories, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–777–0018, 800–522–0232, (Formerly: Cedars Medical Center, Department of Pathology)

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064, (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche

Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555, (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250

NWT Drug Testing, 1141 E. 3900 South, Salt Lake City, UT 84124, 801–268–2431/800–322–3361, (Formerly: NorthWest Toxicology, Inc.)

One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110, (Formerly: Centinela Hospital Airport Toxicology Laboratory

Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400/800–541–7891

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800, (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600/800–882–7272

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120/800–444–0106, (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (Formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)

Quest Diagnostics Incorporated, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 972–916–3376/800–526–0947, (Formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006, (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/800–877–7484, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010, (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728, (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590, (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520, (Formerly: SmithKline Beecham Clinical Laboratories)

San Diego Reference Laboratory, 6122 Nancy Ridge Dr., San Diego, CA 92121, 800–677–7995

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 254–771–8379/800–749–3788

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520, (Formerly: St. Lawrence Hospital & Healthcare System)

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 818–996–7300/800–492–0800, (Formerly: MetWest-BPL Toxicology Laboratory)

Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851/888–953–8851

The following laboratory voluntarily withdrew from the NLCP program, effective May 1, 2000:

Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 412–920–7733/800–574–2474, (Formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (Federal Register, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 Federal Register, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

**Richard Kopanda,**

*Executive Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 00–10489 Filed 4–28–00; 8:45 am]

BILLING CODE 4160–20–U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in May 2000.

A portion of the meeting will be open and will include a discussion of the Center's National Treatment Plan and an update on the Opiod Accreditation and Buprenorphine activities. Public comments are welcome during the open session. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with disabilities please notify the contact listed below.

If anyone needs special accommodations for persons with disabilities, please notify the Contact listed below.

The meeting will also include the review, discussion, and evaluation of a single source grant application. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting and roster of council members may be obtained from: Mrs. Marjorie Cashion, CSAT, National Advisory Council, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

*Committee Name:* Center for Substance Abuse Treatment National Advisory Council.

*Meeting Date:* May 12, 2000, 8:30 a.m.–5:00 p.m.

*Place:* Bethesda Marriott Pooks Hill Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

*Closed:* May 12, 2000, 8:30 a.m.–9:00 a.m.

*Open:* May 12, 2000, 9:00 a.m.–5:00 p.m.

*Contact:* Marjorie M. Cashion, Executive Secretary, Telephone: (301) 443–8923, and FAX: (301) 480–6077.

Dated: April 24, 2000.

**Toian Vaughn,**

*Committee Management Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 00–10696 Filed 4–25–00; 8:45 am]

BILLING CODE 4162–20–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board to be held in June 2000. A portion of the meeting will be open and will include a Department of Health and Human Services drug testing program update, a Department of Transportation drug testing program update, a review of urine drug testing issues, and a presentation of draft policies for alternative specimen testing and on-site testing.

If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

The meeting will also include the review, discussion, and evaluation of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, a portion of the meeting will be closed to the public as determined by the SAMHSA Administrator in accordance with Title 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. App.2, § 10(d).

A summary of the meeting and a roster of board members may be obtained from: Mrs. Giselle Hersh, Division of Workplace Programs, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, Telephone: (301) 443–6014.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

*Committee Name:* Center for substance Abuse Prevention Drug Testing Advisory Board.

*Meeting Date:* June 6, 2000; 8:30 a.m.–4:30 p.m., June 7, 2000; 8:30 a.m.–3:30 p.m.

*Place:* Holiday Inn 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

*Type:* Open: June 6, 2000; 8:30 a.m.–4:30 p.m.; Closed: June 7, 2000; 8:30 a.m.–3:30 p.m.

*Contact:* Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014, and FAX: (301) 443–3031.

Dated: April 21, 2000.

**Toiann Vaughn,**

*Committee Management Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 00–10697 Filed 4–28–00; 8:45 am]

BILLING CODE 4162–20–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Mental Health Services; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Center for Mental Health Services (CMHS) National Advisory Council in May 2000.

A portion of the meeting will be open and will include a discussion about the Community Action Grant Program, consumer affairs, the Asian American Pacific Islander Program initiative, and workplace/training issues in the mental health field. Public comments are welcome during the open session. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with disabilities please notify the contact listed below.

The meeting will include the review, discussion, and evaluation of individual grant applications. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3), and (6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting and a roster of Council members may be obtained from: Ms. Patricia Gratton, Committee Management Officer, CMHS National Advisory Council, 5600 Fishers Lane, Room 11 C–26, Rockville, Maryland 20857, telephone: (301) 443–7987.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

*Committee Name:* Center for Mental Health Services National Advisory Council.

*Meeting Date:* May 9, 2000.

*Place:* Bethesda Marriott Pooks Hill Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

*Closed:* May 9, 2000, 9:00 a.m. to 9:45 a.m.

*Open:* May 9, 2000, 9:45 a.m. to 5:30 p.m.

*Contact:* Eileen S. Pensinger, Executive Secretary, Telephone: (301) 443–4823 and FAX: (301) 443–4865.

Dated: April 18, 2000.

**Toiann Vaughn,**

*Committee Management Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 00–10698 Filed 4–28–00; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4566–N–06]**

## Notice of Proposed Information for Public Comments on Housing Opportunities for Persons With AIDS

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below, regarding the competitive components of the Housing Opportunities for Persons with AIDS (HOPWA) program, 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:* June 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: Reports Liaison Officer, Shelia E. Jones, Department of Housing & Urban Development, 451—7th Street, SW, Room 7230, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Priscilla Poindexter (202) 708–1934 (this is not a toll-free number) for copies of the proposed forms and other available documents:

**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).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed 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.

The HOPWA program is authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901) as amended by the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992). The program is governed by the HOPWA Final Rule, 24 CFR Part 574, as amended, and the Consolidated Submissions for Community Planning and Development Programs, Final Rule, 24 CFR Part 91, as amended. This paper work submission extends the current collection of information that is used by the Department in conducting an annual competition to award program funds and in reviewing grant performance reported in annual progress reports and through the use of the Department's Information Technology Reporting Systems. The information collected is essential in order to implement statutory requirements and ensure that funds are used within the public trust for their intended purposes.

The Housing Opportunities for Persons with AIDS (HOPWA) program provides housing assistance and related supportive services for low-income persons with HIV/AIDS and their families. Ten percent of the appropriated funds are awarded by competition as grants under two categories of assistance as: (1) Special Projects of National Significance (SPNS) which, due to their innovative nature or their potential for replication, are likely to serve as effective models in addressing the needs of eligible persons; Applications for this category can be submitted by States, local governments and non-profit organizations; and (2) Projects which are part of Long-term Comprehensive Strategies for providing housing and services for eligible persons in non-formula areas. Applications for this category can be submitted by States and local governments to undertake activities in areas that did not qualify for formula allocations during the fiscal year. Funds may be used over a three year operating period. Grantees report to the Department on program accomplishments in annual progress reports and through the use of the Department's Information Technology Reporting Systems.

This Notice also lists the following information:

*Title of Proposal:* Housing Opportunities for Persons with AIDS (HOPWA) program.

*OMB Control Number, if applicable:* 2506–0133.

*Description of the need for the information and proposed use:* The information to be collected is provided in applications for competitively-awarded funds and in annual progress reports through the use of the Department's Information Technology Reporting Systems for grantees who receive these awards.

*Agency form numbers, if applicable:* HUD–40110–B and HUD–40110–C

*Members of affected public:* States, units of general local government, and non-profit organizations.

**Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:**

| Activity | Number of respondents | Frequncy of response | Hours of response |
|---|---|---|---|
| Application | 150 | 1 | 60 |
| Annual Progress Reports/IT Reports | 90 | 1 | 120 |

The total annual estimated burden hours for these optional activities are 20,775 hours, including 975 hours that are estimated for miscellaneous activities such as grant signing, amendments, environmental, and relocation activities.

*Status of the proposed information collection:* Public comment requested by HUD.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

**FOR FURTHER INFORMATION CONTACT:** David Vos, Director, Office of HIV/AIDS Housing, Room 7212, U.S. Department

of Housing and Urban Development, 451 Seventh Street, N.W., Washington, DC 20410, and telephone number (202) 708–1934 (this is not a toll-free number) and TTY 1–800–877–8339 for copies of the proposed forms and other available documents.

Dated: April 21, 2000.

**Cardell Cooper,**

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 00–10799 Filed 4–28–00; 8:45 am]

**BILLING CODE 4210–29–M**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Renewal Approval Under the Paperwork Reduction Act (PRA)

**AGENCY:** Information Collection Renewal.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) plans to submit the collection of information requirement described below to the Office of Management and Budget (OMB) for renewal approval under the provisions of the Paperwork Reduction Act (PRA). You may obtain copies of the collection requirement and related forms and explanatory material by contacting the Service's Information Collection Clearance Officer at the phone number listed below. The Service is soliciting comment and suggestions on the requirement as described below.

**DATES:** Interested parties must submit comments on or before June 30, 2000.

**ADDRESSES:** Interested parties should send comments and suggestions on the requirement to Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203, (703) 358–2278 or *Rebecca Mullin@fws.gov* E-mail.

**FOR FURTHER INFORMATION CONTACT:** Jack Hicks, (703) 358–1851, fax (703) 358–1837, or *Jack Hicks@fws.gov* E-mail.

**SUPPLEMENTARY INFORMATION:**

*Title of Forms:* Grant Agreement and Amendment to Grant Agreement.

*OMB Approval Number:* 1018–0049 expires 8/31/2000. The Service 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.

*Description and Use:* The Service administers several grant programs authorized by the Federal Aid in Wildlife Restoration Act, the Federal Aid in Sport Fish Restoration Act, the Anadromous Fish Conservation Act, the Endangered Species Act, the Clean Vessel Act, the Sportfishing and Boating Safety Act, and the Coastal Wetlands Planning, Protection and Restoration Act. The Service uses the information collected to make awards within these grant programs. This includes determining if the estimated cost is reasonable, the cost sharing is consistent with the applicable program statues, and whether sufficient Federal funds are available for obligation. The State or other grantee uses the form to request funds and identify proposed cost sharing. Grantees initiate an Amendment to Grant Agreement to request a change to a previously approved Grant Agreement. The Service uses the Amendment to Grant Agreement to revise a previous funding obligation or otherwise document the approval of a revision.

These forms were previously approved under the referenced OMB control number. The new forms are modified slightly to lessen the burden on the public, and these changes also make them easier for the Service to use.

*Service Form Numbers:* 3–1552 (Grant Agreement) and 3–1591 (Amendment to Grant Agreement).

*Supplemental Information:* The service plans to submit the following information collection requirements to OMB for review and extension approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on (1) whether the collection of 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 estimates of burden of the 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 collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Frequency:* Generally annually.

*Description of Respondents:* State, territorial (the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa), local governments, and others receiving grant funds.

COMPLETION TIME AND ANNUAL RESPONSE AND BURDEN ESTIMATE

| Form name | Completion time per form (hours) | Annual response (forms) | Annual burden hours |
|---|---|---|---|
| Grant Agreement | 1 | 3500 | 3500 |
| Amendment to Grant Agreement | 1 | 1750 | 1750 |
| Totals | | 5250 | 5250 |

**BILLING CODE 4310–55–M**

UNITED STATES
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
Division of Federal Aid

## GRANT AGREEMENT

| State: | Grant No.: |
|---|---|
| (reserved) | Segment No.: |
| Agreement Period<br>From:<br>To: | |

**GRANT TITLE:**

| **GRANT COST DISTRIBUTION:** | Private Third Party | % | State Share | % | Federal Share | % | Total Cost | % |
|---|---|---|---|---|---|---|---|---|
| Sport Fish Restoration Act (16 U.S.C. 777-777k) | | | | | | | | |
| Wildlife Restoration Act (16 U.S.C. 669-669i) | | | | | | | | |
| Other (specify): | | | | | | | | |
| TOTAL COST | | | | | | | | |

**OTHER GRANT PROVISIONS:**

Estimated Program Income: $_____
Method of Crediting Program Income: ___ Additive ___ Deductive

Coastal States Allocation:
Freshwater: _____% Marine: _____%

The State agrees to execute this grant in accordance with the appropriate Acts above, the pertinent rules and regulations of the Secretary of the Interior contained in the Code of Federal Regulations, and the previously approved Grant Proposal to the extent encompassed by this Agreement.

**STATE AGENCY** (Name and Address)

| Signature: | Title: | Date: |
|---|---|---|

**SPECIAL GRANT CONDITIONS:**

**APPROVED FOR THE SECRETARY OF THE INTERIOR**

| Signature: | Title: | Date: |
|---|---|---|

Form 3 – 1552
(Revised January 2000)

OMB Approval No. 1018 – 0049
Approval Expires _____

## INSTRUCTIONS FOR COMPLETION OF GRANT AGREEMENT

1. STATE – Self-explanatory.

2. GRANT NO. – Self-explanatory.

3. SEGMENT NO. – Enter the number of the segment of work covered by this agreement.

4. AGREEMENT PERIOD – Enter the inclusive dates for the work covered by this agreement and for which costs will be incurred.

5. GRANT TITLE – Enter the title of the grant shown in Item 11 of the Application for Federal Assistance (SF-424).

6. GRANT COST DISTRIBUTION – Enter the State and Federal shares of the total grant cost for each source of grant funding covered by this Grant Agreement along with the percentage of each share in the total cost rounded to the nearest tenth of a percent (i.e. 28.9%). If the grant is funded, in whole or in part, under an Act other than the Federal Aid in Sport Fish Restoration or Federal Aid in Wildlife Restoration Acts; e.g. Endangered Species Act, enter the name of the Act on the line following Other (specify).

7. OTHER GRANT PROVISIONS – Enter funding or other special provisions, not otherwise included in the Application for Federal Assistance. Examples are pre-agreement or preliminary costs, project costs derived from in-kind contributions, and items of cost requiring prior approval. If program income is anticipated during this segment, include a statement of the source, estimated amount, and disposition (see 43 CFR 12.65 and 522 FW 1.14). If the grant involves Federal Aid in Sport Fish Restoration Act funding in a Coastal State, indicate the allocation of funds between marine and freshwater fisheries. (Attach additional sheet if needed.)

8. STATE AGENCY, SIGNATURE, TITLE, and DATE – Self-explanatory.

9. SPECIAL GRANT CONDITIONS, SIGNATURE, TITLE, and DATE – For Regional Office use.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 350 1) and the Privacy Act of 1974 (U.S.C. 552), please be advised that:

The gathering of information from applicants to gain benefits is authorized under the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777-777k) and the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669i). Information from this form will be used to formalize and execute Grant Agreements and Amendment to Grant Agreements issued under these and other Acts. Your participation in completing this form is required to obtain benefits. Once submitted this form becomes public information and is not protected under the Privacy Act. The public reporting burden for this form is estimated at one hour per response, including time for gathering information, completing, reviewing and obtaining signature. Direct comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ; 1849 C Street N.W., Washington, D.C. 20240, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention Desk Officer for the Department of the Interior, (1018-0049), Washington, D.C. 20503.

An agency may not conduct and a person is not required to complete a collection of information unless a currently valid OMB control number is displayed.

UNITED STATES
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
Division of Federal Aid

## AMENDMENT TO GRANT AGREEMENT

| State: | Grant No.: |
|---|---|
| Amendment No.: | Segment No.: |
| Agreement Period<br>From:<br>To: | |

**GRANT TITLE:**

The above stated Grant Agreement is amended as set forth below. The parties agree that all other terms and conditions as set forth in the Agreement, the Grant Proposal, and any amendments thereto shall remain in force.

**PURPOSE OF AMENDMENT:**

☐ Extend Agreement Period To: _____

☐ Other: _____

☐ Revise Grant Cost (see below):

☐ Revise Percentage (see below):

Describe reason for amendment:

| REVISION OF GRANT COST: | | Private Third Party | % | State Share | % | Federal Share | % | Total Cost | % |
|---|---|---|---|---|---|---|---|---|---|
| Previous Grant Cost | Sport Fish | | | | | | | | |
| | Wildlife | | | | | | | | |
| | Other: | | | | | | | | |
| Changes | Sport Fish | | | | | | | | |
| | Wildlife | | | | | | | | |
| | Other: | | | | | | | | |
| Amended Grant Cost | Sport Fish | | | | | | | | |
| | Wildlife | | | | | | | | |
| | Other: | | | | | | | | |
| REVISED TOTAL COST | | | | | | | | | |

**STATE AGENCY** (Name and Address):

| Signature: | Title: | Date: |
|---|---|---|

**SPECIAL GRANT CONDITIONS:**

**APPROVED FOR THE SECRETARY OF THE INTERIOR**

| Signature: | Title: | Date: |
|---|---|---|

Form 3 – 1591
(Revised January 2000)

OMB Approval No. 1018 – 0049
Approval Expires _____

## INSTRUCTIONS FOR COMPLETION OF AMENDMENT TO GRANT AGREEMENT

1. STATE – Self-explanatory.

2. GRANT NO. and SEGMENT NO. – Enter the numbers as they appear on the Grant Agreement.

3. AMENDMENT NUMBER – Self-explanatory.

4. AGREEMENT PERIOD – If the purpose of the amendment is to extend the agreement period, the "To:" date must be the same as the "To:" date indicated in the Purpose of Amendment section of this form. If the purpose of the amendment does not include an extension in the agreement period, then enter the "From:" and "To:" dates from the Grant Agreement (if first amendment) or the dates from the previous amendment.

5. GRANT TITLE – Enter the title of the grant as it appears on the Grant Agreement.

6. PURPOSE OF AMENDMENT – Place an X in the box beside the applicable purpose(s) of the amendment. If the purpose is to extend the agreement period, enter the revised ending date. Regardless of the purpose of the amendment, in the space below "Other" describe the circumstance(s) or reason(s) for the amendment.

7. REVISION OF GRANT COST – If the purpose of this amendment is to revise the grant costs and/or percentage of shares:

   - Enter in the "Previous Grant Cost" section the cost and percentage information from the Grant Agreement (or, if already amended, from the "Amended Grant Cost" section of the most recent amendment).

   - Enter in the "Changes" section the amounts of increase and/or decreases to be made in previous grant costs and/or percentages. Precede increases with a plus (+) sign and decreases with a negative (-) sign.

   - Enter in the "Amended Grant Cost" section the new grant cost and/or percentages information after the adjustments shown in the "Changes" section have been made.

8. STATE AGENCY, SIGNATURE, TITLE, and DATE – Self-explanatory.

9. SPECIAL GRANT CONDITIONS, SIGNATURE, TITLE, and DATE – For Regional Office use.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 350 1) and the Privacy Act of 1974 (U.S.C. 552), please be advised that:

The gathering of information from applicants to gain benefits is authorized under the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777-777k) and the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669i). Information from this form will be used to formalize and execute Grant Agreements and Amendment to Grant Agreements issued under these and other Acts. Your participation in completing this form is required to obtain benefits. Once submitted this form becomes public information and is not protected under the Privacy Act. The public reporting burden for this form is estimated at one hour per response, including time for gathering information, completing, reviewing and obtaining signature. Direct comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ; 1849 C Street N.W., Washington, D.C. 20240, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention Desk Officer for the Department of the Interior, (1018-0049), Washington, D.C. 20503.

An agency may not conduct and a person is not required to complete a collection of information unless a currently valid OMB control number is displayed.

Dated: April 25, 2000.

Information Collection for OMB.

**Jamie Rappaport Clark,**

*Director—U.S. Fish and Wildlife Service.*

[FR Doc. 00–10829 Filed 4–28–00; 8:45 a.m.]

BILLING CODE 4310–55–C

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Renewal Approval Under the Paperwork Reduction Act (PRA)

**ACTION:** Information Collection Renewal.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) plans to submit the collection of information requirement described below to the Office of Management and Budget (OMB) for renewal approval under the provisions of the Paperwork Reduction Act (PRA). You may obtain copies of the collection requirement and related forms and explanatory material by contacting the Service's Information Collection Clearance Officer at the phone number listed below. The Service is soliciting comment and suggestions on the requirement as described below.

**DATES:** Interested parties must submit comments on or before June 30, 2000.

**ADDRESSES:** Interested parties should send comments and suggestions on the requirement to Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203, (703) 358–2278 or *Rebecca Mullin@fws.gov* E-mail.

**FOR FURTHER INFORMATION CONTACT:** Jack Hicks, (703) 358–1851, fax (703) 358–1837, or *Jack Hicks@fws.gov* E-mail.

**SUPPLEMENTARY INFORMATION:**

*Title of Forms:* Part I Certification and Part II Summary of Hunting and Sport Fishing License Issue.

*OMB Approval Number:* 1018–0007 expires 8/31/2000. The Service 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.

*Description and Use:* The Service administers grant programs authorized by the Federal Aid in Wildlife Restoration Act and the Federal Aid in Sport Fish Restoration Act. These Acts require that States certify annually their hunting and fishing license sales. The Service uses the information collected to determine apportionment and distribution of funds under these Acts. These forms were previously approved under the referenced OMB control number. This request is for renewal with minimal changes to the previously approved form.

Service Form Numbers: 3–154a (Part 1) and 3–154b (Part 2).

Supplementary Information: The service plans to submit the following information collection requirements to OMB for review and extension approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on (1) whether the collection of 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 estimates of burden of the 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 collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Frequency:* Annually.

*Description of Respondents:* States and the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

*Completion Time and Annual Response Estimate:*

| Form name | Completion time per form | Annual response | Annual burden hours |
|---|---|---|---|
| Certification Part 1 | ½ Hour | 56 Forms | 28 |
| Certification Part 2 | ½ Hour | 56 Forms | 28 |
| Totals | | 112 Forms | 56 |

UNITED STATES
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
Division of Federal Aid

## PART I – CERTIFICATION

A. Hunting License Holders

Pursuant to the Federal Aid in Wildlife Restoration Act, as amended (50 Stat. 917; 16 U.S.C. Sec. 669), and to the Rules and Regulations of the Secretary of the Interior made and published thereunder, I CERTIFY that in the State of _____, during the year ending _____, there were _____ persons holding paid licenses to hunt.

B. Fishing License Holders

Pursuant to the Federal Aid in Sport Fish Restoration Act, as amended (64 Stat. 430; 16 U.S.C. Sec. 777), and to the Rules and Regulations of the Secretary of the Interior made and published thereunder, I CERTIFY that in the State of _____, during the year ending _____, there were _____ persons holding paid licenses to fish for sport or recreation.

_____ (Date)

_____ (Signature)

_____ (Title)

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 350 1) and the Privacy Act of 1974 (U.S.C. 552), please be advised that:

The gathering of information from applicants to gain benefits is authorized under the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777-777k) and the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669i). Information from this form will be used to apportion funds to States using formulas in the Acts. Your participation in completing this form is required to obtain benefits. Once submitted this form becomes public information and is not protected under the Privacy Act. The public reporting burden for this form is estimated at one half hour per response, including time for gathering information, completing, reviewing and obtaining signature. Direct comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ; 1849 C Street N.W., Washington, D.C. 20240, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention Desk Officer for the Department of the Interior, (1018-0007), Washington, D.C. 20503.

An agency may not conduct and a person is not required to complete a collection of information unless a currently valid OMB control number is displayed.

Form 3-154a
(Revised 4/00)

OMB Approval No. 1018-0007
Approval Expires _____

UNITED STATES
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
Division of Federal Aid

## PART II – SUMMARY OF HUNTING AND SPORT FISHING LICENSES ISSUED

State: _____ Year Ending: _____

NOTE: Include all paid and nonpaid licenses, tags, stamps, and permits issued for hunting, both firearm and bow, and for sport fishing.

| TYPE 1/ | HUNTING | | FISHING | |
|---|---|---|---|---|
| | Number 2/ | Cost 3/ | Number 2/ | Cost 3/ |
| Resident | | | | |
| Nonresident | | | | |
| Total | | | | |

1/ Where a type of license is issued to both residents and nonresidents, your best estimate of the distribution between these two categories will suffice.

2/ Include the total number of combination licenses issued for both hunting and fishing.

3/ Enter gross aggregate cost. The cost of combination licenses should be divided equally between hunting and fishing.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 350 1) and the Privacy Act of 1974 (U.S.C. 552), please be advised that:

The gathering of information from applicants to gain benefits is authorized under the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777-777k) and the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669i). Information from this form will be used to apportion funds to States using formulas in the Acts. Your participation in completing this form is required to obtain benefits. Once submitted this form becomes public information and is not protected under the Privacy Act. The public reporting burden for this form is estimated at one half hour per response, including time for gathering information, completing, reviewing and obtaining signature. Direct comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ; 1849 C Street N.W., Washington, D.C. 20240, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention Desk Officer for the Department of the Interior, (1018-0007), Washington, D.C. 20503.

An agency may not conduct and a person is not required to complete a collection of information unless a currently valid OMB control number is displayed..

Form 3-154b
(Revised 4/00)

OMB Approval No. 1018-0007
Approval Expires _____

Dated: April 25, 2000.

**Jamie Rappaport Clark,**

*Director—U.S. Fish and Wildlife Service.*

[FR Doc. 00–10830 Filed 4–25–00; 8:45 am]

BILLING CODE 4310–55–C

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of Application for Endangered Species Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of Receipt of Application for Endangered Species Permit.

**SUMMARY:** The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to ''kenneth_graham@fws.gov''. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to the Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not; however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**DATES:** Written data or comments on these applications must be received, at the address given below, by May 31, 2000.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Ken Graham, Permits Biologist). Telephone: 404/679–7358; Facsimile: 404/679–7081.

**FOR FURTHER INFORMATION CONTACT:** Ken Graham, Telephone: 404/679–7358; Facsimile: 404/679–7081.

**SUPPLEMENTARY INFORMATION:**

*Applicant:* The Maryland Reptile Farm, Reisterstown, Maryland, TE023415–0

The applicant requests a permit to purchase a pair of captive bred Puerto Rican boas, *Epicrates inornatus,* from the Heritage Park Zoo in Prescott, AZ in order to establish a captive breeding program for the species.

*Applicant:* Forest Supervisor, Daniel Boone National Forest, Winchester, Kentucky, TE025674–0

The applicant requests authorization to take (survey for, harass, and in some instances to collect dead mussel shells, plants or plant parts for identification purposes only) four endangered mammal species, one endangered bird species, two endangered fish species, twenty endangered mussel species, and three endangered plant species all present or potentially present on the Daniel Boone National Forest. Any taking would occur during routine biological surveys and monitoring, for the purpose of enhancement of survival of the species.

*Applicant:* Phillip R Scheuerman, Johnson City, Tennessee, TE023821–0

The applicant requests authorization to take (capture, handle, identify, and release during biological surveys), the endangered Cumberland monkeyface, *Quadrula intermedia,* throughout the South Fork Holston River drainage in Tennessee, for the purpose of enhancement of survival of the species.

*Applicant:* Michael Catalini, of the CP Jungle, Cordova, Tennessee, TE022974–0

The applicant requests a permit to sell in interstate commerce, the endangered green pitcher-plant, *Sarracenia oreophila,* the endangered Alabama canebreak pitcher plant, *Sarracenia rubra spp. alabamensis,* and the endangered mountain sweet pitcher plant, *Sarracenia rubra spp. jonesii,* all which have been reared from propagated stock.

*Applicant:* Phil Sheridan, of the Meadowview Biological Research Station, Woodford, Virginia, TE022690–0

The applicant requests a permit to sell in interstate commerce, the endangered green pitcher-plant, *Sarracenia oreophila,* the endangered Alabama canebreak pitcher plant, *Sarracenia rubra spp. alabamensis,* and the endangered mountain sweet pitcher plant, *Sarracenia rubra spp. jonesii,* all which have been reared from propagated stock.

*Applicant:* Kathryn Stephenson Craven, Texas A&M University, College Station, Texas, TE025759–0

The applicant requests authorization to accept, possess, and conduct bioassays on legally obtained blood, tissue and egg yolk samples for five species of endangered or threatened sea turtles. Assays would be conducted for protein and steroid hormones, and samples would be utilized for DNA and yolk lipid extraction. Samples would be legally obtained from researchers at various universities and scientific institutions, and through a Texas A&M University cooperative agreement with the Cayman Turtle Farm. Authorization has also been requested for collection of a limited number of wild green sea turtle eggs at the Archie Carr National Wildlife Refuge in Florida for yolk sampling. The sampling and bioassay program would be conducted for the purpose of enhancement of survival of the species.

*Applicant:* Mr. Donald Robohm, Sea Chick Mississippi Inc., Escatawpa, Mississippi, TE025761–0

The applicant requests authorization to take (harass, conduct research utilizing non-lethal aversion techniques), the endangered brown pelican, *Pelecanus occidentalis,* at Sea Chick's facility in Jackson County, Mississippi, for the purpose of reducing fish predation at a commercial fish farming operation.

Dated: April 24, 2000.

**H. Dale Hall,**

*Acting Regional Director.*

[FR Doc. 00–10737 Filed 4–28–00; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR–957–00–1402–BJ: GPO–0186]**

### Filing of Plats of Survey: Oregon/Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

**WILLAMETTE MERIDIAN**

Oregon

T. 1 N., R. 36 E., accepted March 17, 2000.
T. 20 S., R. 2 W., accepted March 20, 2000.
T. 13 S., R. 7 W., accepted April 3, 2000.
T. 30 S., R. 2 W., accepted April 3, 2000.
T. 9 S., R. 3 E., accepted April 3, 2000.
T. 11 S., R. 1 E., accepted April 3, 2000.
T. 1 S., R. 5 W., accepted April 3, 2000.
T. 27 S., R. 12 W., accepted April 14, 2000.

Washington

T. 11 N., R. 16 E., accepted March 10, 2000.

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey, and subdivision.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, (1515 S. W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: April 18, 2000.

**Robert D. DeViney, Jr.,**

*Branch of Realty and Records Services.*

[FR Doc. 00–10774 Filed 4–28–00; 8:45 am]

**BILLING CODE 4310–33–M**

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 731–TA–703 and 705 (Review)]**

## Furfuryl Alcohol From China and Thailand

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of five-year reviews concerning the antidumping duty orders on furfuryl alcohol from China and Thailand.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on furfuryl alcohol from China and Thailand would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is June 20, 2000. Comments on the adequacy of responses may be filed with the Commission by July 17, 2000. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** May 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 00–5–054, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

**SUPPLEMENTARY INFORMATION:**

*Background.* On June 21, 1995, the Department of Commerce issued antidumping duty orders on imports of furfuryl alcohol from China (60 FR 32302). On July 25, 1995, the Department of Commerce issued an antidumping duty order on imports of furfuryl alcohol from Thailand (60 FR 38035). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

*Definitions.*—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China and Thailand.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as furfuryl alcohol.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as all producers of furfuryl alcohol, including toll-producers, captive producers, and merchant market producers. The Commission excluded Advanced Resin Systems, Inc. under the related parties provision.

(5) The *Order Dates* are the dates that the antidumping duty orders under review became effective. In the review concerning China, the Order Date is June 21, 1995. In the review concerning Thailand, the Order Date is July 25, 1995.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign

manufacturer or through its selling agent.

*Participation in the reviews and public service list.*—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.*—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 20, 2000. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is July 17, 2000. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

*Inability to provide requested information.*—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

*Information To Be Provided in Response to This Notice of Institution:* If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1994.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's

operations on that product during calendar year 1999 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1999 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/ business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1999 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: April 24, 2000.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–10805 Filed 4–28–00; 8:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Job Training Partnership Act: Native American Employment and Training Council

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and section 401(k)(1) of the Job Training Partnership Act, as amended [29 U.S.C. 1671(k)(1)], notice is hereby given of the final meeting of the Native American Employment and Training Council as constituted under JTPA.

*Time and Date:* The meeting will begin at 1:00 p.m. CDT on Thursday, May 25, 2000, and continue until 5:00 p.m. CDT that day. The meeting will reconvene at 9 a.m. CDT on Friday, May 26, 2000, and adjourn at 4 p.m. CDT on that day. The period from 3 p.m. to 5 p.m. CDT on May 25 will be reserved for participation and presentation by members of the public.

*Place:* The Rio Grande Ballroom of the Four Points Sheraton Riverwalk North Hotel, 110 Lexington Avenue, San Antonio, Texas 78205.

*Status:* The meeting will be open to the public.

*Matters To Be Considered:* The agenda will focus on the following topics: (1) Renewal of the Council charter under the Workforce Investment Act (WIA); (2) work group progress reports; (3) current status of WIA implementation efforts; (4) status of the WIA Final Regulations effort; (5) status of technical assistance and training provision for Program Years 2000 and 2001; and (6) status of WIA performance measures, reporting, and plan submission.

**FOR FURTHER INFORMATION CONTACT:** Mr. James C. DeLuca, Chief, Division of Indian and Native American Programs, Office of National Programs, Employment and Training Administration, U.S. Department of Labor, Room N–4641, 200 Constitution Avenue, NW, Washington, DC 20210.

Telephone: (202) 219–8502 ext 119 (VOICE) or (202) 326–2577 (TDD) (these are not toll-free numbers).

Signed at Washington, DC, this 25th day of April, 2000.

**Thomas M. Dowd,**

*Acting Director, Office of National Programs.*

[FR Doc. 00–10831 Filed 4–28–00; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### Business Research Advisory Council; Notice of Meetings and Agenda

The regular Spring meetings of the Business Research Advisory Council and its committees will be held on May 10 and 11, 2000. All of the meetings will be held in the Conference Center of the Postal Square Building, 2 Massachusetts Avenue, NE, Washington, DC.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officials from American business and industry.

The schedule and agenda for the meetings are as follows:

*Wednesday, May 10, 2000—Meeting Rooms 9 & 10*

*10:00–11:30 a.m.—Council Meeting*

1. Chairperson's opening remarks
2. Commissioner Abraham's address and discussion
3. Issues related to e-commerce (Deborah Klein)

*1:00–2:30 p.m.—Committee on Employment and Unemployment Statistics*

1. E-commerce
a. Alternative definitions
b. How will the North American Industry Classification System (NAICS) facilitate measurement? (John Murphy)
c. Tentative plans for studying aspects of e-commerce with the Occupational Employment Statistics (OES) survey and with a Current Population Survey (CPS) supplement (Mike McElroy)
d. Considering the OES survey:
(a) What are the measurement issues?
(b) What are the questions they can help to answer?
2. Overview of our work with payroll software providers to facilitate responding to BLS surveys (Mike Searson)
3. Current Employment Statistics (CES) sample redesign: initial implementation scheduled for June 2000 (Question and answer only) (Pat Getz)
4. Discussion of agenda items for the Fall 2000 meeting

*3:00–4:30 p.m.—Committee on Employment Projections*

1. Introductory remarks and overview of current Office projects (Neal Rosenthal)
2. The Office of Employment Projections (OEP)
e-commerce project
a. Introduction (Neal Rosenthal)
b. Definitions/approaches/findings (Dan Hecker and Art Andreassen)
c. Use in OEP projections (Norman Saunders)
3. Discussion of agenda items for the Fall 2000 meeting

*Thursday, May 11, 2000—Meeting Rooms 9 & 10*

*8:30–10:00 a.m.—Committee Compensation and Working Working Conditions*

1. Stock options incidence test: preliminary results (Janine Bjurman)
2. Technology interactions with BLS: suggestions, recommendations (Dave Larson)
3. Other business (Dan Gilbert and Dave Larson)
4. Discussion of agenda items for the Fall 2000 meeting

*10:30–12:00 p.m.—Committee on Price Indexes*

1. Update on program developments
a. Consumer Price Index
b. International Price Indexes
c. Producer Price Indexes
2. Discussion of agenda items for the Fall meeting

*1:30 p.m.–3:00 p.m.—Committee on Productivity and Foreign Labor Statistics*

1. E-commerce and productivity measurement
2. International comparisons of Gross Domestic Product (GDP) and productivity
3. Effects of recent methodological changes on productivity data
4. Discussion of agenda items for the Fall 2000 meeting

*1:30–3:00 p.m. Committee on Occupational Safety, Health and Working Conditions (Concurrent Session)*

1. Review of industry summary data from the 1998 Survey of Occupational Injuries and Illnesses
2. Review of worker demographic and case circumstances data from the 1998 Survey of Occupational Injuries and Illnesses
3. 1998 Injury and Illnesses Profiles system
4. Review of data on musculoskeletal injuries and illnesses
5. Report on toxicology studies on workers fatally injured in 1998
6. E-commerce implications for occupational safety and health information
7. Discussion of agenda items for the Fall 2000 meeting

The meetings are open to the public. Persons with disabilities and those wishing to attend these meetings as observers should contact Tracy Jack, Liaison for BRAC, Bureau of Labor Statistics, at (202) 691–5869, for appropriate accommodations.

Signed at Washington, DC the 24th day of April 2000.

**Katharine G. Abraham,**

*Commissioner.*

[FR Doc. 00–10832 Filed 4–28–00; 8:45 am]

BILLING CODE 4510–24–M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (00–042)]**

### NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NAC Task Force on International Space Station Operational Readiness (IOR).

**DATES:** Thursday, May 11, 2000, 1 p.m.—2 p.m. Eastern Daylight Time.

**ADDRESSES:** NASA Headquarters, 300 E Street, SW, Room 7W31, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Mr. Philip Cleary, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4461.

**SUPPLEMENTARY INFORMATION:** This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review the status of the fact-finding meetings conducted by the IOR Task Force and the Russian Aviation and Space Agency (Utkin) Advisory Expert Council held April 24–28, 2000, at the Kennedy Space Center, Florida and the Johnson Space Center, Texas. The agenda will include the areas of Proton Launch Vehicle Update; Service Module Status, and; Mission Control Center—Moscow and Ground Readiness. Additional subjects will be ISS Air Quality; ISS Acoustics; ISS Treadmill with Vibration Isolation System (TVIS 2), and; Crew Training Status.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: April 24, 2000.

**Mathew M. Crouch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 00–10715 Filed 4–28–00; 8:45 am]

BILLING CODE 7510–01–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (00–041)]**

### NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Research Advisory Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Research Advisory Subcommittee.

**DATES:** Wednesday, May 17, 2000, from 9 a.m. to 5 p.m.

**ADDRESSES:** Johnson Space Center, Building 9 NW, Room 2170, Houston, TX 77058.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steve Davison, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202–358–0647.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Status of MRAS Recommendations

—Microgravity Program Report

—ISS Program Status Report

—DWG Activities Reports

—NRC Biotechnology Report & Developments in Biotechnology

—NRC Microgravity Research in Support of Human Exploration Report

—Plans for OLMSA Initiatives

—Interaction Between Microgravity Research and Space Product Development

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 24, 2000.

**Matthew M. Crouch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 00–10716 Filed 4–28–00; 8:45 am]

BILLING CODE 7510–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–344]**

### In the Matter of Portland General Electric Company (Trojan Nuclear Plant); Exemption

**I.**

Portland General Electric Company is the holder of Facility Operating License No. NPF–1, which authorizes the licensee to possess the Trojan Nuclear Plant (TNP). The license states, in part, that the facility is subject to all the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect. The facility was originally licensed as a pressurized water reactor located at the licensee's site in Columbia County, Oregon. The facility is permanently shut down and defueled and the licensee is no longer authorized to operate or place fuel in the reactor.

**II.**

Section 50.54(q) of Title 10 of the Code of Federal Regulations states in part that ''A licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in § 50.47(b) and the requirements in appendix E of this part.''

Section 50.47 of Title 10 of the Code of Federal Regulations, ''Emergency plans,'' states in part in paragraph (b) that ''The onsite and, except as provided in paragraph (d) of this section, offsite emergency response plans for nuclear power reactors must meet the following standards:'' and then sets forth 16 emergency planning requirements.

Appendix E to Part 50 of Title 10 of the Code of Federal Regulations, ''Emergency Planning and Preparedness for Production and Utilization Facilities,'' states, in part:

> Each applicant for an operating license is required by § 50.34(b) to include in the final safety analysis report plans for coping with emergencies* * * . The applicant's emergency plans shall contain, but not necessarily be limited to, information needed to demonstrate compliance with the elements set forth below, *i.e.*, organization for coping with radiation emergencies, assessment action, activation of emergency organization, notification procedures, emergency facilities and equipment, training, maintaining emergency preparedness, and recovery. In addition, the emergency response plans submitted by an applicant for a nuclear power reactor operating license shall contain information needed to demonstrate compliance with the standards described in § 50.47(b), and they will be evaluated against those standards. The nuclear power reactor operating license applicant shall also provide an analysis of the time required to evacuate and for taking other protective actions for various sectors and distances within the plume exposure pathway EPZ [Emergency Planning Zone] for transient and permanent populations.

By letter dated August 27, 1998, as supplemented by letter dated July 1, 1999, the licensee requested an exemption from the emergency planning requirements of 10 CFR 50.54(q), 10 CFR 50.47(b), and Appendix E to 10 CFR part 50. Sections 50.54(q) and 50.47(b), and Appendix E to 10 CFR part 50 provide emergency planning requirements to protect the health and safety of the public in the event of an accident at a licensed power reactor site. The exemption from the emergency planning requirements for the Trojan Nuclear Plant will be effective after the spent fuel has been removed from the reactor site and relocated to the new independent spent fuel storage installation (ISFSI), which is not part of the reactor site. The new ISFSI has been licensed under 10 CFR part 72 for storage facilities not associated with a reactor site and possesses an approved emergency plan as required by 10 CFR 72.32.

**III.**

Pursuant to 10 CFR 50.12, ''Specific exemptions,'' the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of 10 CFR part 50, which are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2) identifies special circumstances as being present whenever 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; compliance would result in undue hardship or costs that are significantly in excess of those incurred by others similarly situated; or circumstances exist that were not considered when the regulation was adopted for which it would be in the public interest to grant an exemption.

The movement of the spent nuclear fuel from the Trojan Plant to the ISFSI and removal of the reactor vessel and internals from the site removes the available radiological source terms for credible accident scenarios. The sources remaining in the Trojan plant area are comparable to those in the possession of many source and byproduct licensees

and for whose sites emergency plans are not required to protect the public health and safety. The continued application of 10 CFR part 50 emergency plan requirements would require the licensee to expend significantly more funds for emergency preparedness than other licensees possessing similar source terms at a single site. Accordingly, special circumstances, as defined by 10 CFR 50.12(a)(2)(iii), are present.

Section 72.32 establishes emergency planning requirements for spent nuclear fuel stored under a specific license issued pursuant to 10 CFR part 72. The Trojan ISFSI has an emergency plan, approved by the NRC on March 31, 1999, to protect the public health and safety in the event of an accident. The Commission has determined that the existing 10 CFR Part 50 requirements need to be maintained at the Trojan Nuclear Plant until the spent fuel located in the spent fuel pool is physically relocated from the defueled site to the new security area at the ISFSI. Upon meeting this criterion, the NRC finds the exemption from the emergency planning requirements for a power reactor site acceptable since new assurance objectives and general performance requirements will be in place by the emergency planning requirements in 10 CFR 72.32.

**IV.**

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants Portland General Electric Company an exemption from the requirements of 10 CFR 50.54(q), 10 CFR 50.47(b), and Appendix E to 10 CFR part 50 at the Trojan Nuclear Plant, effective upon completion of the relocation of all the spent nuclear fuel from the spent fuel pool to the ISFSI.

Pursuant to 10 CFR 51.32, the Commission has determined that this exemption will not have a significant effect on the quality of the human environment (64 FR 46423).

This exemption is effective upon completion of the transfer of the spent nuclear fuel at the Trojan Nuclear Plant to the Trojan independent spent fuel storage installation.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 25th day of April 2000.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–10742 Filed 4–28–00; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

**[NUREG—1600]**

## Revision of the NRC Enforcement Policy

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy Statement: revision.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is publishing a complete revision of its General Statement of Policy and Procedure for NRC Enforcement Actions (NUREG–1600) (Enforcement Policy or Policy). This is the fourth complete revision of the Enforcement Policy since it was first published as a NUREG document on June 30, 1995 (60 FR 34381). The NRC publishes the policy statement as a NUREG to foster its widespread dissemination. This revision: incorporates the Interim Enforcement Policy that was used during the NRC Power Reactor Oversight Process Pilot Plant Study into the main body of the Enforcement Policy as permanent guidance; adds an interim Enforcement Policy for exercising enforcement discretion for inaccurate or incomplete performance indicator data for nuclear power plants; changes examples of violations for operating reactors regarding changes, tests, and experiments; adds examples of violations for inaccurate or incomplete performance indicator data; changes examples of violations involving the failure to secure, or maintain surveillance over, licensed material; and edits existing guidance to assure clarity of existing policy and consistency with the intent of the Interim Enforcement Policy. The intent of this Policy revision is to continue to move towards a more risk-informed and performance-based approach.

**DATES:** This action is effective on May 1, 2000. Comments on this revision should be submitted on or before May 31, 2000 and will be considered by the NRC before the next Enforcement Policy revision.

**ADDRESSES:** Submit written comments to: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room 2120 L Street, NW. (Lower Level), Washington, DC.

The NRC's Office of Enforcement maintains the current policy statement on its homepage on the Internet at *www.nrc.gov/OE/.*

**FOR FURTHER INFORMATION CONTACT:** Bill Borchardt, Director, Office of Enforcement, (301) 415–2741, or Renee Pedersen, Senior Enforcement Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–2741.

**SUPPLEMENTARY INFORMATION:** The NRC Enforcement Policy was first issued as a formal policy statement on September 4, 1980. Since that time, the Enforcement Policy has been revised on a number of occasions. Most recently (November 9, 1999; 64 FR 61142), the Policy was completely republished. That revision modified the method for assessing the significance of violations that included eliminating the term ''regulatory significance'' and with it the practice of escalating the severity level of a violation based on aggregation or repetitiveness. The NRC is constantly refining and improving its policy and processes to ensure that enforcement actions are appropriate and contribute to safety.

On August 9, 1999 (64 FR 43229), the NRC published an Interim Enforcement Policy that was used during the NRC Power Reactor Oversight Process Pilot Plant Study. The interim policy was developed as an integral part of the revised Reactor Oversight Process (RROP) and was designed to complement the structured performance assessment process by focusing on individual violations. Under the new process, the Agency Action Matrix dictates the Commission's response to declining performance whether caused by violations or other concerns. The intent of the new process is to implement a unified agency approach for determining and responding to performance issues of a licensee that—

1. Maintains a focus on safety and compliance;
2. Is more consistent with predictable results;
3. Is more effective and efficient;
4. Is easily understandable; and
5. Decreases unnecessary regulatory burden.

The new assessment process will use a Significance Determination Process (SDP) to characterize inspection findings based on their risk significance and performance impact. The SDP will assign a color band of green, white, yellow, or red to each inspection finding to reflect its risk significance. If a violation is associated with the inspection finding, the NRC's enforcement program will use the results of the SDP to determine how the violation should be dispositioned—thus, supporting a unified approach to significance. Under this approach, violations are not normally assigned severity levels, nor are they subject to civil penalties. If the finding cannot be evaluated through the SDP, the NRC will rely on the guidelines for assessing significance within the Enforcement Policy, including the examples of violations included in the supplements. These violations will be assigned severity levels and be subject to civil penalties.

The interim policy stated that, if successfully implemented through the pilot plant study, the Interim Enforcement Policy would be applied to all reactors.

In developing this Policy revision, the NRC considered comments of various internal and external stakeholders. Consideration was given to written comments submitted in response to (1) SECY–99–007, ''Recommendations for Reactor Oversight,'' dated January 8, 1999,[1] (2) the announcement of the Interim Enforcement Policy (August 9, 1999; 64 FR 43229),[2] and the July 26, 1999 (64 FR 40394), notice requesting public comment on the pilot program for the new regulatory oversight program.[3] Consideration was also given to information provided during numerous meetings with representatives of the industry and public interest groups as part of the RROP.

The NRC recognizes that additional changes may be made as part of the refinement of the RROP and are anticipated in the materials areas that will conform to the move toward risk-informed performance-based inspections in this area.

The more significant changes to the Enforcement Policy (in the order that they appear in the Policy) are described below:

[1] See letter from Ralph Beedle of the Nuclear Energy Institute, to David L. Meyer of the NRC, dated February 22, 1999.

[2] See letter from Robert W. Bishop of NEI, to David L. Meyer of the NRC, dated September 8, 1999.

[3] The Commission paper addressing the results of the revised reactor oversight process pilot program includes a complete list of the 21 commentors and their comments.

**III. Responsibilities**

The term ''escalated enforcement action'' (included as footnote number three in this section) has been expanded to include a Notice of Violation (NOV) associated with an inspection finding that the RROP's Significance Determination Process (SDP) evaluates as low to moderate, or greater safety significance. These actions warrant consideration as escalated actions given the risk significance associated with the violations.

**IV.A Assessing Significance**

This section has been modified to address violations associated with inspection findings evaluated through the SDP. The NRC will continue to assess significance by considering: (1) actual safety consequences; (2) potential safety consequences, including the consideration of risk information; (3) potential for impacting the NRC's ability to perform its regulatory function; and (4) any willful aspects of the violation. Paragraph (5) has been added to recognize that with implementation of the RROP, the NRC will rely on inputs from the SDP to address violations associated with inspection findings evaluated through the SDP. Consistent with the guidance previously included in the Interim Policy, violations associated with findings that the SDP evaluates as having very low safety significance (*i.e.,* green) will normally be described in inspection reports as Non-Cited Violations (NCVs). The finding will be categorized by the assessment process within the licensee response band. However, a Notice of Violation (NOV) will be issued if the issue meets one of the three applicable exceptions in Section VI.A.1. Violations associated with findings that the SDP evaluates as having low to moderate safety significance (*i.e.,* white), substantial safety significance (yellow), or high safety significance (red) will be cited in an NOV requiring a written response unless sufficient information is already on the docket. The finding will be assigned a color related to its significance for use by the assessment process. Violations associated with issues that do not lend themselves to a risk analysis (*i.e.,* potential for impacting the NRC's function and willfulness), will be evaluated in accordance with the guidance in paragraphs (1) through (4) of this section. The guidance also notes that the Commission reserves the use of discretion for particularly significant violations (*e.g.* an accidental criticality) to assess civil penalties in accordance with Section 234 of the Atomic Energy Act of 1954, as amended.

**V. Predecisional Enforcement Conferences**

This section has been modified to address the relationship between Regulatory Conferences and the enforcement program. The RROP uses Regulatory Conferences as opportunities for the NRC and licensees to discuss the significance of findings evaluated through the SDP whether or not violations are involved. The Enforcement Policy has been revised to state that Regulatory Conferences may be conducted in lieu of predecisional enforcement conferences if violations are associated with potentially significant findings. While the primary function of a Regulatory Conference is on the significance of findings, the significance assessment from the SDP provides an input into the enforcement process in terms of whether escalated enforcement action (*i.e.,* an NOV associated with a white, yellow, or red finding) should be issued. Given this process, a subsequent predecisional enforcement conference is not normally necessary. This section has also been revised to clarify the NRC's position that it will provide an opportunity for an individual to address apparent violations before the NRC takes escalated enforcement action. Whether an individual will be provided an opportunity for a predecisional enforcement conference or an opportunity to address an apparent violation in writing will depend on the severity and circumstances of the issue and the significance of the action the NRC is contemplating.

**VI. Disposition of Violations**

This section has been renamed and modified by consolidating all of the guidance on the normal approach for dispositioning violations. Depending on the significance and circumstances, violations may be considered minor and not subject to enforcement action, dispositioned as NCVs, cited in NOVs, or issued in conjunction with civil penalties or orders. The NCV guidance has been moved out of Section VII.B.1 of the Policy that discusses special types of mitigation discretion and into this section because issuance of an NCV is a routine method for dispositioning Severity Level IV violations and violations associated with green SDP findings. For consistency, the guidance in Section VI.A.8 for dispositioning Severity Level IV violations for all licensees other than power reactor licensees has been reworded to express the guidance in terms of conditions

when an NOV should be issued rather than criteria for dispositioning a violation as an NCV. This section also restores the definition of repetitive violation (footnote 7) that was inadvertently deleted during the last Policy revision. (Consideration of the repetitive nature of the violation does not apply to the revised Reactor Oversight Program.)

**VI.B Notice of Violation**

This section has been modified to state that the NRC may require that a response to an NOV be under oath if the violation is associated with a low to moderate, or greater safety significant finding as evaluated by the SDP. This is consistent with the agency's existing practice of requiring that an NOV response be under oath for Severity Level I, II, or III violations.

**VI.C Civil Penalty**

This section has been modified to state that civil penalties are also considered for violations associated with inspection findings evaluated through the Reactor Oversight Program's SDP that involved actual consequences, such as an overexposure to the public or plant personnel above regulatory limits, failure to make the required notifications that impact the ability of Federal, State and local agencies to respond to an actual emergency preparedness event (site area or general emergency), transportation event, or a substantial release of radioactive material. This is consistent with the Interim Policy, in that civil penalties will not be proposed for violations associated with low to moderate, or greater safety significant findings absent actual consequences.

**VII.A Escalation of Enforcement Sanctions**

Consistent with the Interim Policy, this section has been modified to recognize that the NRC may also exercise discretion and assess civil penalties for violations associated with findings that the Reactor Oversight Program's SDP evaluates as having low to moderate, or greater safety significance (*i.e.,* white, yellow, or red) that are particularly significant.

**VII.B Mitigation of Enforcement Sanctions**

This section has been modified by adding footnote 10 to clarify that the mitigation discretion addressed in Sections VII.B.2–VII.B.6 does not normally apply to violations associated with issues evaluated by the SDP. The revised Reactor Oversight Program will use the Agency Action Matrix to determine the agency response to performance issues. The Agency Action Matrix has provisions to consider extenuating circumstances that were previously addressed through enforcement mitigation.

**Supplement I—Reactor Operations**

Examples C.9, C.10, D.5, and E involving changes, tests, and experiments (*i.e.,* 10 CFR 50.59) have been modified. The previous examples were developed in conjunction with the final rule for 10 CFR 50.59 and were based on the ''change acceptability'' criterion, *i.e.,* whether the changes would be found acceptable by the Commission. Before publication of the final rule, the NRC determined that the change acceptability criterion was not conducive to efficient or effective enforcement or regulation. The inefficiency stemmed from the fact that, in many instances, the acceptability of a change could not be determined without having the type of information that would be provided with the formal submission of a license amendment. Taking enforcement action after the often lengthy evaluation of a license amendment was not considered effective. The examples have been modified by basing the significance of the 10 CFR 50.59 or related violation on the resulting physical, procedural, or analytical change to the facility as evaluated through the SDP. This will ensure a consistent approach for significance determinations. Violations will be categorized at Severity Level III if the resulting change were evaluated by the SDP as having low to moderate, or greater safety significance (*i.e.*, white, yellow, or red finding). Violations will be categorized at Severity Level IV if the resulting change were evaluated by the SDP as having very low safety significance (*i.e.,* green finding). Violations will be considered minor if there was not a reasonable likelihood that the change requiring 10 CFR 50.59 evaluation would ever require Commission review and approval prior to implementation. Violations of 10 CFR 50.71(e) will be considered minor if the failure to update the FSAR would not have a material impact on safety or licensed activities.

**Supplement IV—Health Physics (10 CFR Part 20)**

This section has been revised by modifying an existing example (C.11) and adding examples (D.10 and E) to address violations involving the failure to secure, or maintain surveillance over, licensed material. In addition, the example for failure to control material included in Supplement VI (C.1) is deleted in an effort to consolidate the guidance on this subject in one area. The new examples establish a more risk-informed, performance-based approach to determine the types of security violations that should be considered significant, versus those of less serious concern. This guidance is intended to focus licensees' attention on assuring a program of training, staff awareness, detection (auditing), and corrective action (including disciplinary action) to detect and deter security violations. Such a program normally is not a specific regulatory requirement, but rather a function that licensees need to perform as an inherent part of their compliance program. Normally, security violations that occur despite such a program will be considered isolated.

**Supplement VII—Miscellaneous Matters**

New examples (C.3, D.3, and E) have been added to address inaccurate or incomplete Performance Indicator (PI) data from the Reactor Oversight Program. Inaccurate or incomplete PI data that would have caused a PI to change from green to white are categorized at Severity Level IV. Inaccurate or incomplete PI data that would have caused a PI to change from green to either yellow or red; white to either yellow or red; or yellow to red are categorized at Severity Level III. Inaccurate PI data that would not have caused a PI to change color are considered minor. Consistent with existing policy, enforcement action is not taken for minor violations.

Interim Enforcement Policy Regarding Enforcement Discretion for Inaccurate or Incomplete Performance Indicator Data for Nuclear Power Plants.

Because both the NRC and licensees are in a learning process for the submission and review of PI data, some errors are expected. Therefore, the Enforcement Policy has been modified by adding an interim policy for exercising discretion for all non-willful violations of 10 CFR 50.9 for the submittal of inaccurate or incomplete PI data. This policy will remain in effect until January 31, 2001. Non-willful violations that are more than minor will be documented in inspection reports followed by an explanation that the NRC is exercising this discretion in accordance with Section VII.B.6 of the Enforcement Policy. The interim policy provides that violations involving inaccurate or incomplete PI data submitted to the NRC that would not have caused a PI to change color do not normally warrant documentation given the minimal safety significance. Consistent with existing policy, no

enforcement action will be taken for these minor violations. In addition, consistent with existing guidance in Section IX, enforcement action will not normally be taken for inaccurate PI data that are corrected before the NRC relies on the information or before the NRC raises a question about the information.

**Paperwork Reduction Act**

This final policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0136.

**Public Protection Notification**

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

**Small Business Regulatory Enforcement Fairness Act**

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a ''major'' rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Accordingly, the NRC Enforcement Policy is revised to read as follows:

**General Statement of Policy and Procedure for NRC Enforcement Actions**

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**Preface**

The following policy statement describes the enforcement policy and procedures that the U.S. Nuclear Regulatory Commission (NRC or Commission) and its staff intends to follow in initiating and reviewing enforcement actions in response to violations of NRC requirements. This statement of general policy and procedure is published as NUREG–1600 to foster its widespread dissemination. However, this is a policy statement and not a regulation. The Commission may deviate from this statement of policy as appropriate under the circumstances of a particular case.

**I. Introduction and Purpose**

The Atomic Energy Act of 1954, as amended, establishes ''adequate protection'' as the standard of safety on which NRC regulations are based. In the context of NRC regulations, safety means avoiding undue risk or, stated another way, providing reasonable assurance of adequate protection of workers and the public in connection with the use of source, byproduct and special nuclear materials.

While safety is the fundamental regulatory objective, compliance with NRC requirements plays an important role in giving the NRC confidence that safety is being maintained. NRC requirements, including technical specifications, other license conditions, orders, and regulations, have been designed to ensure adequate protection—which corresponds to ''no undue risk to public health and safety''—through acceptable design, construction, operation, maintenance, modification, and quality assurance measures. In the context of risk-informed regulation, compliance plays a very important role in ensuring that key assumptions used in underlying risk and engineering analyses remain valid.

While adequate protection is presumptively assured by compliance with NRC requirements, circumstances may arise where new information reveals that an unforeseen hazard exists or that there is a substantially greater potential for a known hazard to occur. In such situations, the NRC has the statutory authority to require licensee action above and beyond existing regulations to maintain the level of protection necessary to avoid undue risk to public health and safety.

The NRC also has the authority to exercise discretion to permit continued operations—despite the existence of a noncompliance—where the noncompliance is not significant from a risk perspective and does not, in the particular circumstances, pose an undue risk to public health and safety. When noncompliance occurs, the NRC must evaluate the degree of risk posed by that noncompliance to determine if specific immediate action is required. Where needed to ensure adequate protection of public health and safety, the NRC may demand immediate licensee action, up to and including a shutdown or cessation of licensed activities.

Based on the NRC's evaluation of noncompliance, the appropriate action could include refraining from taking any action, taking specific enforcement action, issuing orders, or providing input to other regulatory actions or assessments, such as increased oversight (e.g., increased inspection). Since some requirements are more important to safety than others, the NRC endeavors to use a risk-informed approach when applying NRC resources to the oversight of licensed activities, including enforcement activities.

The primary purpose of the NRC's Enforcement Policy is to support the NRC's overall safety mission in protecting the public health and safety and the environment. Consistent with that purpose, the policy endeavors to:

- Deter noncompliance by emphasizing the importance of compliance with NRC requirements, and
- Encourage prompt identification and prompt, comprehensive correction of violations of NRC requirements.

Therefore, licensees,[4] contractors,[5] and their employees who do not achieve the high standard of compliance which the NRC expects will be subject to enforcement sanctions. Each enforcement action is dependent on the circumstances of the case. However, in no case will licensees who cannot achieve and maintain adequate levels of safety be permitted to continue to conduct licensed activities.

## II. Statutory Authority and Procedural Framework

### *A. Statutory Authority*

The NRC's enforcement jurisdiction is drawn from the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act (ERA) of 1974, as amended.

Section 161 of the Atomic Energy Act authorizes the NRC to conduct inspections and investigations and to issue orders as may be necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property. Section 186 authorizes the NRC to revoke licenses under certain circumstances (e.g., for material false statements, in response to conditions that would have warranted refusal of a license on an original application, for a licensee's failure to build or operate a facility in accordance with the terms of the permit or license, and for violation of an NRC regulation). Section 234 authorizes the NRC to impose civil penalties not to exceed $100,000 per violation per day for the violation of certain specified licensing provisions of the Act, rules, orders, and license terms implementing these provisions, and for violations for which licenses can be revoked. In addition to the enumerated provisions in section 234, sections 84 and 147 authorize the imposition of civil penalties for violations of regulations implementing those provisions. Section 232 authorizes the NRC to seek injunctive or other equitable relief for violation of regulatory requirements.

Section 206 of the Energy Reorganization Act authorizes the NRC to impose civil penalties for knowing and conscious failures to provide certain safety information to the NRC.

Notwithstanding the $100,000 limit stated in the Atomic Energy Act, the Commission may impose higher civil penalties as provided by the Debt Collection Improvement Act of 1996. Under the Act, the Commission is required to modify civil monetary penalties to reflect inflation. The adjusted maximum civil penalty amount is reflected in 10 CFR 2.205 and this Policy Statement.

Chapter 18 of the Atomic Energy Act provides for varying levels of criminal penalties (i.e., monetary fines and imprisonment) for willful violations of the Act and regulations or orders issued under sections 65, 161(b), 161(i), or 161(o) of the Act. Section 223 provides that criminal penalties may be imposed on certain individuals employed by firms constructing or supplying basic components of any utilization facility if the individual knowingly and willfully violates NRC requirements such that a basic component could be significantly impaired. Section 235 provides that criminal penalties may be imposed on persons who interfere with inspectors. Section 236 provides that criminal penalties may be imposed on persons who attempt to or cause sabotage at a nuclear facility or to nuclear fuel. Alleged or suspected criminal violations of the Atomic Energy Act are referred to the Department of Justice for appropriate action.

### *B. Procedural Framework*

Subpart B of 10 CFR Part 2 of NRC's regulations sets forth the procedures the NRC uses in exercising its enforcement authority. 10 CFR 2.201 sets forth the procedures for issuing Notices of Violation.

The procedure to be used in assessing civil penalties is set forth in 10 CFR 2.205. This regulation provides that the civil penalty process is initiated by issuing a Notice of Violation and Proposed Imposition of a Civil Penalty. The licensee or other person is provided an opportunity to contest the proposed imposition of a civil penalty in writing. After evaluation of the response, the civil penalty may be mitigated, remitted, or imposed. An opportunity is provided for a hearing if a civil penalty is imposed. If a civil penalty is not paid following a hearing or if a hearing is not requested, the matter may be referred to the U.S. Department of Justice to institute a civil action in District Court.

The procedure for issuing an order to institute a proceeding to modify, suspend, or revoke a license or to take other action against a licensee or other person subject to the jurisdiction of the Commission is set forth in 10 CFR 2.202. The licensee or any other person adversely affected by the order may request a hearing. The NRC is authorized to make orders immediately effective if required to protect the public health, safety, or interest, or if the violation is willful. Section 2.204 sets out the procedures for issuing a Demand for Information (Demand) to a licensee or other person subject to the Commission's jurisdiction for the purpose of determining whether an order or other enforcement action should be issued. The Demand does not provide hearing rights, as only information is being sought. A licensee must answer a Demand. An unlicensed person may answer a Demand by either providing the requested information or explaining why the Demand should not have been issued.

### *III. Responsibilities*

The Executive Director for Operations (EDO) and the principal enforcement officers of the NRC, the Deputy Executive Director for Reactor Programs (DEDR)and the Deputy Executive Director for Materials, Research and State Programs (DEDMRS) have been delegated the authority to approve or issue all escalated enforcement actions.[6] The DEDR is responsible to the EDO for NRC enforcement programs. The Office of Enforcement (OE) exercises oversight of and implements the NRC enforcement program. The Director, OE, acts for the Deputy Executive Director in enforcement matters in his absence or as delegated.

Subject to the oversight and direction of OE, and with the approval of the Deputy Executive Director, where necessary, the regional offices normally issue Notices of Violation and proposed

[4] This policy primarily addresses the activities of NRC licensees and applicants for NRC licenses. However, this policy provides for taking enforcement action against non-licensees and individuals in certain cases. These non-licensees include contractors and subcontractors, holders of, or applicants for, NRC approvals, e.g., certificates of compliance, early site permits, or standard design certificates, and the employees of these non-licensees. Specific guidance regarding enforcement action against individuals and non-licensees is addressed in Sections VIII and X, respectively.

[5] The term ''contractor'' as used in this policy includes vendors who supply products or services to be used in an NRC-licensed facility or activity.

[6] The term ''escalated enforcement action'' as used in this policy means a Notice of Violation or civil penalty for any Severity Level I, II, or III violation (or problem); a Notice of Violation associated with an inspection finding that the Significance Determination Process evaluates as having low to moderate, or greater, safety significance (i.e., white, yellow, or red); or any order based upon a violation.

civil penalties. However, subject to the same oversight as the regional offices, the Office of Nuclear Reactor Regulation (NRR) and the Office of Nuclear Material Safety and Safeguards (NMSS) may also issue Notices of Violation and proposed civil penalties for certain activities. Enforcement orders are normally issued by the Deputy Executive Director or the Director, OE. However, orders may also be issued by the EDO, especially those involving the more significant matters. The Directors of NRR and NMSS have also been delegated authority to issue orders, but it is expected that normal use of this authority by NRR and NMSS will be confined to actions not associated with compliance issues. The Chief Financial Officer has been delegated the authority to issue orders where licensees violate Commission regulations by nonpayment of license and inspection fees.

In recognition that the regulation of nuclear activities in many cases does not lend itself to a mechanistic treatment, judgment and discretion must be exercised in determining the severity levels of the violations and the appropriate enforcement sanctions, including the decision to issue a Notice of Violation, or to propose or impose a civil penalty and the amount of this penalty, after considering the general principles of this statement of policy and the significance of the violations and the surrounding circumstances.

Unless Commission consultation or notification is required by this policy, the NRC staff may depart, where warranted in the public's interest, from this policy as provided in Section VII, ''Exercise of Discretion.''

The Commission will be provided written notification for the following situations:

(1) All enforcement actions involving civil penalties or orders;

(2) The first time that discretion is exercised for a plant that meets the criteria of Section VII.B.2;

(3) (Where appropriate, based on the uniqueness or significance of the issue) when discretion is exercised for violations that meet the criteria of Section VII.B.6; and

(4) All Notices of Enforcement Discretion (NOEDs) issued involving natural events, such as severe weather conditions.

The Commission will be consulted prior to taking action in the following situations (unless the urgency of the situation dictates immediate action):

(1) An action affecting a licensee's operation that requires balancing the public health and safety or common defense and security implications of not operating against the potential radiological or other hazards associated with continued operation (cases involving severe weather or other natural phenomena may be addressed by the NRC staff without prior Commission consultation in accordance with Section VII.C);

(2) Proposals to impose a civil penalty for a single violation or problem that is greater than 3 times the Severity Level I value shown in Table 1A for that class of licensee;

(3) Any proposed enforcement action that involves a Severity Level I violation;

(4) Any action the EDO believes warrants Commission involvement;

(5) Any proposed enforcement case involving an Office of Investigations (OI) report where the NRC staff (other than the OI staff) does not arrive at the same conclusions as those in the OI report concerning issues of intent if the Director of OI concludes that Commission consultation is warranted; and

(6) Any proposed enforcement action on which the Commission asks to be consulted.

## IV. Significance of Violations

Regulatory requirements [7] have varying degrees of safety, safeguards, or environmental significance. Therefore, the relative importance or significance of each violation is assessed as the first step in the enforcement process.

### *A. Assessing Significance*

In assessing the significance of a noncompliance, the NRC considers four specific issues: (1) actual safety consequences; (2) potential safety consequences, including the consideration of risk information; (3) potential for impacting the NRC's ability to perform its regulatory function; and (4) any willful aspects of the violation.

For certain types of violations at commercial nuclear power plants, the NRC relies on information from the Reactor Oversight Process's Significance Determination Process (SDP). The SDP is used to evaluate the actual and potential safety significance of inspection findings to provide a risk-informed framework for discussing and communicating the significance of inspection findings. Violations associated with findings evaluated through the SDP are addressed in Section IV.A.5. Violations at commercial nuclear power plants that are associated with inspection findings that cannot be evaluated through the SDP (*i.e.,* violations that may impact the NRC's ability for oversight of licensed activities and violations that involve willfulness, including discrimination) are evaluated in accordance with the guidance in Sections IV.A.1 through IV.A.4 and Section IV.B. Violations that are associated with inspection findings with actual consequences are evaluated in accordance with the guidance in Section IV.A.5.c.

1. *Actual Safety Consequences.* In evaluating actual safety consequences, the NRC considers issues such as actual onsite or offsite releases of radiation, onsite or offsite radiation exposures, accidental criticalities, core damage, loss of significant safety barriers, loss of control of radioactive material or radiological emergencies. (See Section IV.A.5.c for guidance on violations that are associated with SDP findings with actual consequences.)

2. *Potential Safety Consequences.* In evaluating potential safety consequences, the NRC considers the realistic likelihood of affecting safety, *i.e.,* the existence of credible scenarios with potentially significant actual consequences. The NRC will use risk information wherever possible in assessing significance and assigning severity levels. A higher severity may be warranted for violations that have greater risk significance and a lower severity level may be appropriate for issues that have low risk significance. Duration is an appropriate consideration in assessing the significance of violations.

3. *Impacting the Regulatory Process.* The NRC considers the safety implications of noncompliances that may impact the NRC's ability to carry out it statutory mission. Noncompliances may be significant because they may challenge the regulatory envelope upon which certain activities were licensed. These types of violations include failures such as: failures to provide complete and accurate information, failures to receive prior NRC approval for changes in licensed activities, failures to notify NRC of changes in licensed activities, failure to perform 10 CFR 50.59 analyses, reporting failures, etc., Even inadvertent reporting failures are important because many of the surveillance, quality control, and auditing systems on which both the NRC and its licensees rely in order to monitor compliance with safety standards are based primarily on complete, accurate, and timely recordkeeping and reporting. The existence of a regulatory process violation does not automatically mean that the issue is safety significant. In

[7] The term ''requirement'' as used in this policy means a legally binding requirement such as a statute, regulation, license condition, technical specification, or order.

determining the significance of a violation, the NRC will consider appropriate factors for the particular regulatory process violation. These factors may include: the significance of the underlying issue, whether the failure actually impeded or influenced regulatory action, the level of individuals involved in the failure and the reasonableness of the failure given their position and training, and whether the failure invalidates the licensing basis. Factors to consider for failures to provide complete and accurate information are addressed in Section IX of this policy.

Unless otherwise categorized in the Supplements to this policy statement, the severity level of a violation involving the failure to make a required report to the NRC will be based upon the significance of and the circumstances surrounding the matter that should have been reported. However, the severity level of an untimely report, in contrast to no report, may be reduced depending on the circumstances surrounding the matter. A licensee will not normally be cited for a failure to report a condition or event unless the licensee was actually aware of the condition or event that it failed to report. A licensee will, on the other hand, normally be cited for a failure to report a condition or event if the licensee knew of the information to be reported, but did not recognize that it was required to make a report.

4. *Willfulness.* Willful violations are by definition of particular concern to the Commission because its regulatory program is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor. Willful violations cannot be tolerated by either the Commission or a licensee. Therefore, a violation may be considered more significant than the underlying noncompliance if it includes indications of willfulness. The term ''willfulness'' as used in this policy embraces a spectrum of violations ranging from deliberate intent to violate or falsify to and including careless disregard for requirements. Willfulness does not include acts which do not rise to the level of careless disregard, *e.g.,* negligence or inadvertent clerical errors in a document submitted to the NRC. In determining the significance of a violation involving willfulness, consideration will be given to such factors as the position and responsibilities of the person involved in the violation (*e.g.,* licensee official [8] or non-supervisory employee), the significance of any underlying violation, the intent of the violator (*i.e.,* careless disregard or deliberateness), and the economic or other advantage, if any, gained as a result of the violation. The relative weight given to each of these factors in arriving at the significance assessment will be dependent on the circumstances of the violation. However, if a licensee refuses to correct a minor violation within a reasonable time such that it willfully continues, the violation should be considered at least more than minor. Licensees are expected to take significant remedial action in responding to willful violations commensurate with the circumstances such that it demonstrates the seriousness of the violation thereby creating a deterrent effect within the licensee's organization.

5. *Significance Determination Process.* The Reactor Oversight Process uses a Significance Determination Process (SDP) to determine the safety significance of most inspection findings identified at commercial nuclear power plants. Depending on their significance, inspection findings are assigned colors of green, white, yellow, or red. The Reactor Oversight Process uses an Agency Action Matrix to determine the appropriate agency response. If violations that are more than minor are associated with these inspection findings, they will be documented and may or may not be cited depending on the safety significance. These violations are not normally assigned severity levels, nor are they normally subject to civil penalties.

**Note:** Violations associated with inspection findings that are not evaluated through the SDP will be assigned severity levels in accordance with Section IV.B and will be subject to civil penalties in accordance with Section VI.C.

a. Violations Associated With Findings of Very Low Safety Significance

Violations associated with findings that the SDP evaluates as having very low safety significance (*i.e.,* green) will normally be described in inspection reports as Non-Cited Violations (NCVs). The finding will be categorized by the assessment process within the licensee response band. However, a Notice of Violation (NOV) will be issued if the issue meets one of the three applicable exceptions in Section VI.A.1. The Commission recognizes that violations exist below this category that are of minimal safety or environmental significance. While licensees must correct these minor violations, they don't normally warrant documentation in inspection reports and do not warrant enforcement action. To the extent such violations are described, they will be noted as violations of minor significance that are not subject to enforcement action.

b. Violations Associated With Findings of Low to Moderate, or Greater Safety Significance

Violations associated with findings that the SDP evaluates as having low to moderate safety significance (*i.e.,* white), substantial safety significance (yellow), or high safety significance (red) will be cited in an NOV requiring a written response unless sufficient information is already on the docket. The finding will be assigned a color related to its significance for use by the assessment process. The Commission reserves the use of discretion for particularly significant violations (*e.g.* an accidental criticality) to assess civil penalties in accordance with Section 234 of the Atomic Energy Act of 1954, as amended.

c. Violations Associated With Actual Consequences

Violations that involve actual consequences such as an overexposure to the public or plant personnel above regulatory limits, failure to make the required notifications that impact the ability of Federal, State and local agencies to respond to an actual emergency preparedness (site area or general emergency), transportation event, or a substantial release of radioactive material, will be assigned severity levels and will be subject to civil penalties.

*B. Assigning Severity Level*

For purposes of determining the appropriate enforcement action, violations (except the majority of those associated with findings evaluated though the SDP) are normally categorized in terms of four levels of severity to show their relative importance or significance within each of the following eight activity areas:

I. Reactor Operations;
II. Facility Construction;
III. Safeguards;
IV. Health Physics;
V. Transportation;
VI. Fuel Cycle and Materials Operations;

[8] The term ''licensee official'' as used in this policy statement means a first-line supervisor or above, a licensed individual, a radiation safety officer, or an authorized user of licensed material whether or not listed on a license. Notwithstanding an individual's job title, severity level categorization for willful acts involving individuals who can be considered licensee officials will consider several factors, including the position of the individual relative to the licensee's organizational structure and the individual's responsibilities relative to the oversight of licensed activities and to the use of licensed material.

VII. Miscellaneous Matters; and
VIII. Emergency Preparedness.

Licensed activities will be placed in the activity area most suitable in light of the particular violation involved, including activities not directly covered by one of the listed areas, *e.g.*, export license activities. Within each activity area, Severity Level I has been assigned to violations that are the most significant and Severity Level IV violations are the least significant. Severity Level I and II violations are of very significant regulatory concern.[9] In general, violations that are included in these severity categories involve actual or high potential consequences on public health and safety. Severity Level III violations are cause for significant regulatory concern. Severity Level IV violations are less serious but are of more than minor concern. Violations at Severity Level IV involve noncompliance with NRC requirements that are not considered significant based on risk. This should not be misunderstood to imply that Severity Level IV issues have no risk significance.

The Commission recognizes that there are other violations of minor safety or environmental concern that are below the level of significance of Severity Level IV violations. While licensees must correct these minor violations, they don't normally warrant documentation in inspection reports or inspection records and do not warrant enforcement action. To the extent such violations are described, they will be noted as violations of minor significance that are not subject to enforcement action.

Comparisons of significance between activity areas are inappropriate. For example, the immediacy of any hazard to the public associated with Severity Level I violations in Reactor Operations is not directly comparable to that associated with Severity Level I violations in Facility Construction.

Supplements I through VIII provide examples and serve as guidance in determining the appropriate severity level for violations in each of the eight activity areas. However, the examples are neither exhaustive nor controlling. In addition, these examples do not create new requirements. Each is designed to illustrate the significance that the NRC places on a particular type of violation of NRC requirements. Each of the examples in the supplements is predicated on a violation of a regulatory requirement.

[9] Regulatory concern pertains to primary NRC regulatory responsibilities, *i.e.*, safety, safeguards, and the environment.

The NRC reviews each case being considered for enforcement action on its own merits to ensure that the severity of a violation is characterized at the level best suited to the significance of the particular violation.

## V. Predecisional Enforcement Conferences

When the NRC learns of a potential violation for which escalated enforcement action appears to be warranted, or recurring nonconformance on the part of a contractor, the NRC may provide an opportunity for a predecisional enforcement conference with the licensee, contractor, or other person before taking enforcement action. The purpose of the predecisional enforcement conference is to obtain information that will assist the NRC in determining the appropriate enforcement action, such as: (1) a common understanding of facts, root causes, and missed opportunities associated with the apparent violations; (2) a common understanding of corrective actions taken or planned; and (3) a common understanding of the significance of issues and the need for lasting comprehensive corrective action.

The NRC may conduct Regulatory Conferences (in lieu of predecisional enforcement conferences) to discuss the significance of findings evaluated by the Reactor Oversight Process's SDP when apparent violations are associated with potentially significant findings. The purpose of Regulatory Conferences is to get information from licensees on the significance of findings evaluated through the SDP whether or not violations are involved. Because the significance assessment from the SDP determines whether or not escalated enforcement action will be issued (*i.e.,* a Notice of Violation associated with a white, yellow, or red SDP finding), a subsequent predecisional enforcement conference is not normally necessary.

If the NRC concludes that it has sufficient information to make an informed enforcement decision involving a licensee, contractor, or vendor, a predecisional enforcement conference will not normally be held. If a predecisional enforcement conference is not held, the licensee may be given an opportunity to respond to a documented apparent violation (including its root causes and a description of planned or implemented corrective actions) before the NRC takes enforcement action. However, if the NRC has sufficient information to conclude that a civil penalty is not warranted, it may proceed to issue an enforcement action without first obtaining the licensee's response to the documented apparent violation.

The NRC will normally provide an opportunity for an individual to address apparent violations before the NRC takes escalated enforcement action. Whether an individual will be provided an opportunity for a predecisional enforcement conference or an opportunity to address an apparent violation in writing will depend on the circumstances of the case, including the severity of the issue, the significance of the action the NRC is contemplating, and whether the individual has already had an opportunity to address the issue (*e.g.,* an Office of Investigation or a Department of Labor hearing).

During the predecisional enforcement conference, the licensee, contractor, or other persons will be given an opportunity to provide information consistent with the purpose of the conference, including an explanation to the NRC of the immediate corrective actions (if any) that were taken following identification of the potential violation or nonconformance and the long-term comprehensive actions that were taken or will be taken to prevent recurrence. Licensees, contractors, or other persons will be told when a meeting is a predecisional enforcement conference.

A predecisional enforcement conference is a meeting between the NRC and the licensee. Conferences are normally held in the regional offices and are normally open to public observation. Predecisional enforcement conferences will not normally be open to the public if the enforcement action is being contemplated:

(1) Would be taken against an individual, or if the action, though not taken against an individual, turns on whether an individual has committed wrongdoing;

(2) Involves significant personnel failures where the NRC has requested that the individual(s) involved be present at the conference;

(3) Is based on the findings of an NRC Office of Investigations report that has not been publicly disclosed; or

(4) Involves safeguards information, Privacy Act information, or information which could be considered proprietary;

In addition, conferences will not normally be open to the public if:

(5) The conference involves medical misadministrations or overexposures and the conference cannot be conducted without disclosing the exposed individual's name; or

(6) The conference will be conducted by telephone or the conference will be conducted at a relatively small licensee's facility.

Notwithstanding meeting any of these criteria, a predecisional enforcement conference may still be open if the conference involves issues related to an ongoing adjudicatory proceeding with one or more interveners or where the evidentiary basis for the conference is a matter of public record, such as an adjudicatory decision by the Department of Labor. In addition, notwithstanding the normal criteria for opening or closing predecisional enforcement conferences, conferences may either be open or closed to the public, with the approval of the Executive Director for Operations, after balancing the benefit of the public's observation against the potential impact on the agency's decision-making process in a particular case.

The NRC will notify the licensee that the predecisional enforcement conference will be open to public observation. Consistent with the agency's policy on open meetings (included on the NRC's Public Meeting Web site), the NRC intends to announce open conferences normally at least 10 calendar days in advance of conferences. Conferences will be announced on the Internet at the NRC Office of Enforcement's homepage (*www.nrc.gov/OE*) and on the Public Meeting Web site (*www.nrc.gov/NRC/PUBLIC/meet.html*). Individuals who do not have Internet access may get assistance on scheduled conferences by contacting the NRC staff at the Public Document Room, by calling toll-free 1–800–397–4209. In addition, the NRC will normally issue a press release and notify appropriate State liaison officers that a predecisional enforcement conference has been scheduled and that it is open to public observation.

The public attending open predecisional enforcement conferences may observe but may not participate in the conference. The purpose of conducting open conferences is not to maximize public attendance, but rather to provide the public with opportunities to be informed of NRC activities consistent with the NRC's ability to exercise its regulatory and safety responsibilities. Therefore, members of the public will be allowed access to the NRC regional offices to attend open enforcement conferences in accordance with the ''Standard Operating Procedures For Providing Security Support For NRC Hearings and Meetings,'' published November 1, 1991 (56 FR 56251). These procedures provide that visitors may be subject to personnel screening, that signs, banners, posters, etc., not larger than 18″ be permitted, and that disruptive persons may be removed. The open conference will be terminated if disruption interferes with a successful conference. NRC's Predecisional Enforcement Conferences (whether open or closed) normally will be held at the NRC's regional offices or in NRC Headquarters Offices and not in the vicinity of the licensee's facility.

For a case in which an NRC Office of Investigations (OI) report finds that discrimination as defined under 10 CFR 50.7 (or similar provisions in Parts 30, 40, 60, 70, or 72) has occurred, the OI report may be made public, subject to withholding certain information (*i.e.,* after appropriate redaction), in which case the associated predecisional enforcement conference will normally be open to public observation. In a predecisional enforcement conference where a particular individual is being considered potentially responsible for the discrimination, the conference will remain closed. In either case (*i.e.,* whether the conference is open or closed), the employee or former employee who was the subject of the alleged discrimination (hereafter referred to as ''complainant'') will normally be provided an opportunity to participate in the predecisional enforcement conference with the licensee/employer. This participation will normally be in the form of a complainant statement and comment on the licensee's presentation, followed in turn by an opportunity for the licensee to respond to the complainant's presentation. In cases where the complainant is unable to attend in person, arrangements will be made for the complainant's participation by telephone or an opportunity given for the complainant to submit a written response to the licensee's presentation. If the licensee chooses to forego an enforcement conference and, instead, responds to the NRC's findings in writing, the complainant will be provided the opportunity to submit written comments on the licensee's response. For cases involving potential discrimination by a contractor, any associated predecisional enforcement conference with the contractor would be handled similarly. These arrangements for complainant participation in the predecisional enforcement conference are not to be conducted or viewed in any respect as an adjudicatory hearing. The purpose of the complainant's participation is to provide information to the NRC to assist it in its enforcement deliberations.

A predecisional enforcement conference may not need to be held in cases where there is a full adjudicatory record before the Department of Labor. If a conference is held in such cases, generally the conference will focus on the licensee's corrective action. As with discrimination cases based on OI investigations, the complainant may be allowed to participate.

Members of the public attending open predecisional enforcement conferences will be reminded that (1) the apparent violations discussed at predecisional enforcement conferences are subject to further review and may be subject to change prior to any resulting enforcement action and (2) the statements of views or expressions of opinion made by NRC employees at predecisional enforcement conferences, or the lack thereof, are not intended to represent final determinations or beliefs.

When needed to protect the public health and safety or common defense and security, escalated enforcement action, such as the issuance of an immediately effective order, will be taken before the conference. In these cases, a conference may be held after the escalated enforcement action is taken.

## VI. Disposition of Violations

This section describes the various ways the NRC can disposition violations. The manner in which a violation is dispositioned is intended to reflect the seriousness of the violation and the circumstances involved. As previously stated, minor violations are not the subject of enforcement action. While licensees must correct these violations, they don't normally warrant documentation in inspection reports or inspection records. Other violations are documented and may be dispositioned as Non-Cited Violations, cited in Notices of Violation, or issued in conjunction with civil penalties or various types of orders. The NRC may also choose to exercise discretion and refrain from issuing enforcement action. (See Section VII.B, ''Mitigation of Enforcement Sanctions.'') As discussed further in Section VI.E, related administrative actions such as Notices of Nonconformance, Notices of Deviation, Confirmatory Action Letters, Letters of Reprimand, and Demands for Information are used to supplement the enforcement program. In determining the appropriate regulatory response, the NRC will consider enforcement actions taken by other Federal or State regulatory bodies having concurrent jurisdiction, such as in transportation matters.

### *A. Non-Cited Violation (NCV)*

A Non-Cited Violation (NCV) is the term used to describe a method for dispositioning a Severity Level IV violation or a violation associated with a finding that the Reactor Oversight

Process's SDP evaluates as having very low safety significance (*i.e.,* green). These issues are documented as violations in inspection reports (or inspection records for some materials licensees) to establish public records of the violations, but are not cited in Notices of Violation which normally require written responses from licensees (see Section VI.B below). Dispositioning violations in this manner does not eliminate the NRC's emphasis on compliance with requirements nor the importance of maintaining safety. Licensees are still responsible for maintaining safety and compliance and must take steps to address corrective actions for these violations. While licensees are not required to provide written responses to NCVs, this approach allows licensees to dispute violations described as NCVs. The following sections describe the circumstances under which a violation may or may not be dispositioned as an NCV.

1. Power Reactor Licensees

Severity Level IV violations and violations associated with green SDP findings are normally dispositioned as NCVs. Violations dispositioned as NCVs will be described in inspection reports, although the NRC will close these violations based on their being entered into the licensee's corrective action program. At the time a violation is closed in an inspection report, the licensee may not have completed its corrective actions or begun the process to identify the root cause and develop action to prevent recurrence. Licensee actions will be taken commensurate with the established priorities and processes of the licensee's corrective action program. The NRC inspection program will provide an assessment of the effectiveness of the corrective action program. In addition to documentation in inspection reports, violations will be entered into the Plant Issues Matrix (PIM). Because the NRC will not normally obtain a written response from licensees describing actions taken to restore compliance and prevent recurrence of these violations, this enforcement approach places greater NRC reliance on licensee corrective action programs. Any one of the following circumstances will result in consideration of an NOV requiring a formal written response from a licensee.

a. The licensee failed to restore compliance within a reasonable time after a violation was identified.

b. The licensee did not place the violation into a corrective action program to address recurrence.

c. The violation is repetitive [10] as a result of inadequate corrective action, and was identified by the NRC.

**Note:** This exception does not apply to violations associated with green SDP findings.

d. The violation was willful. Notwithstanding willfulness, an NCV may still be appropriate if:

(1) The licensee identified the violation and the information concerning the violation, if not required to be reported, was promptly provided to appropriate NRC personnel, such as a resident inspector or regional branch chief;

(2) The violation involved the acts of a low-level individual (and not a licensee official as defined in Section IV.A);

(3) The violation appears to be the isolated action of the employee without management involvement and the violation was not caused by lack of management oversight as evidenced by either a history of isolated willful violations or a lack of adequate audits or supervision of employees; and

(4) Significant remedial action commensurate with the circumstances was taken by the licensee such that it demonstrated the seriousness of the violation to other employees and contractors, thereby creating a deterrent effect within the licensee's organization.

The approval of the Director, Office of Enforcement, with consultation with the Deputy Executive Director as warranted, is required for dispositioning willful violations as NCVs.

2.–7. [Reserved]

8. All Other Licensees

Severity Level IV violations that are dispositioned as NCVs will be described in inspection reports (or inspection records for some materials licensees) and will include a brief description of the corrective action the licensee has either taken or planned to take. Any one of the following circumstances will result in consideration of an NOV requiring a formal written response from a licensee.

a. The licensee failed to identify the violation; [11]

b. The licensee did not correct or commit to correct the violation within a reasonable time by specific corrective action committed to by the end of the inspection, including immediate corrective action and comprehensive corrective action to prevent recurrence; and

c. The violation is repetitive as a result of inadequate corrective action;

d. The violation was willful. Notwithstanding willfulness, an NCV may still be appropriate if it meets the criteria in Section VI.A.1.d.

The approval of the Director, Office of Enforcement, with consultation with the Deputy Executive Director as warranted, is required for dispositioning willful violations as NCVs.

*B. Notice of Violation*

A Notice of Violation is a written notice setting forth one or more violations of a legally binding requirement. The Notice of Violation normally requires the recipient to provide a written statement describing (1) the reasons for the violation or, if contested, the basis for disputing the violation; (2) corrective steps that have been taken and the results achieved; (3) corrective steps that will be taken to prevent recurrence; and (4) the date when full compliance will be achieved. The NRC may waive all or portions of a written response to the extent that relevant information has already been provided to the NRC in writing or documented in an NRC inspection report or inspection record. The NRC may require responses to Notices of Violation to be under oath. Normally, responses under oath will be required only in connection with Severity Level I, II, or III violations; violations associated with findings that the SDP evaluates as having low to moderate, or greater safety significance (*i.e.,* white, yellow, or red); or orders.

Issuance of a Notice of Violation is normally the only enforcement action taken for Severity Level I, II, and III violations, except in cases where the criteria for issuance of civil penalties and orders, as set forth in Sections VI.C and VI.D, respectively, are met.

*C. Civil Penalty*

A civil penalty is a monetary penalty that may be imposed for violation of (1) certain specified licensing provisions of the Atomic Energy Act or supplementary NRC rules or orders; (2) any requirement for which a license may be revoked; or (3) reporting requirements under section 206 of the Energy Reorganization Act. Civil penalties are designed to deter future violations both by the involved licensee

[10] A violation is considered ''repetitive'' if it could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation or a previous licensee finding that occurred within the past 2 years of the inspection at issue, or the period within the last two inspections, whichever is longer.

[11] An NOV is warranted when a licensee identifies a violation as a result of an event where the root cause of the event is obvious or the licensee had prior opportunity to identify the problem but failed to take action that would have prevented the event. Disposition as an NCV may be warranted if the licensee demonstrated initiative in identifying the violation's root cause.

and other licensees conducting similar activities. Civil penalties also emphasize the need for licensees to identify violations and take prompt comprehensive corrective action.

Civil penalties are normally assessed for Severity Level I and II violations and knowing and conscious violations of the reporting requirements of section 206 of the Energy Reorganization Act. Civil penalties are considered for Severity Level III violations.

Civil penalties are also considered for violations associated with inspection findings evaluated through the Reactor Oversight Process's SDP that involved actual consequences, such as an overexposure to the public or plant personnel above regulatory limits, failure to make the required notifications that impact the ability of Federal, State and local agencies to respond to an actual emergency preparedness event (site area or general emergency), transportation event, or a substantial release of radioactive material. (Civil penalties are not proposed for violations associated with low to moderate, or greater safety significant findings absent actual consequences.)

Civil penalties are used to encourage prompt identification and prompt and comprehensive correction of violations, to emphasize compliance in a manner that deters future violations, and to serve to focus licensees' attention on significant violations.

Although management involvement, direct or indirect, in a violation may lead to an increase in the civil penalty, the lack of management involvement may not be used to mitigate a civil penalty. Allowing mitigation in the latter case could encourage the lack of management involvement in licensed activities and a decrease in protection of the public health and safety.

1. Base Civil Penalty

The NRC imposes different levels of penalties for different severity level violations and different classes of licensees, contractors, and other persons. Tables 1A and 1B show the base civil penalties for various reactor, fuel cycle, and materials programs. (Civil penalties issued to individuals are determined on a case-by-case basis.) The structure of these tables generally takes into account the gravity of the violation as a primary consideration and the ability to pay as a secondary consideration. Generally, operations involving greater nuclear material inventories and greater potential consequences to the public and licensee employees receive higher civil penalties. Regarding the secondary factor of ability of various classes of licensees to pay the civil penalties, it is not the NRC's intention that the economic impact of a civil penalty be so severe that it puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to suspend or terminate licensed activities) or adversely affects a licensee's ability to safely conduct licensed activities. The deterrent effect of civil penalties is best served when the amounts of the penalties take into account a licensee's ability to pay. In determining the amount of civil penalties for licensees for whom the tables do not reflect the ability to pay or the gravity of the violation, the NRC will consider necessary increases or decreases on a case-by-case basis. Normally, if a licensee can demonstrate financial hardship, the NRC will consider payments over time, including interest, rather than reducing the amount of the civil penalty. However, where a licensee claims financial hardship, the licensee will normally be required to address why it has sufficient resources to safely conduct licensed activities and pay license and inspection fees.

TABLE 1A.—BASE CIVIL PENALTIES

| | Dollars |
|---|---|
| a. Power reactors and gaseous diffusion plants | 110,000 |
| b. Fuel fabricators authorized to possess Category I or II quantities of SNM | 55,000 |
| c. Fuel fabricators, industrial processors,[1] and independent spent fuel and monitored retrievable storage installations | 27,500 |
| d. Test reactors, mills and uranium conversion facilities, contractors, waste disposal licensees, industrial radiographers, and other large material users | 11,000 |
| e. Research reactors, academic, medical, or other small material users[2] | 5,500 |

[1] Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.

[2] This applies to nonprofit institutions not otherwise categorized in this table, mobile nuclear services, nuclear pharmacies, and physician offices.

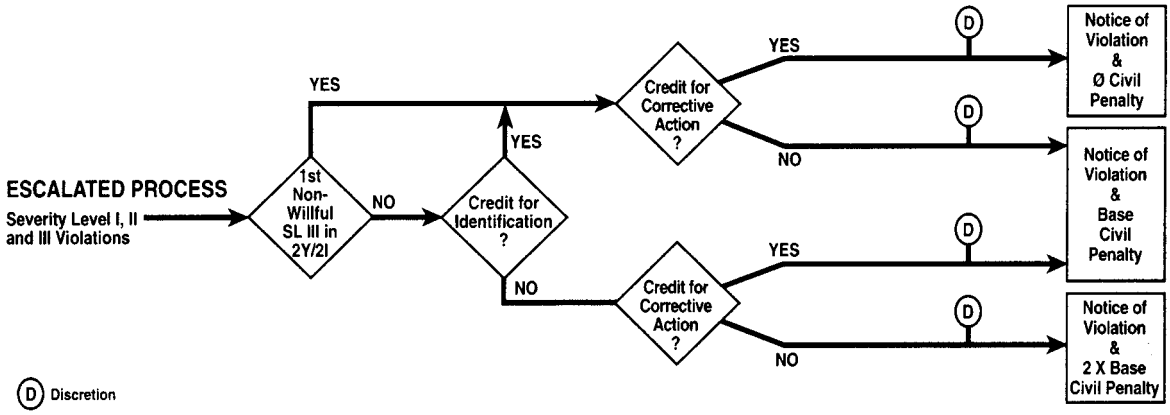
TABLE 1B.—BASE CIVIL PENALTIES

| Severity level | Base civil penalty amount (percent of amount listed in Table 1A) |
|---|---|
| I | 100 |
| II | 80 |
| III | 50 |

2. Civil Penalty Assessment

In an effort to (1) emphasize the importance of adherence to requirements and (2) reinforce prompt self-identification of problems and root causes and prompt and comprehensive correction of violations, the NRC reviews each proposed civil penalty on its own merits and, after considering all relevant circumstances, may adjust the base civil penalties shown in Table 1A and 1B for Severity Level I, II, and III violations as described below.

The civil penalty assessment process considers four decisional points: (a) whether the licensee has had any previous escalated enforcement action (regardless of the activity area) during the past 2 years or past 2 inspections, whichever is longer; (b) whether the licensee should be given credit for actions related to identification; (c) whether the licensee's corrective actions are prompt and comprehensive; and (d) whether, in view of all the circumstances, the matter in question requires the exercise of discretion. Although each of these decisional points may have several associated considerations for any given case, the outcome of the assessment process for each violation or problem, absent the exercise of discretion, is limited to one of the following three results: no civil penalty, a base civil penalty, or a base civil penalty escalated by 100 percent. The flow chart presented below is a graphic representation of the civil penalty assessment process.




a. Initial Escalated Action

When the NRC determines that a non-willful Severity Level III violation or problem has occurred, and the licensee has not had *any* previous escalated actions (regardless of the activity area) during the past 2 years or 2 inspections, whichever is longer, the NRC will consider whether the licensee's corrective action for the present violation or problem is reasonably prompt and comprehensive (see the discussion under Section VI.C.2.c, below). Using 2 years as the basis for assessment is expected to cover most situations, but considering a slightly longer or shorter period might be warranted based on the circumstances of a particular case. The starting point of this period should be considered the date when the licensee was put on notice of the need to take corrective action. For a licensee-identified violation or an event, this would be when the licensee is aware that a problem or violation exists requiring corrective action. For an NRC-identified violation, the starting point would be when the NRC puts the licensee on notice, which could be during the inspection, at the inspection exit meeting, or as part of post-inspection communication.

If the corrective action is judged to be prompt and comprehensive, a Notice of Violation normally should be issued with no associated civil penalty. If the corrective action is judged to be less than prompt and comprehensive, the Notice of Violation normally should be issued with a base civil penalty.

b. Credit for Actions Related to Identification

(1) If a Severity Level I or II violation or a willful Severity Level III violation has occurred—or if, during the past 2 years or 2 inspections, whichever is longer, the licensee has been issued at least one other escalated action—the civil penalty assessment should normally consider the factor of identification in addition to corrective action (see the discussion under Section VI.C.2.c, below). In these circumstances, the NRC should consider whether the licensee should be given credit for actions related to identification.

In each case, the decision should be focused on identification of the problem requiring corrective action. In other words, although giving credit for Identification and Corrective Action should be separate decisions, the concept of Identification presumes that the identifier recognizes the existence of a problem, and understands that corrective action is needed. The decision on Identification requires considering all the circumstances of identification including:

(i) Whether the problem requiring corrective action was NRC-identified, licensee-identified, or revealed through an event [12]

(ii) Whether prior opportunities existed to identify the problem requiring corrective action, and if so, the age and number of those opportunities;

(iii) Whether the problem was revealed as the result of a licensee self-monitoring effort, such as conducting an audit, a test, a surveillance, a design review, or troubleshooting;

(iv) For a problem revealed through an event, the ease of discovery, and the degree of licensee initiative in identifying the root cause of the problem and any associated violations;

(v) For NRC-identified issues, whether the licensee would likely have identified the issue in the same time-period if the NRC had not been involved;

(vi) For NRC-identified issues, whether the licensee should have identified the issue (and taken action) earlier; and

(vii) For cases in which the NRC identifies the overall problem requiring corrective action (e.g., a programmatic issue), the degree of licensee initiative or lack of initiative in identifying the problem or problems requiring corrective action.

(2) Although some cases may consider all of the above factors, the importance of each factor will vary based on the type of case as discussed in the following general guidance:

(i) *Licensee-Identified.* When a problem requiring corrective action is licensee-identified (i.e., identified before the problem has resulted in an event), the NRC should normally give the licensee credit for actions related to identification, regardless of whether prior opportunities existed to identify the problem.

(ii) *Identified Through an Event.* When a problem requiring corrective action is identified through an event, the decision on whether to give the licensee credit for actions related to identification normally should consider the ease of discovery, whether the event occurred as the result of a licensee self-monitoring effort (i.e., whether the licensee was ''looking for the problem''), the degree of licensee initiative in identifying the problem or problems requiring corrective action, and whether prior opportunities existed to identify the problem.

Any of these considerations may be overriding if particularly noteworthy or particularly egregious. For example, if the event occurred as the result of

[12] An ''event,'' as used here, means (1) an event characterized by an active adverse impact on equipment or personnel, readily obvious by human observation or instrumentation, or (2) a radiological impact on personnel or the environment in excess of regulatory limits, such as an overexposure, a release of radioactive material above NRC limits, or a loss of radioactive material. For example, an equipment failure discovered through a spill of liquid, a loud noise, the failure to have a system respond properly, or an annunciator alarm would be considered an event; a system discovered to be inoperable through a document review would not. Similarly, if a licensee discovered, through quarterly dosimetry readings, that employees had been inadequately monitored for radiation, the issue would normally be considered licensee-identified; however, if the same dosimetry readings disclosed an overexposure, the issue would be considered an event.

conducting a surveillance or similar self-monitoring effort (i.e., the licensee was looking for the problem), the licensee should normally be given credit for identification. Even if the problem was easily discovered (e.g., revealed by a large spill of liquid), the NRC may choose to give credit because noteworthy licensee effort was exerted in ferreting out the root cause and associated violations, or simply because no prior opportunities (e.g., procedural cautions, post-maintenance testing, quality control failures, readily observable parameter trends, or repeated or locked-in annunciator warnings) existed to identify the problem.

(iii) *NRC-Identified.* When a problem requiring corrective action is NRC-identified, the decision on whether to give the licensee credit for actions related to Identification should normally be based on an additional question: should the licensee have reasonably identified the problem (and taken action) earlier?

In most cases, this reasoning may be based simply on the ease of the NRC inspector's discovery (e.g., conducting a walkdown, observing in the control room, performing a confirmatory NRC radiation survey, hearing a cavitating pump, or finding a valve obviously out of position). In some cases, the licensee's missed opportunities to identify the problem might include a similar previous violation, NRC or industry notices, internal audits, or readily observable trends.

If the NRC identifies the violation but concludes that, under the circumstances, the licensee's actions related to Identification were not unreasonable, the matter would be treated as licensee-identified for purposes of assessing the civil penalty. In such cases, the question of Identification credit shifts to whether the licensee should be penalized for NRC's identification of the problem.

(iv) *Mixed Identification.* For ''mixed'' identification situations (i.e., where multiple violations exist, some NRC-identified, some licensee-identified, or where the NRC prompted the licensee to take action that resulted in the identification of the violation), the NRC's evaluation should normally determine whether the licensee could reasonably have been expected to identify the violation in the NRC's absence. This determination should consider, among other things, the timing of the NRC's discovery, the information available to the licensee that caused the NRC concern, the specificity of the NRC's concern, the scope of the licensee's efforts, the level of licensee resources given to the investigation, and whether the NRC's path of analysis had been dismissed or was being pursued in parallel by the licensee.

In some cases, the licensee may have addressed the isolated symptoms of each violation (and may have identified the violations), but failed to recognize the common root cause and taken the necessary comprehensive action. Where this is true, the decision on whether to give licensee credit for actions related to Identification should focus on identification of the problem requiring corrective action (e.g., the programmatic breakdown). As such, depending on the chronology of the various violations, the earliest of the individual violations might be considered missed opportunities for the licensee to have identified the larger problem.

(v) *Missed Opportunities to Identify.* Missed opportunities include prior notifications or missed opportunities to identify or prevent violations such as (1) through normal surveillances, audits, or quality assurance (QA) activities; (2) through prior notice, i.e., specific NRC or industry notification; or (3) through other reasonable indication of a potential problem or violation, such as observations of employees and contractors, and failure to take effective corrective steps. It may include findings of the NRC, the licensee, or industry made at other facilities operated by the licensee where it is reasonable to expect the licensee to take action to identify or prevent similar problems at the facility subject to the enforcement action at issue. In assessing this factor, consideration will be given to, among other things, the opportunities available to discover the violation, the ease of discovery, the similarity between the violation and the notification, the period of time between when the violation occurred and when the notification was issued, the action taken (or planned) by the licensee in response to the notification, and the level of management review that the notification received (or should have received).

The evaluation of missed opportunities should normally depend on whether the information available to the licensee should reasonably have caused action that would have prevented the violation. Missed opportunities is normally not applied where the licensee appropriately reviewed the opportunity for application to its activities and reasonable action was either taken or planned to be taken within a reasonable time.

In some situations the missed opportunity is a violation in itself. In these cases, unless the missed opportunity is a Severity Level III violation in itself, the missed opportunity violation may be grouped with the other violations into a single Severity Level III ''problem.'' However, if the missed opportunity is the only violation, then it should not normally be counted twice (i.e., both as the violation and as a missed opportunity—''double counting'') unless the number of opportunities missed was particularly significant.

The timing of the missed opportunity should also be considered. While a rigid time-frame is unnecessary, a 2-year period should generally be considered for consistency in implementation, as the period reflecting relatively current performance.

(3) When the NRC determines that the licensee should receive credit for actions related to Identification, the civil penalty assessment should normally result in either no civil penalty or a base civil penalty, based on whether Corrective Action is judged to be reasonably prompt and comprehensive. When the licensee is not given credit for actions related to Identification, the civil penalty assessment should normally result in a Notice of Violation with either a base civil penalty or a base civil penalty escalated by 100 percent, depending on the quality of Corrective Action, because the licensee's performance is clearly not acceptable.

c. Credit for Prompt and Comprehensive Corrective Action

The purpose of the Corrective Action factor is to encourage licensees to (1) take the immediate actions necessary upon discovery of a violation that will restore safety and compliance with the license, regulation(s), or other requirement(s); and (2) develop and implement (in a timely manner) the lasting actions that will not only prevent recurrence of the violation at issue, but will be appropriately comprehensive, given the significance and complexity of the violation, to prevent occurrence of violations with similar root causes.

Regardless of other circumstances (e.g., past enforcement history, identification), the licensee's corrective actions should always be evaluated as part of the civil penalty assessment process. As a reflection of the importance given to this factor, an NRC judgment that the licensee's corrective action has not been prompt and comprehensive will always result in issuing at least a base civil penalty.

In assessing this factor, consideration will be given to the timeliness of the corrective action (including the promptness in developing the schedule for long term corrective action), the

adequacy of the licensee's root cause analysis for the violation, and, given the significance and complexity of the issue, the comprehensiveness of the corrective action (i.e., whether the action is focused narrowly to the specific violation or broadly to the general area of concern). Even in cases when the NRC, at the time of the enforcement conference, identifies additional peripheral or minor corrective action still to be taken, the licensee may be given credit in this area, as long as the licensee's actions addressed the underlying root cause and are considered sufficient to prevent recurrence of the violation and similar violations.

Normally, the judgment of the adequacy of corrective actions will hinge on whether the NRC had to take action to focus the licensee's evaluative and corrective process in order to obtain comprehensive corrective action. This will normally be judged at the time of the predecisional enforcement conference (e.g., by outlining substantive additional areas where corrective action is needed). Earlier informal discussions between the licensee and NRC inspectors or management may result in improved corrective action, but should not normally be a basis to deny credit for Corrective Action. For cases in which the licensee does not get credit for actions related to Identification because the NRC identified the problem, the assessment of the licensee's corrective action should begin from the time when the NRC put the licensee on notice of the problem. Notwithstanding eventual good comprehensive corrective action, if immediate corrective action was not taken to restore safety and compliance once the violation was identified, corrective action would not be considered prompt and comprehensive.

Corrective action for violations involving discrimination should normally only be considered comprehensive if the licensee takes prompt, comprehensive corrective action that (1) addresses the broader environment for raising safety concerns in the workplace, and (2) provides a remedy for the particular discrimination at issue.

In response to violations of 10 CFR 50.59, corrective action should normally be considered prompt and comprehensive only if the licensee —

(i) Makes a prompt decision on operability; and either

(ii) Makes a prompt evaluation under 10 CFR 50.59 if the licensee intends to maintain the facility or procedure in the as found condition; or

(iii) Promptly initiates corrective action consistent with Criterion XVI of 10 CFR 50, Appendix B, if it intends to restore the facility or procedure to the FSAR description.

d. Exercise of Discretion

As provided in Section VII, ''Exercise of Discretion,'' discretion may be exercised by either escalating or mitigating the amount of the civil penalty determined after applying the civil penalty adjustment factors to ensure that the proposed civil penalty reflects all relevant circumstances of the particular case. However, in no instance will a civil penalty for any one violation exceed $110,000 per day.

*D. Orders*

An order is a written NRC directive to modify, suspend, or revoke a license; to cease and desist from a given practice or activity; or to take such other action as may be proper (see 10 CFR 2.202). Orders may also be issued in lieu of, or in addition to, civil penalties, as appropriate for Severity Level I, II, or III violations. Orders may be issued as follows:

1. License Modification orders are issued when some change in licensee equipment, procedures, personnel, or management controls is necessary.

2. Suspension Orders may be used:

(a) To remove a threat to the public health and safety, common defense and security, or the environment;

(b) To stop facility construction when,

(i) Further work could preclude or significantly hinder the identification or correction of an improperly constructed safety-related system or component; or

(ii) The licensee's quality assurance program implementation is not adequate to provide confidence that construction activities are being properly carried out;

(c) When the licensee has not responded adequately to other enforcement action;

(d) When the licensee interferes with the conduct of an inspection or investigation; or

(e) For any reason not mentioned above for which license revocation is legally authorized.

Suspensions may apply to all or part of the licensed activity. Ordinarily, a licensed activity is not suspended (nor is a suspension prolonged) for failure to comply with requirements where such failure is not willful and adequate corrective action has been taken.

3. Revocation Orders may be used:

(a) When a licensee is unable or unwilling to comply with NRC requirements;

(b) When a licensee refuses to correct a violation;

(c) When licensee does not respond to a Notice of Violation where a response was required;

(d) When a licensee refuses to pay an applicable fee under the Commission's regulations; or

(e) For any other reason for which revocation is authorized under section 186 of the Atomic Energy Act (*e.g.,* any condition which would warrant refusal of a license on an original application).

4. Cease and Desist Orders may be used to stop an unauthorized activity that has continued after notification by the NRC that the activity is unauthorized.

5. Orders to non-licensees, including contractors and subcontractors, holders of NRC approvals, *e.g.,* certificates of compliance, early site permits, standard design certificates, or applicants for any of them, and to employees of any of the foregoing, are used when the NRC has identified deliberate misconduct that may cause a licensee to be in violation of an NRC requirement or where incomplete or inaccurate information is deliberately submitted or where the NRC loses its reasonable assurance that the licensee will meet NRC requirements with that person involved in licensed activities.

Unless a separate response is warranted under 10 CFR 2.201, a Notice of Violation need not be issued where an order is based on violations described in the order. The violations described in an order need not be categorized by severity level.

Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest, or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the order is afforded. For cases in which the NRC believes a basis could reasonably exist for not taking the action as proposed, the licensee will ordinarily be afforded an opportunity to show why the order should not be issued in the proposed manner by way of a Demand for Information. (See 10 CFR 2.204)

*E. Related Administrative Actions*

In addition to NCVs, NOVs, civil penalties, and orders, the NRC also uses administrative actions, such as Notices of Deviation, Notices of Nonconformance, Confirmatory Action Letters, Letters of Reprimand, and Demands for Information to supplement its enforcement program. The NRC expects licensees and contractors to adhere to any obligations and commitments resulting from these actions and will not hesitate to issue

appropriate orders to ensure that these obligations and commitments are met.

1. *Notices of Deviation* are written notices describing a licensee's failure to satisfy a commitment where the commitment involved has not been made a legally binding requirement. A Notice of Deviation requests that a licensee provide a written explanation or statement describing corrective steps taken (or planned), the results achieved, and the date when corrective action will be completed.

2. *Notices of Nonconformance* are written notices describing contractors' failures to meet commitments which have not been made legally binding requirements by NRC. An example is a commitment made in a procurement contract with a licensee as required by 10 CFR Part 50, Appendix B. Notices of Nonconformances request that non-licensees provide written explanations or statements describing corrective steps (taken or planned), the results achieved, the dates when corrective actions will be completed, and measures taken to preclude recurrence.

3. *Confirmatory Action Letters* are letters confirming a licensee's or contractor's agreement to take certain actions to remove significant concerns about health and safety, safeguards, or the environment.

4. *Letters of Reprimand* are letters addressed to individuals subject to Commission jurisdiction identifying a significant deficiency in their performance of licensed activities.

5. *Demands for Information* are demands for information from licensees or other persons for the purpose of enabling the NRC to determine whether an order or other enforcement action should be issued.

**VII. Exercise of Discretion**

Notwithstanding the normal guidance contained in this policy, as provided in Section III, ''Responsibilities,'' the NRC may choose to exercise discretion and either escalate or mitigate enforcement sanctions within the Commission's statutory authority to ensure that the resulting enforcement action takes into consideration all of the relevant circumstances of the particular case.

*A. Escalation of Enforcement Sanctions*

The NRC considers violations categorized at Severity Level I, II, or III to be of significant regulatory concern. The NRC also considers violations associated with findings that the Reactor Oversight Process's Significance Determination Process evaluates as having low to moderate, or greater safety significance (i.e., white, yellow, or red) to be of significant regulatory concern. If the application of the normal guidance in this policy does not result in an appropriate sanction, with the approval of the Deputy Executive Director and consultation with the EDO and Commission, as warranted, the NRC may apply its full enforcement authority where the action is warranted. NRC action may include (1) escalating civil penalties; (2) issuing appropriate orders; and (3) assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $110,000 per violation, per day.

1. Civil Penalties

Notwithstanding the outcome of the normal civil penalty assessment process addressed in Section VI.C, the NRC may exercise discretion by either proposing a civil penalty where application of the factors would otherwise result in zero penalty or by escalating the amount of the resulting civil penalty (i.e., base or twice the base civil penalty) to ensure that the proposed civil penalty reflects the significance of the circumstances. The Commission will be notified if the deviation in the amount of the civil penalty proposed under this discretion from the amount of the civil penalty assessed under the normal process is more than two times the base civil penalty shown in Tables 1A and 1B. Examples when this discretion should be considered include, but are not limited to the following:

(a) Problems categorized at Severity Level I or II;

(b) Overexposures, or releases of radiological material in excess of NRC requirements;

(c) Situations involving particularly poor licensee performance, or involving willfulness;

(d) Situations when the licensee's previous enforcement history has been particularly poor, or when the current violation is directly repetitive of an earlier violation;

(e) Situations when the violation results in a substantial increase in risk, including cases in which the duration of the violation has contributed to the substantial increase;

(f) Situations when the licensee made a conscious decision to be in noncompliance in order to obtain an economic benefit;

(g) Cases involving the loss of a source. In addition, unless the licensee self-identifies and reports the loss to the NRC, these cases should normally result in a civil penalty in an amount at least in the order of the cost of an authorized disposal of the material or of the transfer of the material to an authorized recipient; or (h) Severity Level II or III violations associated with departures from the Final Safety Analysis Report identified after March 30, 2000, for risk-significant items as defined by the licensee's maintenance rule program and March 30, 2001, for all other issues. Such a violation or problem would consider the number and nature of the violations, the severity of the violations, whether the violations were continuing, and who identified the violations (and if the licensee identified the violation, whether exercise of Section VII.B.3 enforcement discretion is warranted.)

2. Orders

The NRC may, where necessary or desirable, issues orders in conjunction with or in lieu of civil penalties to achieve or formalize corrective actions and to deter further recurrence of serious violations.

3. Daily Civil Penalties

In order to recognize the added significance for those cases where a very strong message is warranted for a significant violation that continues for more than one day, the NRC may exercise discretion and assess a separate violation and attendant civil penalty up to the statutory limit of $110,000 for each day the violation continues. The NRC may exercise this discretion if a licensee was aware of or clearly should have been aware of a violation, or if the licensee had an opportunity to identify and correct the violation but failed to do so.

*B. Mitigation of Enforcement Sanctions*

The NRC may exercise discretion and refrain from issuing a civil penalty and/or a Notice of Violation after considering the general principles of this statement of policy and the surrounding circumstances.[13] The approval of the Director, Office of Enforcement, in consultation with the Deputy Executive Director, as warranted, is required for exercising discretion of the type described in Sections VII.B.2 through VII.B.6. The circumstances under which mitigation discretion should be considered include, but are not limited to the following:

[13] The mitigation discretion described in Sections VII.B.2—VII.B.6 does not normally apply to violations associated with issues evaluated by the SDP. The Reactor Oversight Process will use the Agency Action Matrix to determine the agency response to performance issues. The Agency Action Matrix has provisions to consider extenuating circumstances that were previously addressed through enforcement mitigation.

1. [Reserved]

2. Violations Identified During Extended Shutdowns or Work Stoppages

The NRC may refrain from issuing a Notice of Violation or a proposed civil penalty for a Severity Level II, III, or IV violation that is identified after (i) the NRC has taken significant enforcement action based upon a major safety event contributing to an extended shutdown of an operating reactor or a material licensee (or a work stoppage at a construction site), or (ii) the licensee enters an extended shutdown or work stoppage related to generally poor performance over a long period of time, provided that the violation is documented in an inspection report (or inspection records for some material cases) and that it meets all of the following criteria:

(a) It was either licensee-identified as a result of a comprehensive program for problem identification and correction that was developed in response to the shutdown or identified as a result of an employee allegation to the licensee; (If the NRC identifies the violation and all of the other criteria are met, the NRC should determine whether enforcement action is necessary to achieve remedial action, or if discretion may still be appropriate.)

(b) It is based upon activities of the licensee prior to the events leading to the shutdown;

(c) It would not be categorized at Severity Level I;

(d) It was not willful; and

(e) The licensee's decision to restart the plant requires NRC concurrence.

3. Violations Involving Old Design Issues

The NRC may refrain from proposing a civil penalty for a Severity Level II or III violation involving a past problem, such as in engineering, design, or installation, if the violation is documented in an inspection report (or inspection records for some material cases) that includes a description of the corrective action and that it meets all of the following criteria:

(a) It was a licensee-identified as a result of its voluntary initiative;

(b) It was or will be corrected, including immediate corrective action and long term comprehensive corrective action to prevent recurrence, within a reasonable time following identification (this action should involve expanding the initiative, as necessary, to identify other failures caused by similar root causes); and

(c) It was not likely to be identified (after the violation occurred) by routine licensee efforts such as normal surveillance or quality assurance (QA) activities.

In addition, the NRC may refrain from issuing a Notice of Violation for a Severity Level II, III, or IV violation that meets the above criteria provided the violation was caused by conduct that is not reasonably linked to present performance (normally, violations that are at least 3 years old or violations occurring during plant construction) and there had not been prior notice so that the licensee should have reasonably identified the violation earlier. This exercise of discretion is to place a premium on licensees initiating efforts to identify and correct subtle violations that are not likely to be identified by routine efforts before degraded safety systems are called upon to work.

Section VII.B.3 discretion would not normally be applied to departures from the FSAR if:

(a) The NRC identifies the violation, unless it was likely in the NRC staff's view that the licensee would have identified the violation in light of the defined scope, thoroughness, and schedule of the licensee's initiative provided the schedule provides for completion of the licensee's initiative by March 30, 2000, for risk-significant items as defined by the licensee's maintenance rule program and by March 30, 2001, for all other issues;

(b) The licensee identifies the violation as a result of an event or surveillance or other required testing where required corrective action identifies the FSAR issue;

(c) The licensee identifies the violation but had prior opportunities to do so (was aware of the departure from the FSAR) and failed to correct it earlier;

(d) There is willfulness associated with the violation;

(e) The licensee fails to make a report required by the identification of the departure from the FSAR; or

(f) The licensee either fails to take comprehensive corrective action or fails to appropriately expand the corrective action program. The corrective action should be broad with a defined scope and schedule.

4. Violations Identified Due to Previous Enforcement Action

The NRC may refrain from issuing a Notice of Violation or a proposed civil penalty for a Severity Level II, III, or IV violation that is identified after the NRC has taken enforcement action, if the violation is documented in an inspection report (or inspection records for some material cases) that includes a description of the corrective action and that it meets all of the following criteria:

(a) It was licensee-identified as part of the corrective action for the previous enforcement action;

(b) It has the same or similar root cause as the violation for which enforcement action was issued;

(c) It does not substantially change the safety significance or the character of the regulatory concern arising out of the initial violation; and

(d) It was or will be corrected, including immediate corrective action and long term comprehensive corrective action to prevent recurrence, within a reasonable time following identification.

(e) It would not be categorized at Severity Level I;

5. Violations Involving Certain Discrimination Issues

Enforcement discretion may be exercised for discrimination cases when a licensee who, without the need for government intervention, identifies an issue of discrimination and takes prompt, comprehensive, and effective corrective action to address both the particular situation and the overall work environment for raising safety concerns. Similarly, enforcement may not be warranted where a complaint is filed with the Department of Labor (DOL) under Section 211 of the Energy Reorganization Act of 1974, as amended, but the licensee settles the matter before the DOL makes an initial finding of discrimination and addresses the overall work environment. Alternatively, if a finding of discrimination is made, the licensee may choose to settle the case before the evidentiary hearing begins. In such cases, the NRC may exercise its discretion not to take enforcement action when the licensee has addressed the overall work environment for raising safety concerns and has publicized that a complaint of discrimination for engaging in protected activity was made to the DOL, that the matter was settled to the satisfaction of the employee (the terms of the specific settlement agreement need not be posted), and that, if the DOL Area Office found discrimination, the licensee has taken action to positively reemphasize that discrimination will not be tolerated. Similarly, the NRC may refrain from taking enforcement action if a licensee settles a matter promptly after a person comes to the NRC without going to the DOL. Such discretion would normally not be exercised in cases in which the licensee does not appropriately address the overall work environment (e.g., by using training, postings, revised policies or procedures, any necessary disciplinary action, etc., to communicate its policy against

discrimination) or in cases that involve: allegations of discrimination as a result of providing information directly to the NRC, allegations of discrimination caused by a manager above first-line supervisor (consistent with current Enforcement Policy classification of Severity Level I or II violations), allegations of discrimination where a history of findings of discrimination (by the DOL or the NRC) or settlements suggests a programmatic rather than an isolated discrimination problem, or allegations of discrimination which appear particularly blatant or egregious.

6. Violations Involving Special Circumstances

Notwithstanding the outcome of the normal enforcement process addressed in Section VI.B or the normal civil penalty assessment process addressed in Section VI.C, the NRC may reduce or refrain from issuing a civil penalty or a Notice of Violation for a Severity Level II, III, or IV violation based on the merits of the case after considering the guidance in this statement of policy and such factors as the age of the violation, the significance of the violation, the clarity of the requirement, the appropriateness of the requirement, the overall sustained performance of the licensee has been particularly good, and other relevant circumstances, including any that may have changed since the violation. This discretion is expected to be exercised only where application of the normal guidance in the policy is unwarranted. In addition, the NRC may refrain from issuing enforcement action for violations resulting from matters not within a licensee's control, such as equipment failures that were not avoidable by reasonable licensee quality assurance measures or management controls. Generally, however, licensees are held responsible for the acts of their employees and contractors. Accordingly, this policy should not be construed to excuse personnel or contractor errors.

*C. Notice of Enforcement Discretion for Power Reactors and Gaseous Diffusion Plants*

On occasion, circumstances may arise where a power reactor's compliance with a Technical Specification (TS) Limiting Condition for Operation or with other license conditions would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate with the specific plant conditions, or unnecessary delays in plant startup without a corresponding health and safety benefit. Similarly, for a gaseous diffusion plant (GDP), circumstances may arise where compliance with a Technical Safety Requirement (TSR) or technical specification or other certificate condition would unnecessarily call for a total plant shutdown or, notwithstanding that a safety, safeguards, or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required.

In these circumstances, the NRC staff may choose not to enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion, designated as a Notice of Enforcement Discretion (NOED), will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting the public health and safety. The NRC staff may also grant enforcement discretion in cases involving severe weather or other natural phenomena, based upon balancing the public health and safety or common defense and security of not operating against the potential radiological or other hazards associated with continued operation, and a determination that safety will not be impacted unacceptably by exercising this discretion. The Commission is to be informed expeditiously following the granting of an NOED in these situations. A licensee or certificate holder seeking the issuance of a NOED must provide a written justification, or in circumstances where good cause is shown, oral justification followed as soon as possible by written justification, that documents the safety basis for the request and provides whatever other information necessary for the NRC staff to make a decision on whether to issue a NOED.

The appropriate Regional Administrator, or his or her designee, may issue a NOED where the noncompliance is temporary and nonrecurring when an amendment is not practical. The Director, Office of Nuclear Reactor Regulation or Office of Nuclear Materials Safety and Safeguards, as appropriate, or his or her designee, may issue a NOED if the expected noncompliance will occur during the brief period of time it requires the NRC staff to process an emergency or exigent license amendment under the provisions of 10 CFR 50.91(a)(5) or (6) or a certificate amendment under 10 CFR 76.45. The person exercising enforcement discretion will document the decision.

For an operating reactor, this exercise of enforcement discretion is intended to minimize the potential safety consequences of unnecessary plant transients with the accompanying operational risks and impacts or to eliminate testing, inspection, or system realignment which is inappropriate for the particular plant conditions. For plants in a shutdown condition, exercising enforcement discretion is intended to reduce shutdown risk by, again, avoiding testing, inspection or system realignment which is inappropriate for the particular plant conditions, in that, it does not provide a safety benefit or may, in fact, be detrimental to safety in the particular plant condition. Exercising enforcement discretion for plants attempting to startup is less likely than exercising it for an operating plant, as simply delaying startup does not usually leave the plant in a condition in which it could experience undesirable transients. In such cases, the Commission would expect that discretion would be exercised with respect to equipment or systems only when it has at least concluded that, notwithstanding the conditions of the license: (1) The equipment or system does not perform a safety function in the mode in which operation is to occur; (2) the safety function performed by the equipment or system is of only marginal safety benefit, provided remaining in the current mode increases the likelihood of an unnecessary plant transient; or (3) the TS or other license condition requires a test, inspection, or system realignment that is inappropriate for the particular plant conditions, in that it does not provide a safety benefit, or may, in fact, be detrimental to safety in the particular plant condition.

For GDPs, the exercise of enforcement discretion would be used where compliance with a certificate condition would involve an unnecessary plant shutdown or, notwithstanding that a safety, safeguards, or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required. Such regulatory flexibility is needed because a total plant shutdown is not necessarily the best response to a plant condition. GDPs are designed to operate continuously and have never been shut down. Although portions can be shut down for maintenance, the NRC staff has been informed by the certificate holder that restart from a total plant shutdown may not be practical and the staff agrees that the design of a GDP does not make restart practical. Hence, the decision to place either GDP in plant-wide shutdown condition would be made only after determining that there is inadequate safety, safeguards, or security and considering the total

impact of the shutdown on safety, the environment, safeguards, and security. A NOED would not be used for noncompliances with other than certificate requirements, or for situations where the certificate holder cannot demonstrate adequate safety, safeguards, or security.

The decision to exercise enforcement discretion does not change the fact that a violation will occur nor does it imply that enforcement discretion is being exercised for any violation that may have led to the violation at issue. In each case where the NRC staff has chosen to issue a NOED, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance for which enforcement discretion was used. The enforcement action is intended to emphasize that licensees and certificate holders should not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license or certificate amendment.

Finally, it is expected that the NRC staff will exercise enforcement discretion in this area infrequently. Although a plant must shut down, refueling activities may be suspended, or plant startup may be delayed, absent the exercise of enforcement discretion, the NRC staff is under no obligation to take such a step merely because it has been requested. The decision to forego enforcement is discretionary. When enforcement discretion is to be exercised, it is to be exercised only if the NRC staff is clearly satisfied that the action is warranted from a health and safety perspective.

## VIII. Enforcement Actions Involving Individuals

Enforcement actions involving individuals, including licensed operators, are significant personnel actions, which will be closely controlled and judiciously applied. An enforcement action involving an individual will normally be taken only when the NRC is satisfied that the individual fully understood, or should have understood, his or her responsibility; knew, or should have known, the required actions; and knowingly, or with careless disregard (i.e., with more than mere negligence) failed to take required actions which have actual or potential safety significance. Most transgressions of individuals at the level of Severity Level III or IV violations will be handled by citing only the facility licensee.

More serious violations, including those involving the integrity of an individual (e.g., lying to the NRC) concerning matters within the scope of the individual's responsibilities, will be considered for enforcement action against the individual as well as against the facility licensee. However, action against the individual will not be taken if the improper action by the individual was caused by management failures. The following examples of situations illustrate this concept:

- Inadvertent individual mistakes resulting from inadequate training or guidance provided by the facility licensee.
- Inadvertently missing an insignificant procedural requirement when the action is routine, fairly uncomplicated, and there is no unusual circumstance indicating that the procedures should be referred to and followed step-by-step.
- Compliance with an express direction of management, such as the Shift Supervisor or Plant Manager, resulted in a violation unless the individual did not express his or her concern or objection to the direction.
- Individual error directly resulting from following the technical advice of an expert unless the advise was clearly unreasonable and the licensed individual should have recognized it as such.
- Violations resulting from inadequate procedures unless the individual used a faulty procedure knowing it was faulty and had not attempted to get the procedure corrected.

Listed below are examples of situations which could result in enforcement actions involving individuals, licensed or unlicensed. If the actions described in these examples are taken by a licensed operator or taken deliberately by an unlicensed individual, enforcement action may be taken directly against the individual. However, violations involving willful conduct not amounting to deliberate action by an unlicensed individual in these situations may result in enforcement action against a licensee that may impact an individual. The situations include, but are not limited to, violations that involve:

- Willfully causing a licensee to be in violation of NRC requirements.
- Willfully taking action that would have caused a licensee to be in violation of NRC requirements but the action did not do so because it was detected and corrective action was taken.
- Recognizing a violation of procedural requirements and willfully not taking corrective action.
- Willfully defeating alarms which have safety significance.
- Unauthorized abandoning of reactor controls.
- Dereliction of duty.
- Falsifying records required by NRC regulations or by the facility license.
- Willfully providing, or causing a licensee to provide, an NRC inspector or investigator with inaccurate or incomplete information on a matter material to the NRC.
- Willfully withholding safety significant information rather than making such information known to appropriate supervisory or technical personnel in the licensee's organization.
- Submitting false information and as a result gaining unescorted access to a nuclear power plant.
- Willfully providing false data to a licensee by a contractor or other person who provides test or other services, when the data affects the licensee's compliance with 10 CFR Part 50, Appendix B, or other regulatory requirement.
- Willfully providing false certification that components meet the requirements of their intended use, such as ASME Code.
- Willfully supplying, by contractors of equipment for transportation of radioactive material, casks that do not comply with their certificates of compliance.
- Willfully performing unauthorized bypassing of required reactor or other facility safety systems.
- Willfully taking actions that violate Technical Specification Limiting Conditions for Operation or other license conditions (enforcement action for a willful violation will not be taken if that violation is the result of action taken following the NRC's decision to forego enforcement of the Technical Specification or other license condition or if the operator meets the requirements of 10 CFR 50.54(x), (i.e., unless the operator acted unreasonably considering all the relevant circumstances surrounding the emergency.)

Normally, some enforcement action is taken against a licensee for violations caused by significant acts of wrongdoing by its employees, contractors, or contractors' employees. In deciding whether to issue an enforcement action to an unlicensed person as well as to the licensee, the NRC recognizes that judgments will have to be made on a case by case basis. In making these decisions, the NRC will consider factors such as the following:

1. The level of the individual within the organization.

2. The individual's training and experience as well as knowledge of the

potential consequences of the wrongdoing.

3. The safety consequences of the misconduct.

4. The benefit to the wrongdoer, e.g., personal or corporate gain.

5. The degree of supervision of the individual, i.e., how closely is the individual monitored or audited, and the likelihood of detection (such as a radiographer working independently in the field as contrasted with a team activity at a power plant).

6. The employer's response, e.g., disciplinary action taken.

7. The attitude of the wrongdoer, e.g., admission of wrongdoing, acceptance of responsibility.

8. The degree of management responsibility or culpability.

9. Who identified the misconduct.

Any proposed enforcement action involving individuals must be issued with the concurrence of the Deputy Executive Director. The particular sanction to be used should be determined on a case-by-case basis.[14] Notices of Violation and Orders are examples of enforcement actions that may be appropriate against individuals. The administrative action of a Letter of Reprimand may also be considered. In addition, the NRC may issue Demands for Information to gather information to enable it to determine whether an order or other enforcement action should be issued.

Orders to NRC-licensed reactor operators may involve suspension for a specified period, modification, or revocation of their individual licenses. Orders to unlicensed individuals might include provisions that would:

- Prohibit involvement in NRC licensed activities for a specified period of time (normally the period of suspension would not exceed 5 years) or until certain conditions are satisfied, e.g., completing specified training or meeting certain qualifications.
- Require notification to the NRC before resuming work in licensed activities.
- Require the person to tell a prospective employer or customer engaged in licensed activities that the person has been subject to an NRC order.

In the case of a licensed operator's failure to meet applicable fitness-for-duty requirements (10 CFR 55.53(j)), the NRC may issue a Notice of Violation or a civil penalty to the Part 55 licensee, or an order to suspend, modify, or revoke the Part 55 license. These actions may be taken the first time a licensed operator fails a drug or alcohol test, that is, receives a confirmed positive test that exceeds the cutoff levels of 10 CFR Part 26 or the facility licensee's cutoff levels, if lower. However, normally only a Notice of Violation will be issued for the first confirmed positive test in the absence of aggravating circumstances such as errors in the performance of licensed duties or evidence of prolonged use. In addition, the NRC intends to issue an order to suspend the Part 55 license for up to 3 years the second time a licensed operator exceeds those cutoff levels. In the event there are less than 3 years remaining in the term of the individual's license, the NRC may consider not renewing the individual's license or not issuing a new license after the three year period is completed. The NRC intends to issue an order to revoke the Part 55 license the third time a licensed operator exceeds those cutoff levels. A licensed operator or applicant who refuses to participate in the drug and alcohol testing programs established by the facility licensee or who is involved in the sale, use, or possession of an illegal drug is also subject to license suspension, revocation, or denial.

In addition, the NRC may take enforcement action against a licensee that may impact an individual, where the conduct of the individual places in question the NRC's reasonable assurance that licensed activities will be properly conducted. The NRC may take enforcement action for reasons that would warrant refusal to issue a license on an original application. Accordingly, appropriate enforcement actions may be taken regarding matters that raise issues of integrity, competence, fitness-for-duty, or other matters that may not necessarily be a violation of specific Commission requirements.

In the case of an unlicensed person, whether a firm or an individual, an order modifying the facility license may be issued to require (1) the removal of the person from all licensed activities for a specified period of time or indefinitely, (2) prior notice to the NRC before using the person in licensed activities, or (3) the licensee to provide notice of the issuance of such an order to other persons involved in licensed activities making reference inquiries. In addition, orders to employers might require retraining, additional oversight, or independent verification of activities performed by the person, if the person is to be involved in licensed activities.

## IX. Inaccurate and Incomplete Information

A violation of the regulations involving the submittal of incomplete and/or inaccurate information, whether or not considered a material false statement, can result in the full range of enforcement sanctions. The labeling of a communication failure as a material false statement will be made on a case-by-case basis and will be reserved for egregious violations. Violations involving inaccurate or incomplete information or the failure to provide significant information identified by a licensee normally will be categorized based on the guidance herein, in Section IV, ''Significance of Violations,'' and in Supplement VII.

The Commission recognizes that oral information may in some situations be inherently less reliable than written submittals because of the absence of an opportunity for reflection and management review. However, the Commission must be able to rely on oral communications from licensee officials concerning significant information. Therefore, in determining whether to take enforcement action for an oral statement, consideration may be given to factors such as (1) the degree of knowledge that the communicator should have had, regarding the matter, in view of his or her position, training, and experience; (2) the opportunity and time available prior to the communication to assure the accuracy or completeness of the information; (3) the degree of intent or negligence, if any, involved; (4) the formality of the communication; (5) the reasonableness of NRC reliance on the information; (6) the importance of the information which was wrong or not provided; and (7) the reasonableness of the explanation for not providing complete and accurate information.

Absent at least careless disregard, an incomplete or inaccurate unsworn oral statement normally will not be subject to enforcement action unless it involves significant information provided by a licensee official. However, enforcement action may be taken for an unintentionally incomplete or inaccurate oral statement provided to the NRC by a licensee official or others on behalf of a licensee, if a record was made of the oral information and provided to the licensee thereby permitting an opportunity to correct the oral information, such as if a transcript

[14] Except for individuals subject to civil penalties under section 206 of the Energy Reorganization Act of 1974, as amended, the NRC will not normally impose a civil penalty against an individual. However, section 234 of the Atomic Energy Act (AEA) gives the Commission authority to impose civil penalties on ''any person.'' ''Person'' is broadly defined in Section 11s of the AEA to include individuals, a variety of organizations, and any representatives or agents. This gives the Commission authority to impose civil penalties on employees of licensees or on separate entities when a violation of a requirement directly imposed on them is committed.

of the communication or meeting summary containing the error was made available to the licensee and was not subsequently corrected in a timely manner.

When a licensee has corrected inaccurate or incomplete information, the decision to issue a Notice of Violation for the initial inaccurate or incomplete information normally will be dependent on the circumstances, including the ease of detection of the error, the timeliness of the correction, whether the NRC or the licensee identified the problem with the communication, and whether the NRC relied on the information prior to the correction. Generally, if the matter was promptly identified and corrected by the licensee prior to reliance by the NRC, or before the NRC raised a question about the information, no enforcement action will be taken for the initial inaccurate or incomplete information. On the other hand, if the misinformation is identified after the NRC relies on it, or after some question is raised regarding the accuracy of the information, then some enforcement action normally will be taken even if it is in fact corrected. However, if the initial submittal was accurate when made but later turns out to be erroneous because of newly discovered information or advance in technology, a citation normally would not be appropriate if, when the new information became available or the advancement in technology was made, the initial submittal was corrected.

The failure to correct inaccurate or incomplete information which the licensee does not identify as significant normally will not constitute a separate violation. However, the circumstances surrounding the failure to correct may be considered relevant to the determination of enforcement action for the initial inaccurate or incomplete statement. For example, an unintentionally inaccurate or incomplete submission may be treated as a more severe matter if the licensee later determines that the initial submittal was in error and does not correct it or if there were clear opportunities to identify the error. If information not corrected was recognized by a licensee as significant, a separate citation may be made for the failure to provide significant information. In any event, in serious cases where the licensee's actions in not correcting or providing information raise questions about its commitment to safety or its fundamental trustworthiness, the Commission may exercise its authority to issue orders modifying, suspending, or revoking the license. The Commission recognizes that enforcement determinations must be made on a case-by-case basis, taking into consideration the issues described in this section.

## X. Enforcement Action Against Non-Licensees

The Commission's enforcement policy is also applicable to non-licensees, including contractors and subcontractors, holders of NRC approvals, *e.g.,* certificates of compliance, early site permits, standard design certificates, quality assurance program approvals, or applicants for any of them, and to employees of any of the foregoing, who knowingly provide components, equipment, or other goods or services that relate to a licensee's activities subject to NRC regulation. The prohibitions and sanctions for any of these persons who engage in deliberate misconduct or knowing submission of incomplete or inaccurate information are provided in the rule on deliberate misconduct, e.g., 10 CFR 30.10 and 50.5.

Contractors who supply products or services provided for use in nuclear activities are subject to certain requirements designed to ensure that the products or services supplied that could affect safety are of high quality. Through procurement contracts with licensees, suppliers may be required to have quality assurance programs that meet applicable requirements, *e.g.,* 10 CFR Part 50, Appendix B, and 10 CFR Part 71, Subpart H. Contractors supplying certain products or services to licensees are subject to the requirements of 10 CFR Part 21 regarding reporting of defects in basic components.

When inspections determine that violations of NRC requirements have occurred, or that contractors have failed to fulfill contractual commitments (*e.g.,* 10 CFR Part 50, Appendix B) that could adversely affect the quality of a safety significant product or service, enforcement action will be taken. Notices of Violation and civil penalties will be used, as appropriate, for licensee failures to ensure that their contractors have programs that meet applicable requirements. Notices of Violation will be issued for contractors who violate 10 CFR Part 21. Civil penalties will be imposed against individual directors or responsible officers of a contractor organization who knowingly and consciously fail to provide the notice required by 10 CFR 21.21(d)(1). Notices of Violation or orders will be used against non-licensees who are subject to the specific requirements of Part 72. Notices of Nonconformance will be used for contractors who fail to meet commitments related to NRC activities but are not in violation of specific requirements.

## XI. Referrals to the Department of Justice

Alleged or suspected criminal violations of the Atomic Energy Act (and of other relevant Federal laws) are referred to the Department of Justice (DOJ) for investigation. Referral to the DOJ does not preclude the NRC from taking other enforcement action under this policy. However, enforcement actions will be coordinated with the DOJ in accordance with the Memorandum of Understanding between the NRC and the DOJ, (53 FR 50317; December 14, 1988).

## XII. Public Disclosure of Enforcement Actions

Enforcement actions and licensees' responses, in accordance with 10 CFR 2.790, are publicly available for inspection. In addition, press releases are generally issued for orders and civil penalties and are issued at the same time the order or proposed imposition of the civil penalty is issued. In addition, press releases are usually issued when a proposed civil penalty is withdrawn or substantially mitigated by some amount. Press releases are not normally issued for Notices of Violation that are not accompanied by orders or proposed civil penalties.

## XIII. Reopening Closed Enforcement Actions

If significant new information is received or obtained by NRC which indicates that an enforcement sanction was incorrectly applied, consideration may be given, dependent on the circumstances, to reopening a closed enforcement action to increase or decrease the severity of a sanction or to correct the record. Reopening decisions will be made on a case-by-case basis, are expected to occur rarely, and require the specific approval of the Deputy Executive Director.

## Supplements—Violation Examples

This section provides examples of violations in each of four severity levels as guidance in determining the appropriate severity level for violations in each of eight activity areas (reactor operations, Part 50 facility construction, safeguards, health physics, transportation, fuel cycle and materials operations, miscellaneous matters, and emergency preparedness).

## Supplement I—Reactor Operations

This supplement provides examples of violations in each of the four severity

levels as guidance in determining the appropriate severity level for violations in the area of reactor operations.

*A. Severity Level I—Violations Involving for Example:*

1. A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications being exceeded;

2. A system [15] designed to prevent or mitigate a serious safety event not being able to perform its intended safety function [16] when actually called upon to work;

3. An accidental criticality; or

4. A licensed operator at the controls of a nuclear reactor, or a senior operator directing licensed activities, involved in procedural errors which result in, or exacerbate the consequences of, an alert or higher level emergency and who, as a result of subsequent testing, receives a confirmed positive test result for drugs or alcohol.

*B. Severity Level II—Violations Involving for Example*

1. A system designed to prevent or mitigate serious safety events not being able to perform its intended safety function;

2. A licensed operator involved in the use, sale, or possession of illegal drugs or the consumption of alcoholic beverages, within the protected area; or

3. A licensed operator at the control of a nuclear reactor, or a senior operator directing licensed activities, involved in procedural errors and who, as a result of subsequent testing, receives a confirmed positive test result for drugs or alcohol.

**C. Severity Level III—Violations Involving for Example**

1. A significant failure to comply with the Action Statement for a Technical Specification Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

(a) In a pressurized water reactor, in the applicable modes, having one high-pressure safety injection pump inoperable for a period in excess of that allowed by the action statement; or

(b) In a boiling water reactor, one primary containment isolation valve inoperable for a period in excess of that allowed by the action statement.

2. A system designed to prevent or mitigate a serious safety event not being able to perform its intended function under certain conditions (*e.g.*, safety system not operable unless offsite power is available; materials or components not environmentally qualified).

3. Inattentiveness to duty on the part of licensed personnel;

4. Changes in reactor parameters that cause unanticipated reductions in margins of safety;

5. A non-willful compromise of an application, test, or examination required by 10 CFR Part 55 that:

(a) In the case of initial operator licensing, contributes to an individual being granted an operator or a senior operator license, or

(b) In the case of requalification, contributes to an individual being permitted to perform the functions of an operator or a senior operator.

6. A licensee failure to conduct adequate oversight of contractors resulting in the use of products or services that are of defective or indeterminate quality and that have safety significance;

7. A licensed operator's confirmed positive test for drugs or alcohol that does not result in a Severity Level I or II violation;

8. Equipment failures caused by inadequate or improper maintenance that substantially complicates recovery from a plant transient;

9. A failure to obtain prior Commission approval required by 10 CFR 50.59 for a change, in which the consequence of the change, is evaluated as having low to moderate, or greater safety significance (*i.e.,* white, yellow, or red) by the SDP;

10. The failure to update the FSAR as required by 10 CFR 50.71(e) where the unupdated FSAR was used in performing a 10 CFR 50.59 evaluation for a change to the facility or procedures, implemented without prior Commission approval, that results in a condition evaluated as having low to moderate, or greater safety significance (*i.e.,* white, yellow, or red) by the SDP; or

11. The failure to make a report required by 10 CFR 50.72 or 50.73 associated with any Severity Level III violation.

*D. Severity Level IV—Violations Involving for Example*

1. A less significant failure to comply with the Action Statement for a Technical Specification Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

(a) In a pressurized water reactor, a 5 percent deficiency in the required volume of the condensate storage tank; or

(b) In a boiling water reactor, one subsystem of the two independent MSIV leakage control subsystems inoperable;

2. A non-willful compromise of an application, test, or examination required by 10 CFR Part 55 that:

(a) In the case of initial operator licensing, is discovered and reported to the NRC before an individual is granted an operator or a senior operator license, or

(b) In the case of requalification, is discovered and reported to the NRC before an individual is permitted to perform the functions of an operator or a senior operator, or

(c) Constitutes more than minor concern.

3. A failure to meet regulatory requirements that have more than minor safety or environmental significance;

4. A failure to make a required Licensee Event Report;

5. Violations of 10 CFR 50.59 that result in conditions evaluated as having very low safety significance (*i.e.,* green) by the SDP; or

6. A failure to update the FSAR as required by 10 CFR 50.71(e) in cases where the erroneous information is not used to make an unacceptable change to the facility or procedures.

*E. Minor—Violations Involving for Example*

A failure to meet 10 CFR 50.59 requirements where there was not a reasonable likelihood that the change requiring 10 CFR 50.59 evaluation would ever require Commission review and approval prior to implementation. In the case of a 10 CFR 50.71(e) violation, where a failure to update the FSAR would not have a material impact on safety or licensed activities.

**Supplement II—Part 50 Facility Construction**

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of Part 50 facility construction.

*A. Severity Level I—*

Violations involving structures or systems that are completed [17] in such a manner that they would not have

[15] The term ''system'' as used in these supplements, includes administrative and managerial control systems, as well as physical systems.

[16] ''Intended safety function'' means the total safety function, and is not directed toward a loss of redundancy. A loss of one subsystem does not defeat the intended safety function as long as the other subsystem is operable.

[17] The term ''completed'' as used in this supplement means completion of construction including review and acceptance by the construction QA organization.

satisfied their intended safety related purpose.

*B. Severity Level II—Violations Involving for Example*

1. A breakdown in the Quality Assurance (QA) program as exemplified by deficiencies in construction QA related to more than one work activity (*e.g.*, structural, piping, electrical, foundations). These deficiencies normally involve the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits and normally involve multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation; or

2. A structure or system that is completed in such a manner that it could have an adverse effect on the safety of operations.

*C. Severity Level III—Violations Involving for Example*

1. A deficiency in a licensee QA program for construction related to a single work activity (*e.g.*, structural, piping, electrical, or foundations). This significant deficiency normally involves the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits, and normally involves multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation;

2. A failure to confirm the design safety requirements of a structure or system as a result of inadequate preoperational test program implementation; or

3. A failure to make a required 10 CFR 50.55(e) report.

*D. Severity Level IV—*

Violations involving failure to meet regulatory requirements including one or more Quality Assurance Criterion not amounting to Severity Level I, II, or III violations that have more than minor safety or environmental significance.

**Supplement III—Safeguards**

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of safeguards.

*A. Severity Level I—Violations Involving for Example*

1. An act of radiological sabotage in which the security system did not function as required and, as a result of the failure, there was a significant event, such as:

(a) A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications, was exceeded;

(b) A system designed to prevent or mitigate a serious safety event was not able to perform its intended safety function when actually called upon to work; or

(c) An accidental criticality occurred;

2. The theft, loss, or diversion of a formula quantity [18] of special nuclear material (SNM); or

3. Actual unauthorized production of a formula quantity of SNM.

*B. Severity Level II—Violations Involving for Example*

1. The entry of an unauthorized individual [19] who represents a threat into a vital area [20] from outside the protected area;

2. The theft, loss or diversion of SNM of moderate strategic significance [21] in which the security system did not function as required; or

3. Actual unauthorized production of SNM.

*C. Severity Level III—Violations Involving for Example:*

1. A failure or inability to control access through established systems or procedures, such that an unauthorized individual (i.e., not authorized unescorted access to protected area) could easily gain undetected access [22] into a vital area from outside the protected area;

2. A failure to conduct any search at the access control point or conducting an inadequate search that resulted in the introduction to the protected area of firearms, explosives, or incendiary devices and reasonable facsimiles thereof that could significantly assist radiological sabotage or theft of strategic SNM;

3. A failure, degradation, or other deficiency of the protected area intrusion detection or alarm assessment systems such that an unauthorized individual who represents a threat could predictably circumvent the system or defeat a specific zone with a high degree of confidence without insider knowledge, or other significant degradation of overall system capability;

4. A significant failure of the safeguards systems designed or used to prevent or detect the theft, loss, or diversion of strategic SNM;

5. A failure to protect or control classified or safeguards information considered to be significant while the information is outside the protected area and accessible to those not authorized access to the protected area;

6. A significant failure to respond to an event either in sufficient time to provide protection to vital equipment or strategic SNM, or with an adequate response force; or

7. A failure to perform an appropriate evaluation or background investigation so that information relevant to the access determination was not obtained or considered and as a result a person, who would likely not have been granted access by the licensee, if the required investigation or evaluation had been performed, was granted access.

*D. Severity Level IV—Violations Involving for Example:*

1. A failure or inability to control access such that an unauthorized individual (i.e., authorized to protected area but not to vital area) could easily gain undetected access into a vital area from inside the protected area or into a controlled access area;

2. A failure to respond to a suspected event in either a timely manner or with an adequate response force;

3. A failure to implement 10 CFR Parts 25 and 95 with respect to the information addressed under Section 142 of the Act, and the NRC approved security plan relevant to those parts;

4. A failure to conduct a proper search at the access control point;

5. A failure to properly secure or protect classified or safeguards information inside the protected area that could assist an individual in an act of radiological sabotage or theft of strategic SNM where the information was not removed from the protected area;

6. A failure to control access such that an opportunity exists that could allow unauthorized and undetected access into the protected area but that was neither easily or likely to be exploitable;

7. A failure to conduct an adequate search at the exit from a material access area;

8. A theft or loss of SNM of low strategic significance that was not detected within the time period specified in the security plan, other relevant document, or regulation; or

9. Other violations that have more than minor safeguards significance.

[18] See 10 CFR 73.2 for the definition of ''formula quantity.''

[19] The term ''unauthorized individual'' as used in this supplement means someone who was not authorized for entrance into the area in question, or not authorized to enter in the manner entered.

[20] The phrase ''vital area'' as used in this supplement includes vital areas and material access.

[21] See 10 CFR.73.2 for the definition of ''special nuclear material of moderate strategic significance.''

[22] In determining whether access can be easily gained, factors such as predictability, identifiability, and ease of passage should be considered.

**Supplement IV—Health Physics (10 CFR Part 20)**

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of health physics, 10 CFR Part 20.[23]

*A. Severity Level I—Violations Involving for Example:*

1. A radiation exposure during any year of a worker in excess of 25 rems total effective dose equivalent, 75 rems to the lens of the eye, or 250 rads to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 2.5 rems total effective dose equivalent;

3. A radiation exposure during any year of a minor in excess of 2.5 rems total effective dose equivalent, 7.5 rems to the lens of the eye, or 25 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. An annual exposure of a member of the public in excess of 1.0 rem total effective dose equivalent;

5. A release of radioactive material to an unrestricted area at concentrations in excess of 50 times the limits for members of the public as described in 10 CFR 20.1302(b)(2)(i); or

6. Disposal of licensed material in quantities or concentrations in excess of 10 times the limits of 10 CFR 20.2003.

*B. Severity Level II—Violations Involving for Example*

1. A radiation exposure during any year of a worker in excess of 10 rems total effective dose equivalent, 30 rems to the lens of the eye, or 100 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 1.0 rem total effective dose equivalent;

3. A radiation exposure during any year of a minor in excess of 1 rem total effective dose equivalent; 3.0 rems to the lens of the eye, or 10 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. An annual exposure of a member of the public in excess of 0.5 rem total effective dose equivalent;

5. A release of radioactive material to an unrestricted area at concentrations in excess of 10 times the limits for members of the public as described in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under § 20.1301(c));

6. Disposal of licensed material in quantities or concentrations in excess of five times the limits of 10 CFR 20.2003; or

7. A failure to make an immediate notification as required by 10 CFR 20.2202 (a)(1) or (a)(2).

*C. Severity Level III—Violations Involving for Example*

1. A radiation exposure during any year of a worker in excess of 5 rems total effective dose equivalent, 15 rems to the lens of the eye, or 50 rems to the skin of the whole body or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 0.5 rem total effective dose equivalent (except when doses are in accordance with the provisions of § 20.1208(d));

3. A radiation exposure during any year of a minor in excess of 0.5 rem total effective dose equivalent; 1.5 rems to the lens of the eye, or 5 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. An annual exposure of a member of the public in excess of 0.1 rem total effective dose equivalent (except when operation up to 0.5 rem a year has been approved by the Commission under § 20.1301(c));

5. A release of radioactive material to an unrestricted area at concentrations in excess of two times the effluent concentration limits referenced in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under Section 20.1301(c));

6. A failure to make a 24-hour notification required by 10 CFR 20.2202(b) or an immediate notification required by 10 CFR 20.2201(a)(1)(i);

7. A substantial potential for exposures or releases in excess of the applicable limits in 10 CFR 20.1001–20.2401 whether or not an exposure or release occurs;

8. Disposal of licensed material not covered in Severity Levels I or II;

9. A release for unrestricted use of contaminated or radioactive material or equipment that poses a realistic potential for exposure of the public to levels or doses exceeding the annual dose limits for members of the public;

10. Conduct of licensee activities by a technically unqualified person; or

11. A violation involving failure to secure, or maintain surveillance over, licensed material that:

(a) Involves licensed material in any aggregate quantity greater than 1000 times the quantity specified in Appendix C to Part 20; or

(b) Involves licensed material in any aggregate quantity greater than 10 times the quantity specified in Appendix C to Part 20, where such failure is accompanied by the absence of a functional program to detect and deter security violations that includes training, staff awareness, detection (including auditing), and corrective action (including disciplinary action); or

(c) Results in a substantial potential for exposures or releases in excess of the applicable limits in Part 20.

*D. Severity Level IV—Violations Involving for Example:*

1. Exposures in excess of the limits of 10 CFR 20.1201, 20.1207, or 20.1208 not constituting Severity Level I, II, or III violations;

2. A release of radioactive material to an unrestricted area at concentrations in excess of the limits for members of the public as referenced in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under § 20.1301(c));

3. A radiation dose rate in an unrestricted or controlled area in excess of 0.002 rem in any 1 hour (2 millirem/hour) or 50 millirems in a year;

4. Failure to maintain and implement radiation programs to keep radiation exposures as low as is reasonably achievable;

5. Doses to a member of the public in excess of any EPA generally applicable environmental radiation standards, such as 40 CFR Part 190;

6. A failure to make the 30-day notification required by 10 CFR 20.2201(a)(1)(ii) or 20.2203(a);

7. A failure to make a timely written report as required by 10 CFR 20.2201(b), 20.2204, or 20.2206;

8. A failure to report an exceedance of the dose constraint established in 10 CFR 20.1101(d) or a failure to take corrective action for an exceedance, as required by 10 CFR 20.1101(d);

9. Any other matter that has more than a minor safety, health, or environmental significance; or

10. A violation involving an isolated failure to secure, or maintain surveillance over, licensed material that is not otherwise characterized in Example IV.C.11 and that involves licensed material in any aggregate quantity greater than 10 times the

[23] Personnel overexposures and associated violations incurred during a life-saving or other emergency response effort will be treated on a case-by-case basis.

quantity specified in Appendix C to Part 20, provided that: (i) the material is labeled as radioactive or located in an area posted as containing radioactive materials; and (ii) such failure occurs despite a functional program to detect and deter security violations that includes training, staff awareness, detection (including auditing), and corrective action (including disciplinary action).

*E. Minor—Violations Involving for Example*

A violation involving an isolated failure to secure, or maintain surveillance over, licensed material in an aggregate quantity that does not exceed 10 times the quantity specified in Appendix C to Part 20.

**Supplement V—Transportation**

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of NRC transportation requirements.[24]

*A. Severity Level I—Violations Involving for Example*

1. Failure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that the material caused a radiation exposure to a member of the public and there was clear potential for the public to receive more than .1 rem to the whole body;
2. Surface contamination in excess of 50 times the NRC limit; or
3. External radiation levels in excess of 10 times the NRC limit.

*B. Severity Level II—Violations Involving for Example*

1. Failure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that there was a clear potential for the member of the public to receive more than .1 rem to the whole body;
2. Surface contamination in excess of 10, but not more than 50 times the NRC limit;
3. External radiation levels in excess of five, but not more than 10 times the NRC limit; or
4. A failure to make required initial notifications associated with Severity Level I or II violations.

*C. Severity Level III—Violations Involving for Example*

1. Surface contamination in excess of five but not more than 10 times the NRC limit;
2. External radiation in excess of one but not more than five times the NRC limit;
3. Any noncompliance with labeling, placarding, shipping paper, packaging, loading, or other requirements that could reasonably result in the following:
(a) A significant failure to identify the type, quantity, or form of material;
(b) A failure of the carrier or recipient to exercise adequate controls; or
(c) A substantial potential for either personnel exposure or contamination above regulatory limits or improper transfer of material; or
4. A failure to make required initial notification associated with Severity Level III violations.

*D. Severity Level IV—Violations Involving for Example*

1. A breach of package integrity without external radiation levels exceeding the NRC limit or without contamination levels exceeding five times the NRC limits;
2. Surface contamination in excess of but not more than five times the NRC limit;
3. A failure to register as an authorized user of an NRC-Certified Transport package;
4. A noncompliance with shipping papers, marking, labeling, placarding, packaging or loading not amounting to a Severity Level I, II, or III violation;
5. A failure to demonstrate that packages for special form radioactive material meets applicable regulatory requirements;
6. A failure to demonstrate that packages meet DOT Specifications for 7A Type A packages; or
7. Other violations that have more than minor safety or environmental significance.

**Supplement VI—Fuel Cycle and Materials Operations**

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of fuel cycle and materials operations.

*A. Severity Level I—Violations Involving for Example*

1. Radiation levels, contamination levels, or releases that exceed 10 times the limits specified in the license;
2. A system designed to prevent or mitigate a serious safety event not being operable when actually required to perform its design function;
3. A nuclear criticality accident;
4. A failure to follow the procedures of the quality management program, required by 10 CFR 35.32, that results in a death or serious injury (e.g., substantial organ impairment) to a patient;
5. A safety limit, as defined in 10 CFR 76.4, the Technical Safety Requirements, or the application being exceeded; or
6. Significant injury or loss of life due to a loss of control over licensed or certified activities, including chemical processes that are integral to the licensed or certified activity, whether radioactive material is released or not.

*B. Severity Level II—Violations Involving for Example*

1. Radiation levels, contamination levels, or releases that exceed five times the limits specified in the license;
2. A system designed to prevent or mitigate a serious safety event being inoperable;
3. A substantial programmatic failure in the implementation of the quality management program required by 10 CFR 35.32 that results in a misadministration;
4. A failure to establish, implement, or maintain all criticality controls (or control systems) for a single nuclear criticality scenario when a critical mass of fissile material was present or reasonably available, such that a nuclear criticality accident was possible; or
5. The potential for a significant injury or loss of life due to a loss of control over licensed or certified activities, including chemical processes that are integral to the licensed or certified activity, whether radioactive material is released or not (e.g., movement of liquid $UF_6$ cylinder by unapproved methods).

*C. Severity Level III—Violations Involving for Example*

1. Possession or use of unauthorized equipment or materials in the conduct of licensee activities which degrades safety;
2. Use of radioactive material on humans where such use is not authorized;
3. Conduct of licensed activities by a technically unqualified or uncertified person;
4. A substantial potential for exposures, radiation levels, contamination levels, or releases, including releases of toxic material caused by a failure to comply with NRC regulations, from licensed or certified activities in excess of regulatory limits;

[24] Some transportation requirements are applied to more than one licensee involved in the same activity such as a shipper and a carrier. When a violation of such a requirement occurs, enforcement action will be directed against the responsible licensee which, under the circumstances of the case, may be one or more of the licensees involved.

5. Substantial failure to implement the quality management program as required by 10 CFR 35.32 that does not result in a misadministration; failure to report a misadministration; or programmatic weakness in the implementation of the quality management program that results in a misadministration;

6. A failure, during radiographic operations, to have present at least two qualified individuals or to use radiographic equipment, radiation survey instruments, and/or personnel monitoring devices as required by 10 CFR Part 34;

7. A failure to submit an NRC Form 241 as required by 10 CFR 150.20;

8. A failure to receive required NRC approval prior to the implementation of a change in licensed activities that has radiological or programmatic significance, such as, a change in ownership; lack of an RSO or replacement of an RSO with an unqualified individual; a change in the location where licensed activities are being conducted, or where licensed material is being stored where the new facilities do not meet the safety guidelines; or a change in the quantity or type of radioactive material being processed or used that has radiological significance;

9. A significant failure to meet decommissioning requirements including a failure to notify the NRC as required by regulation or license condition, substantial failure to meet decommissioning standards, failure to conduct and/or complete decommissioning activities in accordance with regulation or license condition, or failure to meet required schedules without adequate justification;

10. A significant failure to comply with the action statement for a Technical Safety Requirement Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

(a) In an autoclave, where a containment isolation valve is inoperable for a period in excess of that allowed by the action statement; or

(b) Cranes or other lifting devices engaged in the movement of cylinders having inoperable safety components, such as redundant braking systems, or other safety devices for a period in excess of that allowed by the action statement;

11. A system designed to prevent or mitigate a serious safety event:

(a) Not being able to perform its intended function under certain conditions (e.g., safety system not operable unless utilities available, materials or components not according to specifications); or

(b) Being degraded to the extent that a detailed evaluation would be required to determine its operability;

12. Changes in parameters that cause unanticipated reductions in margins of safety;

13. A significant failure to meet the requirements of 10 CFR 76.68, including a failure such that a required certificate amendment was not sought;

14. A failure of the certificate holder to conduct adequate oversight of contractors resulting in the use of products or services that are of defective or indeterminate quality and that have safety significance;

15. Equipment failures caused by inadequate or improper maintenance that substantially complicates recovery from a plant transient;

16. A failure to establish, maintain, or implement all but one criticality control (or control systems) for a single nuclear criticality scenario when a critical mass of fissile material was present or reasonably available, such that a nuclear criticality accident was possible; or

17. A failure, during radiographic operations, to stop work after a pocket dosimeter is found to have gone off-scale, or after an electronic dosimeter reads greater than 200 mrem, and before a determination is made of the individual's actual radiation exposure.

*D. Severity Level IV—Violations Involving for Example*

1. A failure to maintain patients hospitalized who have cobalt-60, cesium-137, or iridium-192 implants or to conduct required leakage or contamination tests, or to use properly calibrated equipment;

2. Other violations that have more than minor safety or environmental significance;

3. Failure to follow the quality management (QM) program, including procedures, whether or not a misadministration occurs, provided the failures are isolated, do not demonstrate a programmatic weakness in the implementation of the QM program, and have limited consequences if a misadministration is involved; failure to conduct the required program review; or failure to take corrective actions as required by 10 CFR 35.32;

4. A failure to keep the records required by 10 CFR 35.32 or 35.33;

5. A less significant failure to comply with the Action Statement for a Technical Safety Requirement Limiting Condition for Operation when the appropriate action was not taken within the required time;

6. A failure to meet the requirements of 10 CFR 76.68 that does not result in a Severity Level I, II, or III violation;

7. A failure to make a required written event report, as required by 10 CFR 76.120(d)(2); or

8. A failure to establish, implement, or maintain a criticality control (or control system) for a single nuclear criticality scenario when the amount of fissile material available was not, but could have been sufficient to result in a nuclear criticality.

**Supplement VII—Miscellaneous Matters**

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations involving miscellaneous matters.

*A. Severity Level I—Violations Involving for Example*

1. Inaccurate or incomplete information [25] that is provided to the NRC (a) deliberately with the knowledge of a licensee official that the information is incomplete or inaccurate, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in regulatory action such as an immediate order required by the public health and safety;

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee that is (a) incomplete or inaccurate because of falsification by or with the knowledge of a licensee official, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in regulatory action such as an immediate order required by public health and safety considerations;

3. Information that the licensee has identified as having significant implications for public health and safety or the common defense and security (''significant information identified by a licensee'') and is deliberately withheld from the Commission;

4. Action by senior corporate management in violation of 10 CFR 50.7 or similar regulations against an employee;

5. A knowing and intentional failure to provide the notice required by 10 CFR Part 21; or

6. A failure to substantially implement the required fitness-for-duty program.[26]

[25] In applying the examples in this supplement regarding inaccurate or incomplete information and records, reference should also be made to the guidance in Section IX. ''Inaccurate and Incomplete Information,'' and to the definition of ''licensee official'' contained in Section IV.C.

[26] The example for violations for fitness-for-duty relate to violations of 10 CFR Part 26.

*B. Severity Level II—Violations Involving for Example*

1. Inaccurate or incomplete information that is provided to the NRC (a) by a licensee official because of careless disregard for the completeness or accuracy of the information, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in regulatory action such as a show cause order or a different regulatory position;

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee which is (a) incomplete or inaccurate because of careless disregard for the accuracy of the information on the part of a licensee official, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in regulatory action such as a show cause order or a different regulatory position;

3. ''Significant information identified by a licensee'' and not provided to the Commission because of careless disregard on the part of a licensee official;

4. An action by plant management or mid-level management in violation of 10 CFR 50.7 or similar regulations against an employee;

5. A failure to provide the notice required by 10 CFR Part 21;

6. A failure to remove an individual from unescorted access who has been involved in the sale, use, or possession of illegal drugs within the protected area or take action for on duty misuse of alcohol, prescription drugs, or over-the-counter drugs;

7. A failure to take reasonable action when observed behavior within the protected area or credible information concerning activities within the protected area indicates possible unfitness for duty based on drug or alcohol use;

8. A deliberate failure of the licensee's Employee Assistance Program (EAP) to notify licensee's management when EAP's staff is aware that an individual's condition may adversely affect safety related activities; or

9. The failure of licensee management to take effective action in correcting a hostile work environment.

*C. Severity Level III—Violations Involving for Example*

1. Incomplete or inaccurate information that is provided to the NRC (a) because of inadequate actions on the part of licensee officials but not amounting to a Severity Level I or II violation, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in a reconsideration of a regulatory position or substantial further inquiry such as an additional inspection or a formal request for information;

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee that is (a) incomplete or inaccurate because of inadequate actions on the part of licensee officials but not amounting to a Severity Level I or II violation, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in a reconsideration of a regulatory position or substantial further inquiry such as an additional inspection or a formal request for information;

3. Inaccurate or incomplete performance indicator (PI) data submitted to the NRC by a Part 50 licensee that would have caused a PI to change from green to either yellow or red; white to either yellow or red; or yellow to red.

4. A failure to provide ''significant information identified by a licensee'' to the Commission and not amounting to a Severity Level I or II violation;

5. An action by first-line supervision or other low-level management in violation of 10 CFR 50.7 or similar regulations against an employee;

6. An inadequate review or failure to review such that, if an appropriate review had been made as required, a 10 CFR Part 21 report would have been made;

7. A failure to complete a suitable inquiry on the basis of 10 CFR Part 26, keep records concerning the denial of access, or respond to inquiries concerning denials of access so that, as a result of the failure, a person previously denied access for fitness-for-duty reasons was improperly granted access;

8. A failure to take the required action for a person confirmed to have been tested positive for illegal drug use or take action for onsite alcohol use; not amounting to a Severity Level II violation;

9. A failure to assure, as required, that contractors have an effective fitness-for-duty program; or

10. Threats of discrimination or restrictive agreements which are violations under NRC regulations such as 10 CFR 50.7(f).

*D. Severity Level IV—Violations Involving for Example*

1. Incomplete or inaccurate information that is provided to the NRC but not amounting to a Severity Level I, II, or III violation;

2. Information that the NRC requires be kept by a licensee and that is incomplete or inaccurate and of more than minor significance but not amounting to a Severity Level I, II, or III violation;

3. Inaccurate or incomplete performance indicator (PI) data submitted to the NRC by a Part 50 licensee that would have caused a PI to change from green to white.

4. An inadequate review or failure to review under 10 CFR Part 21 or other procedural violations associated with 10 CFR Part 21 with more than minor safety significance;

5. Violations of the requirements of Part 26 of more than minor significance;

6. A failure to report acts of licensed operators or supervisors pursuant to 10 CFR 26.73; or

7. Discrimination cases which, in themselves, do not warrant a Severity Level III categorization.

*E. Minor—Violations Involving for Example*

Inaccurate or incomplete performance indicator (PI) data submitted to the NRC by a Part 50 licensee that would not have caused a PI to change color.

**Supplement VIII—Emergency Preparedness**

This supplement provides examples of violations in each of the four severity levels as guidance in determining the appropriate severity level for violations in the area of emergency preparedness. It should be noted that citations are not normally made for violations involving emergency preparedness occurring during emergency exercises. However, where exercises reveal (i) training, procedural, or repetitive failures for which corrective actions have not been taken, (ii) an overall concern regarding the licensee's ability to implement its plan in a manner that adequately protects public health and safety, or (iii) poor self critiques of the licensee's exercises, enforcement action may be appropriate.

*A. Severity Level I—Violations Involving for Example*

In a general emergency, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (*e.g.,* assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff).

*B. Severity Level II—Violations Involving for Example*

1. In a site emergency, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to

responsible Federal, State, and local agencies, or (3) respond to the event (*e.g.,* assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. A licensee failure to meet or implement more than one emergency planning standard involving assessment or notification.

*C. Severity Level III—Violations Involving for Example*

1. In an alert, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (*e.g.,* assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. A licensee failure to meet or implement one emergency planning standard involving assessment or notification.

*D. Severity Level IV—Violations Involving for Example*

A licensee failure to meet or implement any emergency planning standard or requirement not directly related to assessment and notification.

**Interim Enforcement Policies**

**Interim Enforcement Policy for Generally Licensed Devices Containing Byproduct Material (10 CFR 31.5)**

This section sets forth the interim enforcement policy that the NRC will follow to exercise enforcement discretion for certain violations of requirements in 10 CFR Part 31 for generally licensed devices containing byproduct material. It addresses violations that persons licensed pursuant to 10 CFR 31.5 identify and correct now, as well as during the initial cycle of the notice and response program contemplated by the proposed new requirements published in the **Federal Register** on December 2, 1998 (63 FR 66492), entitled ''Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information''.

*Exercise of Enforcement Discretion*

Under this interim enforcement policy, enforcement action normally will not be taken for violations of 10 CFR 31.5 if they are identified by the general licensee, and reported to the NRC if reporting is required, if the general licensee takes appropriate corrective action to address the specific violations and prevent recurrence of similar problems.

*Exceptions*

Enforcement action may be taken where there is: (a) failure to take appropriate corrective action to prevent recurrence of similar violations; (b) failure to respond and provide the information required by the notice and response program (if it becomes a final rule); (c) failure to provide complete and accurate information to the NRC; or (d) a willful violation, such as willfully disposing of generally licensed material in an unauthorized manner. Enforcement sanctions in these cases may include civil penalties as well as Orders to modify or revoke the authority to possess radioactive sources under the general license.

**Interim Enforcement Policy Regarding Enforcement Discretion for Nuclear Power Plants During the Year 2000 Transition**

This section sets forth the interim enforcement policy that will govern the exercise of enforcement discretion by the NRC staff when licensees of operating nuclear power plants find it necessary to deviate from license conditions, including technical specifications (TSs), in those cases in which year 2000 (Y2K) related complications would otherwise require a plant shutdown that could adversely affect the stability and reliability of the electrical power grid. This policy does not extend to situations in which a licensee may be unable to communicate with the NRC.

The policy is effective August 30, 1999, and will remain in effect through January 1, 2001. This policy only applies during Y2K transition or rollover periods (December 31, 1999, through January 3, 2000; February 28, 2000, through March 1, 2000; and December 30, 2000, through January 1, 2001). During these periods, a licensee may contact the NRC Headquarters Operations Center and seek NRC enforcement discretion with regard to the potential noncompliance with license conditions, including TSs, if the licensee has determined that:

(a) Complying with license conditions, including TSs, in a Y2K-related situation would require a plant shutdown;

(b) Continued plant operation is needed to help maintain a reliable and stable grid; and

(c) Any decrease in safety as a result of continued plant operation is small (considering both risk and deterministic aspects), and reasonable assurance of public health and safety, the environment, and security is maintained with the enforcement discretion.

Licensees are expected to follow the existing guidance as stated in NRC Inspection Manual Part 9900 for Notices of Enforcement Discretion to the maximum extent practicable, particularly regarding a safety determination and notification of NRC. A licensee seeking NRC enforcement discretion must provide a written justification, or in circumstances in which good cause is shown, an oral justification followed as soon as possible by written justification. The justification must document the need and safety basis for the request and provide whatever other information the NRC staff needs to make a decision regarding whether the exercise of discretion is appropriate. The NRC staff may grant enforcement discretion on the basis of balancing the public health and safety or common defense and security of not operating against potential radiological or other hazards associated with continued operation, and a determination that safety will not be unacceptably affected by exercising the discretion. The Director of the Office of Nuclear Reactor Regulation, or designee, will advise the licensee whether the NRC has approved the licensee's request and, if so, will subsequently confirm the exercise of discretion in writing. Enforcement discretion will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting public health and safety and is warranted in the circumstances presented by the licensee.

If the volume of requests to the NRC Headquarters Operations Center is such that the NRC staff cannot review and approve all licensee requests in a timely fashion, the NRC staff will obtain the safety-significant information from the licensee to enable the NRC staff to make a prompt initial assessment. Unless the assessment is unfavorable, the licensee would be permitted to proceed with its planned course of action. The NRC staff will complete these assessments as time permits and the licensee will be advised of the results orally, if possible, and then in writing. If the NRC staff's prompt initial assessment or subsequent assessment determines that a licensee's actions raise safety concerns, the licensee would be so informed. The licensee would then be required to follow its license conditions, including TSs.

If there are communications difficulties between the licensee and the NRC, the licensee is encouraged to interact with the NRC inspector onsite who will have a dedicated satellite telephone. The inspector should be able to facilitate communication with the NRC Headquarters Operations Center

and/or the NRC Regional Incident Response Centers (IRCs). If communication with the NRC Headquarters Operations Center is not possible, then the licensee should contact the IRC in NRC Region IV to discuss enforcement discretion. Similarly, if the Region IV IRC cannot be reached, then the licensee should attempt to contact the Region I, II and III IRCs. Although it is considered highly unlikely, if communication with NRC is not possible, the licensee should follow the plant license conditions, including technical specifications.

In conducting its assessments, the licensee should follow, to the extent practicable, the guidance in NRC Inspection Manual Part 9900 for Notices of Enforcement Discretion. Contrary to Part 9900 Section B.3 guidance, it is not necessary for an emergency to be declared by a government entity. Licensees are encouraged to contact NRC early in their evaluation process, particularly if time is of the essence, even though complete information as specified in Part 9900 may not be available.

The decision to exercise enforcement discretion does not change the fact that the licensee will be in noncompliance nor does it imply that enforcement discretion is being exercised for any noncompliance that may have led to the noncompliance at issue. To the extent noncompliance was involved, the NRC staff will normally take enforcement action for the root causes that led to the noncompliance for which enforcement discretion was granted. Enforcement action will also be considered in those cases in which incorrect or incomplete information was provided to the NRC staff by a licensee in its justification. The NRC recognizes that a licensee will need to exercise judgement in making a determination under this discretion provision. Consistent with the NRC's position involving 10 CFR 50.54(x), enforcement action for a violation of a license condition, including a TS, will not be taken unless a licensee's action was clearly unreasonable considering all the relevant circumstances. Enforcement action could include assessment of civil penalties and the issuance of orders.

**Interim Enforcement Policy Regarding Enforcement Discretion for Inaccurate or Incomplete Performance Indicator Data for Nuclear Power Plants**

This section sets forth the interim enforcement policy that the NRC will follow to exercise enforcement discretion for inaccurate or incomplete performance indicator (PI) data submitted to the NRC as part of the Part 50 Reactor Oversight Process. The policy is effective until January 31, 2001.

Because both the NRC and licensees are in a learning process for the submission and review of PI data, some errors are expected. Therefore, in accordance with Section VII.B.6 of the Enforcement Policy, the NRC will refrain from issuing enforcement action for all non-willful violations of 10 CFR 50.9 for the submittal of inaccurate or incomplete PI data. Non-willful violations will be documented in inspection reports followed by an explanation that the NRC is exercising this discretion. Violations involving inaccurate or incomplete PI data submitted to the NRC that would not have caused a PI to change color do not normally warrant documentation given the minimal safety significance. Consistent with existing policy, no enforcement action will be taken for these minor violations.

Dated at Rockville, Maryland, this 20th day of April, 2000.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 00–10394 Filed 4–28–00; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

### Notice of Intent To Prepare a Draft Supplement to the Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities and To Hold a Public Meeting for the Purpose of Scoping and To Solicit Public Input Into the Process

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC, the Commission) intends to prepare a draft supplement to the Final Generic Environmental Impact Statement (GEIS) on Decommissioning of Nuclear Facilities (NUREG–0586, August 1988) and to hold public scoping meetings for the purpose of soliciting comments. Although NUREG–0586 covered all NRC-licensed facilities, this supplement will address only the decommissioning of nuclear power reactors.

The NRC will hold a public scoping meeting on May 17, 2000, at the Boston Marriott Copley Place, 110 Huntington Avenue, Boston, Massachusetts 02116 (telephone: 617–236–5800) to present an overview of the proposed supplement to the GEIS and to accept public comment on its proposal. The public scoping meeting will begin at 7:00 p.m. and continue to 10:00 p.m.

The meeting will be transcribed and will include (1) a presentation by the NRC staff on the reasons for preparing a supplement to the GEIS and the environmental issues related to power reactor decommissioning to be addressed in the GEIS, and (2) the opportunity for interested government agencies, private organizations, and individuals to provide comments. Anyone wishing to attend or present oral comments at this meeting may preregister by contacting Mr. Dino C. Scaletti by telephone at 1–800–368–5642, extension 1104, or by Internet to the NRC at DGEIS@nrc.gov, 1 week prior to a specific meeting. Members of the public may also register to provide oral comments up to 15 minutes prior to the start of each meeting. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Scaletti's attention no later than 1 week prior to a specific meeting, so that the NRC staff can determine whether the request can be accommodated.

Any interested party may submit comments related to the NRC's intent to supplement the GEIS for consideration by the NRC staff. To be certain of consideration, comments on the intent to prepare the supplement must be received by July 15, 2000. Comments received after the due date will be considered if it is practical to do so. At this time, comments are being sought only on the intent to prepare the supplement. The NRC staff currently projects issuance of the draft supplement for comment in early 2001. Comments on the draft supplement will be solicited at that time. Written comments should be sent to:

Chief, Rules and Directives Branch, Division of Administrative Services, Mail Stop T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Submittal of electronic comments may be sent by the Internet to the NRC at DGEIS@nrc.gov. All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, or other interested persons, will be made available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, in Washington, DC. Also, publicly available records will be accessible electronically from the ADAMS Public Library component on

the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room).

**FOR FURTHER INFORMATION CONTACT:** Mr. Dino C. Scaletti, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Scaletti can be contacted at the aforementioned telephone number.

Dated at Rockville, Maryland, this 25th day of April 2000.

For the Nuclear Regulatory Commission.

**Dino C. Scaletti,**

*Senior Project Manager, Decommissioning Section, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–10741 Filed 4–28–00; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Entergy Operations, Inc., Arkansas Nuclear One, Unit No. 1; Notice of Correction to Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

On April 19, 2000 (65 FR 21034), the **Federal Register** published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On page 21042, under Entergy Operations, Inc., Docket No. 50–313, the amendment number was incorrectly noted. It should read, ''Amendment No.: 205.''

Dated at Rockville, Maryland, this 14th day of April 2000.

For the Nuclear Regulatory Commission.

**M. Christopher Nolan,**

*Project Manager, Section 1, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–10740 Filed 4–28–00; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Proposed New Appendix to Standard Review Plan (NUREG–0800), Chapter 19, ''Use of Probablistic Risk Assessment in Plant-Specific, Risk-Informed Decisionmaking: General Guidance''

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Workshop.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) will host a public workshop to discuss the proposed new appendix to Chapter 19 of the Standard Review Plan (NUREG–0800), entitled ''Appendix D—Use of Risk Information in Review of Non-Risk Informed License Amendment Requests.'' The appendix is being developed to provide guidance to the NRC staff on the use of risk information in those rare instances where license amendment requests appear to meet regulatory requirements but raise significant risk concerns due to some special circumstances associated with the request. The workshop is open to the public.

**DATES:** The workshop will be held on May 16, 2000, from 9 am to 12 noon.

**ADDRESSES:** U.S. Nuclear Regulatory Commission, Room T–8A1, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Egan Y. Wang, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–1076, e-mail *eyw@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** The proposed new appendix and a Notice of Opportunity for Public Comment on the appendix was issued in the **Federal Register** on April 10, 2000 (FR, Vol. 65, No. 69, 19030–19034). This workshop will provide an opportunity to discuss topics related to the appendix. Anyone interested in providing a presentation on this topic should contact Egan Wang at (301) 415–1076.

Dated at Rockville, Maryland this 20th day of April 2000.

For the Nuclear Regulatory Commission.

**Steven K. West,**

*Acting Chief, Generic Issues, Environmental, Financial and Rulemaking Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–10739 Filed 4–28–00; 8:45 am]

**BILLING CODE 7590–01–M**

## OFFICE OF MANAGEMENT AND BUDGET

### OMB Circular A–110, ''Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations''

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Advance Notice of Proposed Revision.

**SUMMARY:** This advance notice seeks comments on a proposal by the Grants Management Committee of the Chief Financial Officer's Council that would ask OMB to amend Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.'' The amendment would require Federal awarding agencies to offer recipients the option to request cash advances on a ''pooled'' basis. Before making this recommendation, the Council seeks comments from recipients and Federal agencies on the merits of pooled payment systems and grant-by-grant payment systems.

**DATES:** Comments must be received by June 30, 2000.

**ADDRESSES:** Comments should be addressed to: F. James Charney, Policy Analyst, Office of Management and Budget, Room 6025, New Executive Office Building, Washington, DC 20503. Comments may be submitted via e-mail (grants@omb.eop.gov), but must be made in the text of the message and not as an attachment. The full text of Circular A–110 may be obtained by accessing OMB's home page (http://www.whitehouse.gov/omb), under the heading ''Grants Management.''

**FOR FURTHER INFORMATION CONTACT:** Gary Maupin, Chief Financial Officer, Food and Nutrition Service, United States Department of Agriculture, at (703) 305–2046.

**SUPPLEMENTARY INFORMATION:** Section 22(c) of the Circular provides that ''whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the Federal awarding agency to the recipient.'' The Chief Financial Officers Council (Council) is considering whether to recommend an amendment to the Circular that would expand on this provision by requiring agencies to offer a pooled payment procedure (where cash advances are requested from a ''pool'' of grants rather than on a grant-by-grant basis) as an option for recipients in requesting cash advances under Federal awards. Under either method, however, a recipient must maintain systems that minimize the time elapsing between the receipt of Federal advance payments and their disbursement for program purposes. This issue emerged from the work of the Council's Grants Management Committee as it considered a proposal to formally incorporate a pooled payment process into the Federal Government's body of accounting standards.

In considering this proposal, the Council has consulted with several Federal agencies and some recipients subject to the Circular. However, OMB and the Council are interested in soliciting comments from the broader grants community, learning how pooled and grant-by-grant payment systems affect Federal agencies and recipients, as well as what specific problems or benefits are created for recipients under the two systems.

This proposal will not affect the policy recently adopted by the Council that each civilian agency permit recipients the option of using one of two governmentwide payment systems, the Automated Standard Application for Payments (ASAP) system managed by the Department of the Treasury, and the Payment Management System (PMS) operated by the Department of Health and Human Services (HHS). Both of these systems have the ability to track either pooled or award-by-award payment requests.

**The Pooled Payment System**

Under a pooled payment process, the recipient estimates the aggregate amount of cash that it will need for all its Federal awards from each awarding agency and requests a draw in that amount. The draw is then allocated among all the awards based on a formula. When recipients report expenditures, the allocation is adjusted to the actual reported expenditures.

The Council found that two major agencies currently using the pooling method—HHS and the National Science Foundation—believe it provides a more efficient and customer-friendly method of drawing cash for grant purposes. Recipients report individual cash expenditures for each grant via a financial report such as the Standard Form (SF) 269 (Financial Status Report) or SF–272 (Report of Federal Cash Transactions). Many recipients have expressed an inability to accurately determine cash needs on a grant-by-grant basis at the time of draw. Requiring this determination ''up front'' may cause recipients to draw larger amounts of cash, less frequently, resulting in poor management of Federal funds.

**Grant-By-Grant Payment Systems**

Other Federal agencies have developed systems that require recipients to request funds on a grant-by-grant basis. Some of these agencies approve the requests on a grant-by-grant basis; pool the individual amounts; and issue payments in the aggregate. At least one agency accepts grant-by-grant payments as reports of cash usage and records them as expenditures, eliminating the requirement for recipients to submit the SF–272 or, in most cases, the SF–269.

Agencies that use grant-by-grant payment systems believe that agency grant officers have more timely information on payments and can provide more immediate technical assistance to a recipient experiencing problems with a particular grant. These agencies believe that, under pooled payment systems, reports often come in too late for them to be able to help recipients take corrective actions on specific grants.

**Effect on Federal Agencies**

Federal agencies face some challenges accounting for advances similar to those of their recipients. These challenges include identifying advances to multiple awards. Those agencies that currently use pooling address this challenge by using estimates of how recipients will distribute a pooled payment request among the various grants held by the institution. These estimates are then adjusted to actual when the recipients submit their expense reports (SF–269 or SF–272).

After the agency has made these adjustments, it gains a better understanding of how the recipients are using funds under each specific award. Thus, accurate and timely reporting is essential to the success of any pooling method. For this reason, some agencies believe that a transition from grant-by-grant to pooled payments for their awards must be accompanied by monthly reporting of actual expenditures, in an electronic format, rather than the paper-based quarterly reporting that is currently required by agencies currently using pooled payment systems.

**Request for Comment**

OMB and the Council seek comments from both recipients and Federal agencies on the merits of pooled payment systems and grant-by-grant payment systems, as well as whether recipients should have this option. Specifically, commenters are asked to respond to the following questions:

1. Would it be worth it to recipients if they were allowed to make pooled payment requests only in exchange for a requirement to electronically report their actual costs on a monthly basis? (Section 52(a)(2)(iv) of the Circular authorizes Federal agencies to require monthly submission of the SF–272 from recipients that receive advances of $1 million or more annually.)

2. Should the Circular include a minimum number of awards and/or dollars below which the pooled payment option is not be offered? That is, recipients that only get a few awards, or for only small amounts, would not be offered the option to make pooled payment requests.

3. How might a pool payment system impact the Federal agencies' abilities to monitor the financial performance of recipients, and thus determine program compliance?

4. Should recipients be permitted to determine whether they receive advances on a pooled or grant-by-grant basis, or should Federal agencies continue to make that determination?

**Joshua Gotbaum,**

*Executive Associate Director and Controller.*

[FR Doc. 00–10738 Filed 4–28–00; 8:45 am]

BILLING CODE 3110–01–P

## PENSION BENEFIT GUARANTY CORPORATION

### Privacy Act of 1974; System of Records

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of a new system of records—PBGC–13, Debt Collection—PBGC.

**SUMMARY:** The Pension Benefit Guaranty Corporation proposes to establish a new system of records maintained pursuant to the Privacy Act of 1974, as amended. The new system of records, PBGC–13, Debt Collection—PBGC, will be maintained to collect debts owed to PBGC by various individuals. A routine use will permit disclosure of records to the United States Department of Treasury for debt collection pursuant to the Debt Collection Improvement Act of 1996.

**DATES:** Comments on the new system of records must be received on or before May 31, 2000. The new system of records will become effective June 15, 2000, without further notice, unless comments result in a contrary determination and a notice is published to that effect.

**ADDRESSES:** Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to Suite 340 at the above address. Comments also may be sent by Internet e-mail to *reg.comments@pbgc.gov.* Comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, Suite 240.

**FOR FURTHER INFORMATION CONTACT:** Holli Beckerman Jaffe, Attorney,

Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4123. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC proposes to establish a new debt collection system of records entitled PBGC–13, Debt Collection, pursuant to the Privacy Act of 1974, as amended. The new system of records will be maintained to collect debts owed to PBGC by various individuals. A routine use will permit disclosure of certain information about debtors and delinquent debts to the Department of Treasury (Treasury) to facilitate the PBGC's compliance with the transfer and disclosure provisions of the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3711(e) & (g). General Routine Uses G1 and G4 through G8, from PBGC's Prefatory Statement of General Routine Uses, last published at 60 FR 57462, 57463–57464 (1995), will also apply to records maintained in PBGC–13.

Section 3711(g) of DCIA requires Federal agencies to transfer any non-tax debt that is over 180 days delinquent to the Department of Treasury for debt collection action. This centralized collection of government-wide debt is called ''cross-servicing.'' Under section 3711(g), Treasury will use all appropriate debt collection tools to collect the debt, including referral to a designated debt collection center or private collection agency, disclosure to a consumer reporting agency, and administrative or tax refund offset.

Section 3711(e) of DCIA requires agencies to disclose information about a debt to a consumer reporting agency. Under cross-servicing, Treasury is authorized to disclose debts to consumer reporting agencies and will do so if the creditor agency has not done so. The PBGC intends, in most cases, to comply with DCIA's requirement to disclose debts to consumer reporting agencies by transferring the debt to Treasury for cross-servicing.

Issued in Washington, DC this 26 day of April, 2000.

**David Strauss,**

*Executive Director, Pension Benefit Guaranty Corporation.*

## PBGC–13

**SYSTEM NAME:**

Debt Collection—PBGC.

**SECURITY CLASSIFICATION:**

Not applicable.

**SYSTEM LOCATION:**

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026 and/or field benefit administrator, plan administrator, and paying agent worksites.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Anyone who may owe a debt to the PBGC, including but not limited to: Employees of the PBGC; individuals who are consultants and vendors to the PBGC; participants and beneficiaries in terminating and terminated pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and individuals who fraudulently received benefit payments from PBGC.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names; addresses; social security numbers; taxpayer identification numbers; employee number; travel vouchers and related documents filed by employees of the PBGC; invoices filed by consultants and vendors to the PBGC; records of benefit payments made to participants and beneficiaries in terminating and terminated pension plans covered by Title IV of ERISA; and other relevant records relating to the debt including the amount, status, and history of the debt, and the program under which the debt arose. The records listed herein are included only as pertinent or applicable to the individual debtor.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 1302; 31 U.S.C. 3711(e) & (g).

**PURPOSE(S):**

This system of records is maintained for the purpose of collecting debts owed to PBGC by various individuals, including, but not limited to, the PBGC's employees, consultants and vendors, participants and beneficiaries in terminating and terminated pension plans covered by Title IV of ERISA, and individuals who received benefit payments to which they are not entitled. This system facilitates the PBGC's compliance with the Debt Collection Improvement Act of 1996.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

1. A record from this system of records may be disclosed to the United States Department of Treasury for cross-servicing to effect debt collection in accordance with 31 U.S.C. 3711(e).

General Routine Uses G1 and G4 through G8 (see Prefatory Statement of General Routine Uses) apply to this system of records.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(e) (5 U.S.C. 552a(b)(12)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in paper and electronic form.

**RETRIEVABILITY:**

Records are indexed by any one or more of the following: employer identification number: social security number; plan number; and name of debtor, plan, plan sponsor, plan administrator, participant or beneficiary.

**SAFEGUARDS:**

Paper records are kept in file folders in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

**RETENTION AND DISPOSAL:**

Records relating to the debts of consultants and vendors are destroyed 6 years and 3 months after the date of the voucher.

Records relating to debts of PBGC employees involving payroll, leave, attendance, and travel are maintained for various periods of time, as provided in National Archives and Records Administration General Records Schedules 2 and 9.

Records relating to debts of participants and beneficiaries in terminating and terminated pension plans covered by Title IV of ERISA are transferred to the Washington National Federal Records Center 6 months after either the final payment to a participant and/or beneficiary, or the PBGC's final determination that a participant or beneficiary is not entitled to any benefits, and are destroyed 7 years after such payment or determination.

Records relating to debts of other individuals are maintained until their disposition is authorized by the National Archives and Records Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Financial Operations Department, Pension Benefit Guaranty

Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

**NOTIFICATION PROCEDURE:**

Procedures are detailed in PBGC regulations: 29 CFR part 4902.

**RECORD ACCESS PROCEDURES:**

Same as notification procedure.

**CONTESTING RECORD PROCEDURES:**

Same as notification procedure.

**RECORD SOURCE CATEGORIES:**

Subject individual, plan administrators, labor organization officials, firms or agencies providing locator services, and other Federal agencies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 00–10811 Filed 4–28–00; 8:45 am]

**BILLING CODE 7708–01–P**

## POSTAL SERVICE

### Retirement Plan for Manually Set Postage Meters

**AGENCY:** Postal Service.

**ACTION:** Notice of proposed plan with request for comments.

**SUMMARY:** The Postal Service recently completed the first phase of a plan to remove insecure postage meters from the marketplace with the decertification of mechanical postage meters. A plan is herewith proposed for the second phase, which is the retirement of manually reset electronic meters. Upon completion of this phase all meters in service will offer enhanced levels of security, thereby greatly reducing the Postal Service's exposure to meter fraud, misuse, and loss of revenue.

**DATES:** Comments must be received on or before June 15, 2000.

**ADDRESSES:** Written comments should be mailed or delivered to the Manager, Postage Technology Management, U.S. Postal Service, Room 8430, 475 L'Enfant Plaza SW, Washington DC 20260–2444. Copies of all written comments will be available at the above address for inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Nicholas S. Stankosky, (202) 268–5311.

**SUPPLEMENTARY INFORMATION:** In 1996 the Postal Service, in cooperation with all authorized postage meter manufacturers, began a phase-out, or decertification, of all mechanical postage meters because of identified cases of indiscernible tampering and misuse. Postal revenues were proven to be at serious risk. With the recent completion of this initial effort, 776,000 mechanical meters have been withdrawn from service. Recent advances in postage meter technology offer high levels of security, operational reliability, and flexibility for meter users. As a result, the Postal Service is addressing the next category of meter insecurity, namely electronic meters that are manually set by postal employees. Of the current total installed population of 1,587,000 meters, over 92 percent are remotely set through telephone access to a manufacturer's setting center. Customers have recognized the advantages of remote setting, and as a result the marketplace has moved in a positive direction. The remaining 145,000 manually set electronic meters are to be retired and no longer authorized for use as postage evidencing devices. It is the Postal Service's intent to make this an orderly process minimizing impacts on meter users. A schedule has been devised that gives meter users ample time to make timely and intelligent decisions on replacement meters. The Postal Service proposed plan is as follows:

1. Effective February 1, 2000, new placements of manually reset electronic postage meters ceased. The edict applies to new customers as well as existing meter users. All meter manufacturers were notified of this policy and are complying.

2. Meters must be withdrawn at the expiration of a user's lease, with one exception. The Postal Service will allow a lease extension up to December 31, 2001, for any lease which expires during calendar year 2000. No other lease extensions are permitted by the Postal Service. Manufacturers or users cannot avoid meter retirement by the manipulation of leases.

3. Some users currently have multiple-year leases which expire after June 30, 2001. Any meter covered under such a lease may be used until the lease expires.

4. All retired meters must be withdrawn from active service records immediately upon lease expiration. Manufacturers must process PS Form 3601–C, Postage Meter Activity Report, to withdraw the meter effective the lease expiration date.

5. Retired meters must be physically returned to the manufacturer within 30 business days after lease expiration. The use of a retired meter in the time period between the expiration date and when the meter is returned to the manufacturer may result in the cancellation of the user's meter license.

6. Official notification to users explaining this action will be sent directly by the Manager, Postage Technology Management, Postal Service Headquarters. No other correspondence will be considered to be official.

7. Any manufacturer correspondence to these meter users must be provided to and reviewed by the Manager, Postage Technology Management prior to distribution.

8. Manufacturers will provide the Postal Service with a complete listing of lease expiration dates including those extended under item 2 above.

9. The meters affected by this rule are:

*Ascom Hasler*

1441
1446
SM1441
SM1446
16410
16410TMS
16413
16463
SM16410
SM16413
SM16463
17563
SM17563
741
SM741
7410
7413
SM7410
SM7413
7560
7563
SM7560
SM7563

*Neopost*

9212
9212G
9248
9248G
9252
9252G
9257
9257G
9258
9258G
9252U
9257U
9258U
9258UG
9267
9268
9268G

*Francotyp-Postalia*

7000
7100
7200

*Pitney Bowes*

6501
6502
6513
B901

E101
E102

A final plan will be published after all comments have been received from interested parties and reviewed by the Postal Service.

**Stanley F. Mires,**
*Chief Counsel, Legislative.*
[FR Doc. 00–10812 Filed 4–28–00; 8:45 am]
BILLING CODE 7710–12–P

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549
Extension:
Form T–6, SEC File No. 270–344, OMB Control No. 3235–0391
Form 11–K, SEC File No. 270–101, OMB Control No. 3235–0082
Form 144, SEC File No. 270–112, OMB Control No. 3235–0101
Regulation S–B, SEC File No. 270–370, OMB Control No. 3235–0417

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Form T–6 is a statement of eligibility and qualification for a foreign corporate trustee under the Trust Indenture Act of 1939. Form T–6 provides the basis for determining if a trustee is qualified. All information is provided to the public upon request. Form T–6 takes approximately 17 burden hours to be prepared and is filed by 15 respondents. It is estimated that 25% of the 255 total burden hours (64 hours) would be prepared by the filer.

Form 11–K is the annual report designed for use by employee stock purchase, savings and similar plans to facilitate their compliance with the reporting requirement. Form 11–K is necessary to provide employees with information, including financial information, with respect to the investment vehicle or plan itself. Form 11–K provides the employees in turn with the necessary information to assess the performance of the investment vehicle in which their money is invested. Form 11–K is filed on occasion and the information required is mandatory. All information is provided to the public upon request. Form 11–K takes approximately 30 burden hours to prepare and is filed by 774 respondents for a total of 23,220 annual burden hours.

Form 144 is used to report the sale of securities during any three month period that exceeds 500 shares or other units or has an aggregate sales price in excess of $10,000. The information requested is mandatory. Form 144 operates in conjunction with Rule 144. If the information collection was not required, the objectives of the rule could be frustrated. All information is provided to the public upon request. Form 144 takes approximately 2 burden hours to prepare and is filed by 18,096 respondents for a total of 36,192 annual burden hours.

Regulation S–B provides an integrated disclosure system for small business issuers that file registration statements under the Securities Act of 1933 and reports under the Securities Exchange Act of 1934. The information requested is mandatory. The information collected is intended to ensure the adequacy of information is available to investors in the registration of securities. All information is provided to the public upon request. Regulation S–B takes approximately one burden hour to review and is filed by one respondent for a total of one annual burden hour. The one hour associated with Regulation S–B is strictly an administrative reporting burden.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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: April 19, 2000.
**Margaret H. McFarland,**
*Deputy Secretary.*
[FR Doc. 00–10728 Filed 4–28–00; 8:45 am]
BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Reqeust; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549
Extension:
Form T–1, SEC File No. 270–121, OMB Control No. 3235–0110
Form T–2, SEC File No. 270–122, OMB Control No. 3235–0111
Form T–3, SEC File No. 270–123, OMB Control No. 3235–0105
Form T–4, SEC File No. 270–124, OMB Control No. 3235–0107
Rule 14f–1, SEC File No. 270–127, OMB Control No. 3235–0108
Rule 12d1–3, SEC File No. 270–116, OMB Control No. 3235–0109

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget requests for extension on the previously approved collections of information discussed below.

Form T–1 is a statement of eligibility and qualification for corporate trustee under the Trust Indenture Act. Form T–1 is filed on occasion. The information required by form T–1 is mandatory. All information is provided to the public upon request. Form T–1 takes 15 burden hours to prepare and is filed by 180 respondents for a total of 2,700 burden hours.

Form T–2 is a statement of eligibility under the Trust Indenture Act of an individual designated to act as trustee. The information required by Form T–2 is mandatory. All information is provided to the public upon request. Form T–2 takes 9 burden hours to prepare and is filed by 36 respondents for a total of 324 burden hours.

Form T–3 is used as an application for qualification of indentures pursuant to the Trust Indenture Act, but only when securities to be issued thereunder are not required to be registered under the Securities Act of 1933. The information required by Form T–3 is mandatory. All information is provided to the public upon request. T–3 takes 43 burden hours to prepare and is filed by 55 respondents for a total of 2,365 burden hours.

Form T–4 is used to apply for an exemption from certain provisions of the Trust Indenture Act. The information required by Form T–4 is mandatory. All information is provided to the public upon request. Form T–4 takes 5 burden hours to prepare and is filed by 3 respondents for a total of 15 burden hours.

Rule 14f–1 requires issuers to disclose a change in a majority of issuer directors. The information filed under Rule 14f–1 must be filed with the Commission. All information submitted is provided to the public upon request. It takes 18 burden hours to prepare the necessary information and is filed by 44 respondents for a total of 792 burden hours.

Rule 12d1–3 requires a certification that a security has been approved by an exchange for listing and registration pursuant to Section 12(d) of the Securities Exchange Act to be filed with the Commission. The information required under Rule 12d1–3 must be filed with the Commission. All information filed with the Commission is available to the public upon request. It takes one-half hour to prepare the necessary information and is filed by 688 respondents for a total of 344 burden hours.

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 regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 18, 2000.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–10727 Filed 4–28–00; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42713; Form Type 34–36 MR; File No. 79–9]**

## Notice of Application and Order Temporarily Granting Application for a Conditional Exemption by the National Association of Securities Dealers, Inc. Relating to the Acquisition and Operation of a Software Development Company by the Nasdaq Stock Market, Inc

April 24, 2000

Pursuant to Rule 0–12 [1] under the Securities Exchange Act of 1934 (''Exchange Act''), notice is hereby given that on March 3, 2000, the National Association of Securities Dealers, Inc. (''NASD'') and the Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') an application for a conditional exemption under Section 36(a)(1) of the Exchange Act [2] relating to Nasdaq's acquisition and operation of a software development company. In addition, the NASD requested that, if the Commission determined to solicit comment on the application for a permanent exemption, the Commission grant a temporary conditional exemption for a period of one year.

The Commission is publishing this notice to solicit comments from interested persons on the NASD's application for a permanent exemption. For the reasons discussed below, the Commission also is issuing an order at this time approving the NASD's request for a temporary conditional exemption for a period of one year from the date of this release. The Commission will make a final determination concerning the request for a permanent exemption after reviewing the comments submitted in response to this notice and prior to the expiration of the temporary exemption.

The text of the NASD's application is set forth in section 1 below,[3] followed by the Commission's solicitation of comments on the NASD's request for a permanent exemption in section II and the Commission's order granting the NASD's request for a temporary exemption in section III.

### I. NASD's Application for Exemption

On behalf of the NASD and Nasdaq, pursuant to Section 36 of the Securities Exchange Act of 1934 and Rule 0–12 thereunder, we are writing to apply for an exemption from Section 19(b) of the Exchange Act, to (1) permit Nasdaq to acquire and operate a software development company, Financial Systemware, Inc. (''FSI''), to market certain financial services software, ''OTC Tools'' and related software (''Software''), and to expand the products and services offered by FSI to include service bureau and back-office functions for NASD broker-dealers, without filing proposed rule changes pursuant to Rule 19b–4 under the Exchange Act of before making or implementing any modifications to the Software, or with respect to each new software product or service offered by FSI (provided those new software products and services are offered in a manner that is not inconsistent with the presentation contained in this letter), and (2) permit FSI to determine prices for such software products and services based on competitive market factors without filing proposed rule changes pursuant to Rule 19b–4 under the Exchange Act.

*A. Background*

The NASD is a national securities association registered under Section 15A of the Exchange Act. As a national securities association, the NASD is a self-regulatory organization (''SRO'') as defined by Section 3(a)(26) of the Exchange Act. Though its subsidiaries, NASD Regulation, Inc., the American Stock Exchange, Inc. and Nasdaq, the NASD develops rules and regulations, conducts regulatory review of its members' business activities, and designs and operates marketplace facilities and services.

The NASD also has three other subsidiaries: (1) Nasdaq International, Ltd., which provides services to domestic and foreign companies, (2) Securities Dealers Insurance Co., Inc., which provides reinsurance services in connection with a fidelity bond program for NASD members, and (3) Securities Dealers Risk Purchasing Group, which provides professional liability insurance to NASD members.

The NASD sets the overall strategic direction and policy agenda of the whole organization, oversees the effectiveness of its subsidiaries and ensures that the organization's statutory and self-regulatory obligations are fulfilled.

Subject to receiving the exemptive relief requested herein, Nasdaq plans to acquire the assets of FSI, whose primary line of business is the development and distribution of a financial services software product called ''OTC Tools.'' OTC Tools is designed for and marketed

[1] 17 CFR 240.0–12.

[2] 15 U.S.C. 78mm(a)(1).

[3] The NASD filed its application on March 3, 2000. Subsequently, Nasdaq completed its acquisition of the assets of the software development company.

to NASD broker-dealers that use Nasdaq Workstation II terminals. OTC Tools is a Microsoft Windows-based software product that enhances and simplifies a user's interactions with, and use of, the Nasdaq Workstation II terminal, but does not change or alter the current features of Nasdaq, SelectNet or SOES (*i.e.*, the facilities of the NASD).

Currently, the Software which is being commercially marketed to NASD broker-dealers, offers a variety of features to assist them in efficiently managing their quotes, monitoring and executing incoming orders, continually checking for closed, locked or crossed markets, and monitoring the depth of the market. There is a high level of effective competition in providing these types of software products and services to market participants. For example, Automatic Securities Clearance, through its BRASS service, provides order-management services and software to a large number of NASD member firms that are in many respects similar to the Software. Other firms, such as Eagle Trading, ADP, TCAM and Royal Blue, offer order handling packages that compete with those offered by FSL. Similarly, many NASD member firms have developed internal order management and order-routing software that provides independent functions comparable to those provided by the Software.

Given the NASD's complex infrastructure and the dramatic acceleration of technological changes that are impacting the securities markets, the NASD and Nasdaq believe that they must have the capability to respond quickly to the technological needs of NASD members. The NASD and Nasdaq believe that the acquisition of FSI will greatly improve Nasdaq's ability to provide such rapid solutions to its members' technological needs. Nasdaq also plans to expand the products and services offered by FSI to include service bureau and back-office functions [4] for NASD broker-dealers.

*B. Basis for Relief Sought and Anticipated Benefits to Investors*

Section 19(b)(1) of the Exchange Act requires an SRO,[5] including the NASD (as a registered securities association under Section 15A of the Exchange Act), to file with the Commission its proposed rule changes accompanied by a concise general statement of the basis and purpose of the proposed rule change. Once a proposed rule change has been filed, the Commission is required to publish notice of it and provide an opportunity for public comment. The proposed rule change may not take effect unless approved by the Commission by order, or unless the rule change is within the class of rule changes that are effective upon filing pursuant to Section 19(b)(3)(a).[6]

Section 19(b)(1) of the Exchange Act defines the term ''proposed rule change'' to mean ''any proposed rule or rule change in, addition to, or deletion from the rules of [a] self-regulatory organization.'' Pursuant to Section 3(a)(27) and 3(a)(28) of the Exchange Act, the term ''rules of a self-regulatory organization'' means (1) the constitution, articles of incorporation, bylaws and rules, or instruments corresponding to the foregoing, of an SRO, and (2) such stated policies, practices and interpretations of an SRO (other than the MSRB) as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors to be deemed to be rules. The Commission has exercised this rulemaking authority by adopting Rule 19b–4(b) under the Exchange Act, which defines the term ''stated policy, practice, or interpretation.''

Rule 19b–4(b) defines the term ''stated policy, practice, or interpretation to mean generally ''any *material aspect of the operation of the facilities of the self-regulatory organization* [7] *or any statement made available to the membership, participants, or specified persons thereof that establishes or changes any standard, limit, or guideline with respect to rights and obligations of specified persons* or the meaning, administration, or enforcement of an existing rule.'' (Emphasis added.)

To the extent that the software or related services (or portions thereof) offered by FSI to Nasdaq member firms would be a ''facility'' of an SRO, Section 19(b) of the Exchange Act, and rule 19b–4, would, absent an exemption, require the NASD to file proposed rule changes with the Commission in certain instances where FSI seeks to modify the Software or the fees it charges for providing it. Technology applications for broker-dealers and market makers develop and change very rapidly, and FSI needs to be able to move quickly to modify existing products and develop new software products. If FSI were required to follow the procedures for rule filings and approvals each time the Software is modified or enhanced, the delays and administrative difficulties associated with the rule filing process would put FSI at a significant competitive disadvantage relative to other software developers that are not affiliated with an SRO. Moreover, the NASD and Nasdaq would not be able to provide NASD broker-dealers with the type of timely and effective software development that users desire and have indicated they need. Thus, in this competitive software market, the delays and administrative difficulties associated with the rule filing process would, in the NASD's view, put FSI at such a competitive disadvantage so as to render the acquisition of FSI or the rights to the software impracticable.

As noted above, because of the NASD's complex infrastructure and the dramatic acceleration of technological changes that are impacting the securities markets, the NASD believes that it must have the capability to respond quickly to the technological needs of its members. The NASD believes that the acquisition of FSI by Nasdaq will greatly improve Nasdaq's ability to provide such rapid solutions to its members' technological needs. If, however, the NASD and Nasdaq cannot as a practical matter compete in the software market, the result would be the inhibition of the development of more efficient and effective market operations and economically efficient execution of securities transactions—each a stated Congressional goal under Section 11A of the Exchange Act, which directs the Commission to facilitate the development of a national market

[4] For example, FSI may perform for its customers, service bureau and back-office functions, including ACT trade reporting, trade comparison, and position and account management functions (*e.g.*, profit and loss calculations).

[5] Section 3(a)(26) of the Exchange Act defines the term ''self-regulatory organization'' to mean ''any national securities exchange, registered securities association, registered clearing agency, and, for purposes of Section 19(b) and other limited purposes, the Municipal Securities Rulemaking Board (''MSRB'').''

[6] Under Section 19(b)(3)(A) of the Exchange Act and rule 19b–4(e) thereunder, a proposed rule change may take effect upon filing without the notice and approval procedures required by Section 19(b)(2) if the proposed rule change comes within prescribed statutory categories, including rule changes that (1) constitute a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the SRO, (2) establish or change a due, fee, or other charge imposed by the SRO, (3) are concerned solely with the administration of the SRO, or (4) are matters which the Commission may, consistent with the public interest and the purposes of this subsection, specify by rule.

[7] The term ''facilities of the self-regulatory organization'' is not defined in the Exchange Act. The term ''facility'' is defined in Section 3(a)(2) of the Exchange Act, but only with respect to an exchange (as defined in Section 3(a)(1), to ''include * * * its premises, tangible or intangible property whether on the premises or not, any right to use such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service.''

system. Furthermore, as more efficient means are developed for NASD broker-dealers to manage and monitor their quotations, order flow, executions and positions, the cost savings derived from these efficiencies can be passed on to investors through reduced spreads and transactions costs, as well as through increased liquidity in the over-the-counter market. Absent full and effective competition in the software market, the incentive to develop new and beneficial software for market maker use is reduced, thereby reducing the opportunity to pass along the benefits to investors.

*C. Discussion*

The Commission has general exemptive authority pursuant to Section 36 of the Exchange Act, and Rule 0–12 thereunder, in pertinent part, to exempt any person from any Exchange Act provision or rule, to the extent that such exemption is necessary or appropriate, in the public interest, and is consistent with the protection of investors. In order for the NASD and Nasdaq to compete effectively in providing software and service bureau functions to NASD broker-dealers, the NASD respectfully requests that the Commission exercise its general exemptive authority and exempt the NASD from the requirements of Sections 19(b) to (1) permit it to operate FIS and offer software to market makers (and other NASD member firms) without filing proposed rule changes with respect to making or implementing any modifications to the Software, or with respect to each new software product or service offered by FSI to (provided those new software products and services are offered in a manner that is not inconsistent with the representations contained in this letter), and (2) permit FSI determine prices for such software products and services based on competitive market factors without filing proposed rule changes. In particular, the NASD requests an exemption form Section 19(b) of the Exchange Act with respect to any rule filings that would otherwise be required under that Section and the rules and regulations thereunder.

Given the rapid advances in technology, the increasing reliance of the financial industry on automation and the degree of competition in the supply of technological solutions, we believe that in certain circumstances, including those presented in this request, a policy distinction can be made between essential or core SRO services and ancillary non-essential or optional services such as those offered by FSI to permit the latter category of services to be offered by an SRO on a fully competitive basis without compliance with the notice and comment process while at the same time ensuring that those services are offered in a way that is consistent with the goals and requirements of the Exchange Act.

As noted above, OTC Tools offers a variety of features to assist NASD broker-dealers in efficiently managing their quotes, monitoring and executing incoming orders, continually checking of closed, locked or crossed markets, and monitoring the depth of the market. These functions to be performed by OTC Tools are not central to the core functionality of Nasdaq's marketplace. Rather the functions involved are supplemental to, and independent of, the primary functions of Nasdaq.

Moreover, the NASD and Nasdaq believe that the exemption requested is consistent with the purposes of the Exchange Act, particularly the protection of investors, the maintenance of fair and orderly markets, and the fostering of competition. This segment of the financial software market is highly competitive. As discussed above, there are a number of other firms that offer competing products to OTC Tools. The NASD and Nasdaq purpose that Nasdaq will operate FSI as a stand-alone business, capitalized separately and not subsidized by NASD members or other revenues of the NASD or Nasdaq.[8]

In addition, the NASD and Nasdaq would take appropriate steps to ensure that FSI would not have any information advantage regarding planned developments and changes to Nasdaq that would not also be available to other competing vendors. Finally, the core functions of Nasdaq would not be altered as a result of the acquisition, and the NASD and Nasdaq will take all reasonable steps necessary to ensure that market makers and order-entry firms will continue to have the ability to trade effectively through Nasdaq's essential facilities without using the Software.

*D. Conditions*

As described in Exchange Act Rule 0–12, in connection with a request for exemption from any provision of the Exchange Act, the applicant is required to state any conditions or limitations it believes would be appropriate for the protection of investors. As a general matter, the NASD and Nasdaq believe the request submitted herein is appropriate because it deals with nonessential services of the NASD and provides the benefit of optional technological innovation designed to improve the productivity of NASD member firms. The following limitations on the exemptive relief requested are, in the view of NASD and Nasdaq, not objectionable to further this objective and to ensure that the operation of FSI is generally consistent with the requirements of the Exchange Act applicable to SROs.

*Continued Presence of Competition*—As indicated above, at the time of this application, there is a high level of effective competition in providing software to market makers. Automatic Securities Clearance, through its BRASS service, for example, provides order-management services and software that are in many respects similar to the Software to a large number of NASD member firms. Other firms, such as Eagle Trading, ADP, TCAM and Royal Blue, offer order handling packages that compete with those offered by FSI. Similarly, many NASD member firms have developed internal order management and order management and order-routing software that provides independent functions comparable to those provided by the Software. Moreover, the software industry in general, and the financial software industry in particular, have low barriers to entry, so that, as the markets evolve and technology is increasingly brought to bear on securities trading, new entrants can, in our view, emerge, NASD and Nasdaq understand that the Commission may reconsider at a later date its decision to grant the exemptive relief requested herein in the event that effective competition for these software products and services no longer exists.

*Independent Functionally of Nasdaq and Other NASD-Sponsored Services*—NASD and Nasdaq believe that providing the Software to NASD member firms does not, and will not, affect the basic functionality of the Nasdaq system. In acquiring FSI and providing the software to NASD member firms, the core functions of Nasdaq (currently provided through the Nasdaq Workstation II terminal system) will not be changed. Nasdaq and other NASD-sponsored systems (such as the Automated Confirmation Transaction Service) operate and will continue to operate independently of the Software. Use of the Software is not, and will not in the future, be necessary to access Nasdaq or any other NASD market-related facility, and NASD members that do not use the Software will be able to enter and change quotes, route orders, effect transactions and perform all market functions in Nasdaq. The NASD

[8] The NASD, of course, reserves the right to provide capital to FSI adequate for it to compete effectively in the market place and to develop and market new products and services.

and Nasdaq believe that requiring full Nasdaq core functionality without use of the Software is an appropriate condition to the grant of the exemptive relief requested.

*Full Public Access to Nasdaq through the Application Programming Interface (''API'')*[9] *will Continue*—As the Commission is aware, the Nasdaq system is an open architecture system and Nasdaq has provided an API that enables firms to have access to the Nasdaq system through their own software or computer system. The NASD and Nasdaq are fully committed to maintaining the API to provide for fair and equitable access to the system and to encourage the development of software by NASD member firms and competing software vendors. Thus, we believe that conditioning the exemptive relief on continued free and open access to Nasdaq through the API is appropriate in light of the commitment of the NASD and Nasdaq to maximum competition in offering services to NASD members.

*Fair Access to Information on Nasdaq Developments*—As a fourth condition consistent with the statutory objective and our stated objective of maintaining a competitive software market, the NASD and Nasdaq, as noted above, agree not to provide FSI an information advantage concerning Nasdaq core facilities, particularly changes and improvements to the system, that is not available to the industry generally or to vendors of financial software for market makers and order entry firms, and will prevent FSI from having any advance knowledge of proposed changes or modifications to core Nasdaq facilities. This is appropriate to avoid giving FSI any informational advantage in the development and enhancement of software products for the Nasdaq market.

In this regard, FSI will not share employees with the NASD, Nasdaq or any other NASD affiliate, and will be housed in office space from that of the NASD or Nasdaq. In addition, FSI will be notified of any change or improvements to the Nasdaq system in the same manner that other competing vendors are notified of such changes or improvements. For example, in addition to mailings and Web site disclosure of changes to Nasdaq or to Nasdaq technical specifications, Nasdaq currently meets at least quarterly with all vendors to discuss proposed modifications to the System and changes that are in the pipeline (subject to Commission approval, where needed). FSI will be treated, for purposes of these mailings, disclosures and meetings, the same as any third party vendor and will not receive any information regarding planned or actual changes to Nasdaq in advance of other vendors. Conversely, FSI will not disclose any system or design specifications, or any other information to any employees with the NASD, Nasdaq or any other NASD affiliate that would give FSI and unfair advantage over its competitors.

*E. Conclusion*

For the reason set forth above, the NASD hereby requests that the Commission grant an exemption from Sections 19(b), and the rules and regulations thereunder, to (1) permit the Nasdaq to operate FSI and offer software to market makers (and other NASD member firms) without filing proposed rule changes with respect to making or implementing any modifications to the Software, or with respect to each new software product or service offered by FSI (provided those new software products services are offered in a manner that is not inconsistent with the representations contained in this letter), and (2) permit FSI to determine prices for such software products and services based on competitive market factors without filing proposed rule changes. If the Commission believes that notice of this request and an opportunity for public comment is necessary, the NASD requests that the Commission grant the relief requested, on a temporary basis, for a period of one year, and that thereafter, following the conclusion of any such notice and comment period, the Commission grant the requested relief on a permanent basis.

## II. Solicitation of Comments

Section 36(b) of the Exchange Act provides that the Commission shall, by rule or regulation, determine the procedures under which an exemptive order shall be granted. Exchange Act Rule 0–12(g) provides that the Commission, in its sole discretion, may choose to publish in the **Federal Register** a notice of an application for an exemption under Section 36 and to allow any person to submit information that relates to the action requested in the application. The Commission has determined that, prior to taking final action on the NASD's application for a permanent exemption, it would be helpful to offer the public an opportunity to submit information concerning the permanent exemption and the conditions on which the exemption is based. Accordingly, interested persons are invited to submit written data, views, and arguments concerning the NASD's application for an exemption. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549–0609. All submissions should refer to Form Type 34–36 MR; File No. 79–9 and should be submitted by July 31, 2000. Comment letters received will be available for public inspection and copying in the Commission's Public Reference Room.

## III. Order Granting Temporary Conditional Exemption

The Commission has determined to grant the NASD's request for a temporary conditional exemption for a period of one year from the date of this release. The Commission finds that the temporary conditional exemption from the provisions of Section 19(b) is necessary or appropriate in the public interest and is consistent with the protection of investors. In particular, the exemption could help promote efficiency and competition in the market to provide enhanced software services to broker-dealers who interact with the NASD's facilities, while upholding the regulatory objectives of the Exchange Act. After the end of the public comment period set forth in section II above and prior to expiration of the temporary exemption, the Commission will make a final determination concerning the NASD's application for a permanent exemption.[10]

As discussed further below, the NASD, as a registered self-regulatory organization, operates a number of facilities used by broker-dealers that effect transactions in securities in the over-the-counter market, particularly securities that are qualified for inclusion in Nasdaq. These facilities, which

[9] API provides an electronic interface between a subscriber's computer system and the Nasdaq Workstation II system, Through the use of the API, a subscriber may build its own workstation presentation software to integrate the Nasdaq Workstation II service into the subscriber's existing presentation facilities. The API allows a subscriber to emulate the Nasdaq Workstation II presentation software with equivalent functionality, capacity utilization and through-put capability, in addition to providing enhanced capability to develop customized internal presentations for use in support of a subscriber's activities. API also allows a subscriber to operate a quote-update facility to assist solely in complying with the Commission's Order Handling Rules. Generally, a subscriber establishes an API ''linkage,'' such as Nasdaq Workstation II substitute or quote update facility, which in turn connects to a service delivery platform via an API server.

[10] The Commission's approval of the NASD's request for a temporary conditional exemption should not be interpreted as suggesting that the Commission is predisposed to approving the NASD's application for a permanent exemption subject to the same conditions.

include the automated quotations network that is the heart of Nasdaq, order delivery and execution systems, and a transaction reporting system, are made available to broker-dealer subscribers primarily through the Nasdaq Workstation II (''NWII'') service. The NASD has adopted an open architecture system that provides an API between the NWII system and a subscriber's computer system. The API allows broker-dealers to employ specialized software that supplements the NWII service and enhances their interaction with the NASD's facilities, thereby facilitating their trading and other proprietary activities. Currently, a number of companies independent of the NASD offer this type of software product for sale to broker-dealers. Nasdaq has acquired one of these companies—FSI.

Certain of the functions offered through FSI's products, when considered together with the other services offered by the NASD and its affiliates,[11] could cause such products to be considered part of the NASD's facilities. Consequently, changes to the products or the fees charged for the products could trigger the proposed rule change requirements of Section 19(b), which includes filings with the Commission, public notice and comment on those filings, and Commission review and approval of the proposed rule change. These requirements could significantly hamper the ability of FSI to compete effectively in a rapidly changing technology market to provide specialized software to broker-dealers. The requested temporary conditional exemption would allow FSI to modify its products, offer new products, and set fees for its products without going through the proposed rule change procedures of Section 19(b).

In granting the Commission broad exemptive authority in Section 36, Congress intended to incorporate flexibility into the Exchange Act regulatory scheme to reflect a rapidly changing marketplace. Congress particularly intended for the Commission to use this flexibility to promote efficiency and competition. The Commission believes that the NASD's requested temporary conditional exemption will help achieve these goals, while upholding the regulatory objectives of the Exchange Act. In particular, the exemption could facilitate vigorous competition in the market to provide enhanced software services to broker-dealers by allowing FSI to compete on a more equal footing with companies that are not subject to the regulatory requirements applicable to an SRO. The exemption is subject to four principal conditions to help assure that FSI will not obtain an unfair competitive advantage because of its ownership by Nasdaq.

The Commission believes that granting a temporary conditional exemption is warranted because (1) the products of FSI will not be required for broker-dealers to access the NASD's fundamentally important or core services, including quotation collection and dissemination, order routing and execution, and transaction reporting, and (2) the opportunity for fair competition will be preserved in the market to provide enhanced software services to broker-dealers who use the NASD's facilities. Under these circumstances, the Commission believes that competitive forces, rather than the regulatory protections provided by the proposed rule change process, can be relied on to uphold the objectives of the Exchange Act in an efficient manner during the one-year period of the temporary exemption. Fair and vigorous competition, by creating incentives for companies to provide superior software products at fair prices, can serve the interests of broker-dealers, and ultimately those of their investor customers.

*A. The NASD's Facilities and Its Open Architecture System*

The NASD currently operates a number of facilities for broker-dealers that effect transactions in securities traded in the OTC markets. These facilities include (1) an automated quotations system, (2) the SelectNet order delivery system,[12] (3) the Small Order Execution System (''SOES''), and (4) the Automated Confirmation Transaction Service (''ACT'').

At its heart, Nasdaq is a telecommunications network for the centralized collection and dissemination of quotations from market makers and electronic communications networks (''ECNs''). This service allows broker-dealers to enter, retrieve, monitor, and adjust quotations throughout the trading day. The NASD's SelectNet facility offers broker-dealers the ability to automate the negotiation and execution of trades and eliminates the need for verbal contact between trading desks. It allows Nasdaq subscribers to direct orders for the purchase and sale of Nasdaq stocks to specified market makers or ECNs, or to broadcast orders for Nasdaq stocks to all market makers and ECNs. SelectNet also identifies incoming and outgoing orders and allows traders to see subsequent messages and negotiation results. The NASD's SOES facility automatically executes small agency orders routed to market makers, reports completed trades for public dissemination, and sends information with respect to those trades to clearing corporations for comparison and settlement. Finally, the NASD's ACT facility is an automated service that speeds the post-execution steps of price and volume reporting and the comparison and clearing of securities transactions.

Access to the NASD's facilities is made available primarily through the NASD's NWII service. In addition, the NASD has adopted an open architecture system that provides full public access to its facilities through API. The API provides an electronic interface between a subscriber's computer system and the NWII system. Through the use of the API, a subscriber may employ its own workstation presentation software to integrate the NWII services into its presentation capabilities. The API thereby allows a subscriber to develop customized internal presentations for use in support of the subscriber's activities. In sum, fundamentally important or core NASD services are provided through the NWII system, while subscribers also are able to develop or purchase customized software that enhances the NWII services and responds to their individual needs.

Many broker-dealers have taken advantage of the API and employ software to enhance the NASD services provided through the NWII system. Some broker-dealers have developed such software internally. In addition, a number of companies independent of the NASD have developed this type of software and offered it for sale to broker-dealers. For example, the promotional materials of one company states that its product ''provides fully integrated and enhanced Nasdaq Workstation II features,'' including automated management of quotations, automated ACT reporting, and automated SelectNet order entry and order acceptance. Other competing companies make similar

[11] The companies that currently offer the enhanced software products for broker-dealers are not owned by an SRO. When considered alone, their activities do not fall within the definition of a facility of an SRO, and they therefore are not subject to the proposed rule change requirements of Section 19(b).

[12] The Commission recently approved a proposed rule change by the NASD to establish a revised order delivery and execution system—the Nasdaq National Market Execution System. Securities Exchange Act Release No. 42344 (Jan. 18, 2000), 65 FR 3987. After implementation of the system, SelectNet will be re-established as a non-liability system for purposes for order delivery and negotiation only.

assertions concerning the ability of their products to enhances the interaction of broker-dealers with the NASD's facilities, as well as to facilitate a wide array of other broker-dealer proprietary activities.

The Nasdaq has acquired one of these companies—FSI. FSI is a software development company that offers a product called OTC Tools. OTC Tools includes a variety of features to assist NASD members in conducting their proprietary activities, including efficiently managing their quotes, monitoring and executing incoming orders, continually checking for closed, locked, or crossed markets, and monitoring the depth of the market.[13] To enable FSI to modify its products, offer new products, and set fees for its products as freely and quickly as its competitors that are not owned by an SRO, the NASD has requested a temporary conditional exemption from the proposed rule change provisions of Section 19(b).

*B. Proposed Rule Change Provisions of Section 19(b)*

Section 10(b) requires that every SRO file with the Commission copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such SRO, accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission is required to publish notice of the filing of a proposed rule change and to give interested persons an opportunity to submit written data, views, and arguments. Section 19(b) provides that the Commission shall approve an SRO's proposed rule change if it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the SRO.

The term ''rules of a self-regulatory organization'' is defined in Section 3(a)(28) of the Exchange Act to include the rules of an association of broker-dealers that is a registered securities association, and the term ''rules of an association'' is defined in Section 3(a)(27) to include such of the stated policies, practices, and interpretations of the association as the Commission determines by rule to be necessary or appropriate in the public interest or for the protection of investors. In Exchange Act Rule 19b–4,[14] the Commission has defined ''stated policy, practice, or interpretation'' to include any material aspect of the operation of the facilities of a self-regulatory organization. The term ''facility'' when used with respect to an exchange[15] is defined very broadly in Section 3(a)(2) to include, among other things, any tangible or intangible property of the exchange and any right to the use of such property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including any system of communication to or from the exchange).

Certain aspects of the software products that enhance a broker-dealer's interaction with the NASD's facilities could, when considered together with the other services offered by the NASD and its affiliates, fall within the Exchange Act definition of a facility and therefore require the filing of a proposed rule change for material changes in the software and the fees charged for the software. The NASD has requested a temporary conditional exemption from this requirement under Section 36 of the Exchange Act.

*C. Commission's Exemptive Authority Under Section 36*

Section 36(a)(1) of the Exchange Act grants the Commission broad authority to exempt any person from any provision of the Act to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors. In enacting Section 36, Congress indicated that it expected that ''the Commission will use this authority to promote efficiency, competition and capital formation.'' [16] It particularly intended to give the Commission sufficient flexibility to respond to changing market and competitive conditions.

> The Committee recognizes that the rapidly changing marketplace dictates that effective regulation requires a certain amount of flexibility. Accordingly, the bill grants the SEC general exemptive authority under both the Securities Act and the Securities Exchange Act. This exemptive authority will allow the Commission the flexibility to explore and adopt new approaches to registration and disclosure. It will also enable the Commission to address issues relating to the securities markets more generally. For example, the SEC could deal with the regulatory concerns raised by the recent proliferation of electronic trading systems, which do not fit neatly into the existing regulatory framework.[17]

At the same time that it added Section 36 to the Exchange Act, Congress enacted Section 3(f), which charges the Commission, when it is engaged in rulemaking itself or reviewing an SRO rule and is required to consider whether an action is necessary or appropriate in the public interest, also to consider whether the action will promote efficiency, competition, and capital formation.

Section 36 and Section 3(f) reaffirm a fundamental and long-established principle of the Exchange Act—investor interests are best served by a regulatory structure that facilitates fair and vigorous competition among market participants. Congress emphasized this principle, for example, when it amended the Exchange Act in 1975:

> In 1936, this Committee pointed out that a major responsibility of the SEC in the administration of the securities laws is to 'create a fair field of competition.' This responsibility continues today. * * * The objective would be to enhance competition and to allow economic forces, interacting within a fair regulatory field, to arrive at appropriate variations in practices and services. It would obviously be contrary to this purpose to compel elimination of differences between types of markets or types of firms that might be competition-enhancing. [18]

In recent years, the Commission has exercised its Section 36 exemptive authority by seeking to enhance competition as a means to meet the objectives of the Exchange Act. For example, it exempted alternative trading systems from many of the requirements that otherwise would apply to an ''exchange,'' including registration and the filing of proposed rule changes, when such requirements were not necessary or appropriate to further the Exchange Act's objectives. In adopting this exemption, the Commission stated that it ''believes that its regulation of markets should both accommodate traditional market structures and provide sufficient flexibility to ensure that new markets promote fairness, efficiency, and transparency.'' [19]

In addition, the Commission has used its exemptive authority to revise the proposed rule change requirements of

[13] For example, the current version of OTC Tools enables a user (1) to maintain a pre-configured maximum market spread in specific securities when making adjustments in a quotation at one side of the market; (2) to capture and execute incoming SelectNet orders in several different fashions by combining multiple keystroke or mouse functions; (3) to send, with a single point-and-click feature, multiple SelectNet preferenced orders to preset market makers or ECNs; and (4) to monitor SelectNet broadcast orders for electronic execution based on the user's pre-configured order selection file.

[14] 17 CFR 240.19b–b

[15] The Commission has found that Nasdaq falls within the definition of ''exchange'' under Section 3(a)(1) of the Act. Securities Exchange Act Release No. 40760 (Dec. 8, 1998), 63 FR 70844 (''ATS Release''), at nn. 58–61 and accompanying text.

[16] H.R. Rep. No. 104–622, 104th Cong., 2nd Sess. 38 (1996).

[17] S. Rep. No. 104–293, 104th Cong., 2nd Sess. 15 (1996).

[18] S. Rep. No. 94–75, 94th Cong., 1st Sess. 8 (1975).

[19] ATS Release, note 15 above, section I.

Section 19(b) to meet the changing needs of the SROs in a competitive international marketplace. For example, the Commission amended Rule 19b–4 in 1998 to streamline the requirements for introduction of new derivative securities products.[20] At the same time, the Commission adopted rule 19b–5 to help reduce impediments to competitive innovation by SROs by exempting them from the requirement to file proposed rule changes for pilot trading systems for a two-year period. In adopting this exemption, the Commission noted that ''excessive regulation of traditional exchanges, alternating trading systems, or other markets hinders these exchanges' ability to compete and survive in the global arena'' and found that the exemption from Section 19(b) for pilot trading programs ''responds to the SROs' need for a more balanced competitive playing field.'' [21]

*D. Temporary Conditional Exemptions for FSI*

The NASD has requested a temporary conditional exemption that would allow FSI to modify its products, offer new products, and set fees for its products without filing proposed rule changes under Section 19(b). The exemption would be subject to four principal conditions: (1) the continued presence or effective competition in the market to provide software products that enhance a broker-dealer's interaction with the NASD's facilities; (2) the independent functionality of the NASD's facilities; (3) continued full public access to the NASD's facilities through the API; and (4) fair access to information concerning the NASD's facilities and systems.

The Commission believes that the requested temporary conditional exemption could help promote efficiency and competition, while upholding the regulatory objectives of the Exchange Act. Nasdaq's ownership of a software company whose products facilitate a broker-dealer's interaction with the NASD's facilities could promote efficiency and competition in at least two ways. First, Nasdaq's detailed knowledge of the needs of NASD members could lead FSI to develop products with features that more closely respond to those needs and that increase the efficiency of broker-dealer operations. Second, Nasdaq ownership could help assure that software is developed and made available that will meet the needs of the wide variety of broker-dealers that are NASD members, both large and small. Thus, the existence of a Nasdaq-owned company offering enhanced software products could act as a spur to competition and thereby help generate better software products for broker-dealers.

Given the pace of change in software technology and market conditions, the Commission believes at this point that the procedural requirements of Section 19(b) could significantly hamper the ability of FSI to compete effectively with companies that are not subject to the same regulatory requirements. A software company needs to act rapidly and nimbly in developing and pricing its products. If FSI were required to comply with the proposed rule change requirements, it necessarily would be subject to greater expense, delay, and uncertainty in offering products and setting prices than its competitors. Although the requirements of Section 19(b) serve vital regulatory functions, particularly with respect to the fundamentally important or core services of an SRO, the Commission does not believe at this point that they are necessary to further the public interest in the context of the limited services to be provided by FSI.

In reviewing a proposed rule change under Section 19(b) the Commission focuses on the particular section of the Exchange Act that sets forth substantive requirements for the SRO's rules. For a national securities association such as the NASD, Section 15A of the Exchange Act requires, among other things, that its rules (1) provide for the equitable allocation of reasonable dues, fees, and other charges among members using any facility or system which the association operates or controls (subparagraph (b)(5)); (2) be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, or broker-dealers (subparagraph (b)(7)); and (3) not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act (subparagraph (b)(9)).

The four principal conditions of the requested temporary exemption will help assure that these regulatory objectives are upheld during the one-year period of the exemption without requiring Commission review and approval of FSI's products and fees.[22] First, the products of FSI will not be necessary for broker-dealers to access the NASD's fundamentally important or core services, including quotation collection and dissemination, order routing and execution, and trade reporting.[23] The NASD and Nasdaq have agreed to maintain an independent functionality for the NASD's market-related facilities—that is, FSI's products nor enhance software products of any kind will be necessary for a broker-dealer to obtain access to the NASD's fundamentally important or core services. The basic software products necessary to obtain such access (currently provided through the NWII service) will be provided separately from FSI.

In addition, for broker-dealers who wish to employ software products that enhance their interaction with the NASD's facilities, the exemption is conditioned on the continued existence of effective competition in the market to provide such type of products. This condition will assure that broker-dealers have a variety of viable software products from which to choose. To maintain an opportunity for fair competition, the NASD and Nasdaq have agreed to continue to provide open architecture systems that enable full public access to the NASD's facilities through the API. The NASD and Nasdaq also have agreed not to provide an unfair information advantage to FSI. FSI will not be given information that is not available to the industry generally or to other companies competing to provide enhanced software products to broker-dealers. In particular, the NASD and Nasdaq will prevent FSI from having any advance private knowledge of proposed changes or modifications to the NASD's facilities. To help meet this condition, FSI will not share employees with the NASD or any NASD affiliate and will be housed in office space separate from that of the NASD and Nasdaq.

Given these conditions, the Commission does not believe that the regulatory protections offered by Commission review and approval of

[20] Securities Exchange Act Release No. 40761 (Dec. 8, 1998), 63 FR 70952.

[21] ATS Release, note 15 above, section VI.A.

[22] The Commission reserves the right to modify, by order, the terms and scope of the exemption from the proposed rule change requirements if it determines such modification is appropriate for the protection of investors or in the public interest.

[23] This approach is consistent with the Commission's decision in an administrative proceeding that included a denial of access claim under Section 19(d) of the Exchange Act. *In the Matter of the Application of Morgan Stanley & Co.,* Admin. Proc. File No. 3–9289 (Dec. 17, 1997) (''In those cases in which we have found a denial of access, an SRO had denied or limited the applicant's ability to utilize one of the fundamentally important services offered by the SRO. The services at issue were not merely important to the applicant but were central to the function of the SRO.'').

proposed rule changes are necessary or appropriate to further the Exchange Act's regulatory objectives during the one-year period of the temporary exemption. Access to the NASD's fundamentally important and core services will be independently maintained by the NASD and fully subject to the Exchange Act's regulatory scheme, including the proposed rule change requirements of Section 19(b). Fair competition will be maintained in the market to provide enhanced software products to broker-dealers. Under these circumstances, the Commission believes at this point that competitive forces can be relied upon to produce software products at fair prices that meet the needs of broker-dealers. In sum, the Commission believes that FSI will neither be unnecessarily hampered in its competition to provide software services to broker-dealers nor given an unfair competitive advantage because of its ownership by Nasdaq.

For the reasons discussed above, the Commission finds that the temporary conditional exemption requested by the NASD is necessary or appropriate in the public interest and is consistent with the protection of investors.

*It Is Therefore Ordered,* pursuant to Section 36(a)(1) of the Act,[24] that the NASD's application for a temporary conditional exemption (Form Type 34–36 MR; File No. 79–9) is granted for a period of one year until April 24, 2001.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–10725 Filed 4–28–00; 8:45 am]

**BILLING CODE 8010–01–M**

[24] 15 U.S.C. 78mm(a)(1).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–24402, 812–11650]**

## The Pacific Corporate Group Private Equity Fund, et al., Notice of Application

April 24, 2000.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (''Act'') and rule 17d–1 under the Act to permit certain joint transactions.

**SUMMARY OF APPLICATION:** The Pacific Corporate Group Private Equity Fund, formerly known as The Alternative Investment Fund (the ''Fund''), and Pacific Corporate Group, Inc., formerly known as Pacific Corporate Advisors, Inc. (the ''Adviser''), seek to amend a prior order (''Prior Order'') that permits the Fund to co-invest with other investment vehicles managed by the Adviser or its affiliates and/or, under certain circumstances, with the Adviser or its affiliates. The amended order (''Amended Order'') would revise certain conditions of the Prior Order.

*Applicants:* The Fund and the Adviser.

**FILING DATES:** The application was filed on June 9, 1999, and amended on February 7, 2000. Applicants agree to file an amendment during the notice period, the substance of which is reflected in this notice.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 19, 2000, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Brown & Wood LLP, One World Trade Center, New York, New York 10048.

**FOR FURTHER INFORMATION CONTACT:** Paula L. Kashtan, Senior Counsel, at (202) 942–0615, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

### Applicants' Representations

1. The Fund is a closed-end management investment company registered under the Act. The Adviser serves as investment adviser to the Fund and is registered under the Investment Advisers Act of 1940. The Fund invests in private equity investments either directly or indirectly through underlying partnerships managed by an adviser not affiliated with the Adviser.

2. On December 4, 1996, the SEC issued the Prior Order to applicants under section 6(c) of the Act exempting applicants from section 12(d)(1)(A) of the Act and pursuant to section 17(d) of the Act and rule 17d–1 under the Act.[1] The Prior Order permits the Fund and Subsequent Funds, as defined in the Prior Order (together with the Fund, the ''Funds''), to: (i) invest in unaffiliated private investment companies exempt from the definition of an investment company by section 3(c)(1) of the Act; and (ii) co-invest with Private Funds, as defined in the Prior Order, managed by the Adviser or its affiliates and/or, under certain circumstances, with the Adviser or its affiliates (''Co-Investments'').

3. Applicants state that, as a result of amendments to section 3(c)(1) of the Act that became effective in 1997, relief from the provisions of section 12(d)(1)(A) of the Act granted in the Prior Order is no longer required. Accordingly, applicants request that conditions 2 through 7 of the Prior Order be deleted. Applicants represent and understand that, except as requested in the application, the representation set forth in and the terms and provisions of the Prior Order remain unchanged.

### Applicants' Conditions

Applicants agree that the Amended Order granting the requested relief shall be subject to the following conditions:

1. A majority of the trustees of each Fund (''Trustees'') will not be ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Fund (''Non-Interested Trustees'').

2. No Co-Investments (except for follow-on investments made pursuant to condition 9 below) will be made pursuant to the requested order with respect to portfolio companies in which the Adviser, any Fund or Private Fund, or any of their affiliates has previously acquired an interest.

3. The Trustees of each Fund participating in a Co-Investment, including a majority of the Non-Interested Trustees, will approve Co-Investments in advance. To facilitate the Trustees' determinations, the Adviser will provide the Trustees of a Fund with periodic information listing all investments made by the other Funds, the Private Funds, and/or the Adviser or its affiliate, as applicable, that would be suitable for investment by a Fund.

4. (a) Before making a Co-Investment, the Adviser will make a preliminary

[1] Investment Company Act Release Nos. 22324 (Nov. 6, 1996) (notice) and 22370 (Dec. 4, 1996) (order).

determination as to whether each particular Co-Investment opportunity meets the Fund's investment objective, policies, and restrictions. Co-Investment opportunities will be offered to eligible Funds and Private Funds in amounts proportionate to capital available for investment at the time of such opportunities. The Adviser will maintain written records of the factors considered in any preliminary determination.

(b) Following the making of the determination referred to in (a), information concerning the proposed Co-Investment will be distributed to the Trustees. Such information will be presented in written form and will include the name of each Fund and each Private Fund that may participate and, if permitted by condition 5 below, the Adviser or its affiliate and the maximum amount offered to each entity.

(c) Information regarding the Adviser's preliminary determinations referred to in (a) will be reviewed by the Trustees, including the Non-Interested Trustees. The Trustees, including a majority of the Non-Interested Trustees, will make an independent decision as to whether to participate and the extent of participation in a Co-Investment based on such factors as are deemed appropriate under the circumstances. If a majority of the Non-Interested Trustees of the Fund determines that the amount proposed to be invested by the Fund is not sufficient to obtain an investment position that they consider appropriate under the circumstances, the Fund will not participate in the Co-Investment. Similarly, the Fund will not participate in a Co-Investment if a majority of the Non-Interested Trustees of the Fund determines that the amount proposed to be invested is an amount in excess of that which is determined to be appropriate under the circumstances, although the Non-Interested Trustees may make a determination that the Fund take other than their allotted portion of an investment, pursuant to condition 6 below. A Fund will only make a Co-Investment if a majority of the Non-Interested Trustees of the Fund prior to making the Co-Investment conclude, after consideration of all information deemed relevant (including the extent to which such participation is on a basis different from or less advantageous than that of other participants), that the investments by any Private Fund and/or the Adviser or its affiliates, as applicable, would not disadvantage the Fund in the making of such investment, in maintaining its investment position or in disposing of such investment, and that participation by the Fund would not be on a basis different from or less advantageous than that of such Private fund and/or the Adviser or its affiliate, as applicable. The Non-Interested Trustees will maintain at the Fund's office written records of the factors considered in any decision regarding the proposed Co-Investment.

(d) The Non-Interested Trustees will, for purposes of reviewing each recommendation of the Adviser, request such additional information from the Adviser as they deem necessary for the exercise of their reasonable business judgment, and they will also employ such experts, including lawyers and accountants, as they deem appropriate for the reasonable exercise of this oversight function.

5. The Trustees, including a majority of the Non-Interested Trustees, will make their own decision and have the right to decide not to participate in a particular Co-Investment. There will be no consideration paid to the Adviser or its affiliates, directly or indirectly, including without limitation any type of brokerage commission, in connection with a Co-Investment. However, the Adviser and its affiliates (i) may seek reimbursement from direct investment issuers for documented out-of-pocket expenses approved by the Trustees incurred by the Adviser or its affiliates in connection with a direct investment, (ii) will continue to receive advisory and other fees from the Fund and the Private Funds, and (iii) may participate in any Co-Investment that is a direct investment wherein the Adviser or its affiliate is required by the placement agent offering shares of the Fund or a Subsequent Fund at the time of the offering or by a Private Fund to commit to co-invest in all direct investments with such entity in the amount of 1% of the investment of each such entity participating in the offering.

6. The Fund will be entitled to purchase a portion of each Co-Investment equal to the ratio of its capital available for investment to the capital available for investment of each other Co-Investment participant (including the interest of the Adviser or its affiliate). Any Co-Investment participant may determine not to take its full allocation, as long as, in the case of a Fund, a majority of the Non-Interested Trustees determines that not doing so would be in the best interest of the Fund. All follow-on investments (as defined in condition 9 below), including the exercise of warrants or other rights to purchase securities of the issuer, will be allocated in the same manner as initial Co-Investments. If a Fund or Private Fund decides to participate in a Co-Investment opportunity to a lesser extent than its full allocation, that entity's portion may be allocated to the other Co-Investment participants based on their respective capital available for investment. If one or more Funds decline to participate in a Co-Investment opportunity, the remaining Funds and the Private Funds shall have the right to pursue such investment independently. Similarly, if one or more Private Funds decline to participate in a Co-Investment opportunity, the remaining Private Funds and the Funds shall have the right to pursue such investment independently.

7. Co-Investments in securities by a Fund with any other Fund, any Private Fund, and/or the Adviser or its affiliate, as applicable, will consist of the same class of securities, including the same registration rights (if any), and other rights related thereto, purchased at the same unit consideration, and the approval of such transactions, including the determination of the terms of the transactions by the Fund's Non-Interested Trustees, will be made in the same time period.

8. Except as described below, the Funds, the Private Funds and/or the Adviser or its affiliate, as applicable, will participate in the disposition of securities held by them as Co-Investments on a proportionate basis at the same time and on the same terms and conditions (a ''lock-step'' disposition). For this purpose, a distribution of securities to the partners or shareholders of a Private Fund upon dissolution shall not be deemed a ''disposition'' of securities. (However, to the extent that a Private Fund distributes securities in dissolution to partners or shareholders who are affiliates of the Funds, such partners or shareholders will be bound by the lock-step disposition procedures established herein.) If a Fund or a Private Fund elects to dispose of a security purchased in a Co-Investment with one or more Funds or Private Funds, notice of the proposed sale will be given to the Non-Interested Trustees of the relevant Fund(s) and to the relevant Private Fund(s) at the earliest practical time. The Funds, the Private Funds, and/or the Adviser or its affiliate, as applicable, will participate in the disposition of such security on a lock-step basis, unless the Non-Interested Trustees of a Fund determine that the Fund should not participate in such sale or not participate on a lock-step basis. A Fund need not participate on a lock-step basis in the disposition of securities sold by any other Fund or a Private Fund if the Non-Interested Trustees of the Fund find that the retention or sale, as the

case may be, of the securities is fair to the Fund and that the Fund's participation or choice not to participate in the sale on a lock-step basis is not the result of overreaching by any other Fund, and Private Fund, and/or the Adviser or its affiliate, as applicable. If such a finding is not made, then the relevant Fund must participate in such sale on the basis of lock-step disposition. Like a Fund, a Private Fund may elect not to participate in a sale of securities held as Co-Investments or not to participate on a lock-step basis. If at any time the result of a proposed disposition of any portfolio security held by a Fund or a Private Fund would alter the proportionate holdings of each class of securities held by the other Funds, Private Funds, and/or the Adviser or its affiliate, as applicable, holding the Co-Investment, then the Non-Interested Trustees of the Fund or Funds involved must determine that such a result is fair to the relevant Fund(s) and is not the result of overreaching by any other Fund, any Private Fund, and/or the Adviser or its affiliate, as applicable. The Non-Interested Trustees will record in the records of the Fund the basis for their decisions as to whether to participate in such sale.

9. If a Fund or a Private Fund determines that it should make a ''follow-on'' investment (*i.e.,* an additional investment in a portfolio company in which a Co-Investment has been made pursuant to the order requested hereby) in a particular portfolio company whose securities are held by it and one or more Funds, or to exercise warrants or other rights to purchase securities of such an issuer, notice of such transaction will be provided to such other Fund(s), including its or their Non-Interested Trustees at the earliest practical time. The Adviser will formulate a recommendation as to the proposed participation by a Fund in a follow-on investment and provide the recommendation to the Non-Interested Trustees of the Fund along with notice of the total amount of the follow-on investment. Each Fund's Non-Interested Trustees will make their own determination with respect to follow-on investments. Follow-on investments will be entered into on the same basis as initial Co-investments and will be subject to the same approval procedure as those required for initial Co-Investments. Assuming that the amount of a follow-on investment available to a Fund is not based on the amount of the fund's initial Co-Investment, the relative amount of investment by each Fund participating in a follow-on investment will be based on a ratio derived by comparing the capital available for investment of each participating Fund, Private Fund and/or the Adviser or its affiliate, as applicable, with the total amount of the available follow-on investment. Each Fund will participate in such investment if a majority of its Non-Interested Trustees determines that such action is in the best interest of the Fund. The Non-Interested Trustees of each Fund will record in their records the recommendation of the Adviser and their decision as to whether to engage in a follow-on transaction with respect to that portfolio company, as well as the basis for such decision.

10. A decision by the Trustees of a Fund (i) not to participate in a Co-Investment, (ii) to take less or more than the Fund's full pro rata allocation, or (iii) not to sell, exchange, or otherwise dispose of a Co-Investment in the same manner and at the same time as another Fund or a Private Fund shall include a finding that such decision is fair and reasonable to the Fund and not the result of overreaching of the Fund or its securityholders by the Private Funds and/or the Adviser or its affiliate, as applicable. The Non-Interested Trustees of each Fund will be provided quarterly for review all information concerning Co-Investments made by the Funds, the Private Funds, and/or the Adviser or its affiliate, as applicable, including Co-Investments in which the Fund declined to participate, so they may determine whether all Co-Investments made during the preceding quarter, including those Co-Investments they declined, complied with the conditions set forth above. In addition, the Non-Interested Trustees of each Fund will consider at least annually the continuing appropriateness of the standards established for Co-Investments by the Fund, including whether use of such standards continues to be in the best interest of the Fund and its securityholders and does not involve overreaching of the Fund or its securityholders on the part of any party concerned.

11. No Non-Interested Trustee of a Fund will be an affiliated person of a Private Fund or have had, at any time since the beginning of the last two completed fiscal years of any Private Fund, a material business or professional relationship with any Private Fund.

12. A Fund, each Private Fund, and/or the Adviser or its affiliate, as applicable, will each bear its own expenses associated with the disposition of portfolio securities. The expenses, if any, of distributing and registering securities under the Securities Act sold by the Fund, one or more Private funds, and/or the Adviser or its affiliate, as applicable, at the same time will be shared by the Fund, the selling Private Fund(s), and/or the Adviser or its affiliate, as applicable, in proportion to the relative amounts they are selling.

13. Other than as provided in condition 5, neither the Adviser nor any of its affiliates (other than the Private Funds pursuant to any order issued on this application) nor any director of the Fund will participate in a Co-Investment with the Fund unless a separate exemptive order with respect to such Co-Investment has been obtained. For this purpose, the term ''participate'' shall not include either the existing interests of the Adviser or its affiliates in, or their management fee and expense reimbursement arrangements with, Private Funds, and the term ''participate'' shall also not include any reimbursement from direct investment issuers described in condition 5 above.

14. The Fund will maintain all records required of it by the Act, and all records referred to or required under these conditions will be available for inspection by the SEC. The Fund will also maintain the records required by section 57(f)(3) of the Act as if the Fund was a business development company and the Co-Investments were approved by the Non-Interested Trustees under section 57(f).

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–10730 Filed 4–28–00; 8:45 am]

BILLING CODE 8010–01–M

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## SECURITIES AND EXCHANGE COMMISSION

### Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 1, 2000.

A closed meeting will be held on Wednesday, May 3, 2000 at 11 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5

U.S.C. 552(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

The subject matter of the closed meeting scheduled Wednesday, May 3, 2000 will be:

Institution and settlement of injunctive actions; and, Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: April 26, 2000.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 00–10836 Filed 4–26–00; 4:20 pm]

BILLING CODE 8101–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42711; File No. SR–DTC–99–24]**

## Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Collateralization Procedures

April 21, 2000.

On October 27, 1999, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 14, 2000.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

### I. Description

The rule change revises DTC's collateralization procedures[3] to provide for a systemic monitor to withhold collateral value for collateral associated with the participant (*e.g.*, the participant's own commercial paper).[4] Specifically, DTC will implement an Issuer/Participant Number (''IPN'' control to systemically monitor collateral received in each participant's account.

The IPN will identify securities related to a participant and will withhold from the participant any collateral value associated with the securities. For example, transactions related to an issuing/paying agent (''IPA'') account (*e.g.*, receives versus payment) will continue to be processed in essentially same manner except that no value will be given to the IPA's collateral monitor for the collateral value of securities received that are associated with the IPA.

IPN is based on the legal structure of a participant; therefore, the IPA control will apply to every participant's account. For example, if a participant has an IPA account through which it issues money market instrument securities (''MMI securities'') on its own behalf and also has a custody account and if the participant processes an MMI issuance delivery of its own MMI securities from its IPA account to its custody account, the participant would receive no collateral value in the custody account for the delivery of the MMI securities. IPN will not affect DTC's calculations of a participant's net debit cap or largest provisional net credit.

### II. Discussion

Section 17A(b)(3)(F)[5] of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which the clearing agency is responsible. The Commission believes that DTC's proposed rule change is consistent with DTC's obligations under the Act because the new procedures will reduce the risk that a participant's collateral will not be sufficient to satisfy its settlement obligations.

DTC uses collateralization as a method to protect itself and its participant from the inability of one or more participants to pay its settlement obligations. Collateralization ensures that at all times each participant maintains collateral in its account equal to or greater than its net cash settlement obligation (*i.e.*, its net debit). If a participant were to fail to pay its settlement obligation, DTC would use the collateral in the failing participant's account to support any borrowings necessary to finance the failing participant's settlement obligation or could liquidate the collateral to cover the participant's settlement obligation. If a participant were to receive value in DTC's collateral monitor for collateral that is associated with the participant, DTC would probably not have sufficient collateral if that participant were to default because the participant's collateral would probably have little or no value in a default situation. Accordingly, the rule change establishes a systemic monitor that will withhold collateral value for collateral associated with a participant. This should help ensure that DTC will have sufficient resources to satisfy outstanding settlement obligations in the event of a participant default.

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

*It Is Therefore Ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–99–24) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–10729 Filed 4–28–00; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–42715; File No. SR–NASD–00–19]**

## Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Level I Market Data Fees

April 24, 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 April 13, 2000, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 42323 (January 7, 2000), 65 FR 2449 (January 14, 2000).

[3] DTC's current procedures relating collateralization and risk management controls are set forth in memorandums dated March 17, 1995, which are attached as Exhibit 3 to DTC's filing.

[4] For a complete description of DTC's collateralization procedures, refer to Exhibit 2 of DTC's rule filing.

[5] 15 U.S.C. 78q–1(b)(3)F).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

prepared by Nasdaq. On April 18, 2000, Nasdaq submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change, as amended.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Nasdaq filed a proposed rule change to amend NASD Rule 7010. Under the proposal, Nasdaq will establish a one-year pilot program, commencing with the April 3, 2000 billing period, to reduce by 50% the users fees for Level 1 market data delivered to non-professional users on a monthly basis, and to maintain the already-reduced fees for Level 1 market data delivered to non-professional users on a per query basis.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. the text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Nasdaq states that it has consistently supported the broadest, most effective dissemination of market information to public investors. Towards that end, in April of 1999, Nasdaq implemented a one-year pilot program that reduced by 50% the users fees for Level 1 market data delivered to non-professional users on a monthly basis (from $4 to $2), and also for Level 1 market data delivered to non-professional users on a per query basis (from $.01 to $.005).[4] In support of that pilot program, Nasdaq cited increased usage of Level 1 market data, and the expectation that reduced fees would trigger a further expansion of usage[5] Nasdaq has determined that the fee reduction has, in fact, led to increased usage of Level 1 market data.

To reaffirm its commitment to the broad dissemination of this data, Nasdaq is proposing a new one-year pilot program to reduce by 50% the users fees for Level 1 market data delivered to non-professional users on a monthly basis, and to maintain the current fees for Level 1 market data delivered to non-professional users on a per query basis. Under the proposed pilot, the non-professional per user fee would be reduced from $2 to $1 per month (equating to a 75% reduction in fees in two years), and the per query fee would be maintained at $.005 per query. The non-professional user fees will be automatically billed to users at the reduced rate.

Nasdaq believes that reducing these market data fees reaffirms its commitment to individual investors, and responds to the dramatic increase in the demand for real-time market data by non-professional market participants. In addition, Nasdaq believes that reduced Nasdaq rates will lessen the costs the NASD member firms of supplying real-time market data to their customers through automated means, and may encourage current delayed-data vendors to offer increased access to real-time Level 1 data to their subscribers.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)[6] of the Act in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Nasdaq has neither solicited nor received written comments on the proposed rule change.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–00–19 and should be submitted by May 22, 2000.

**IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change**

The Commission finds that the proposed rule change is consistent with the requirements of the Act[7] and the rules and regulations thereunder applicable to a national securities association. Specifically, the proposed rule change is consistent with Section 15A(b)(5)[8] in that the proposal should provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Association operates or controls.

Recent technological developments have allowed vendors to provide their customers with more efficient and cost effective methods of executing securities transactions. The Commission expects that by reducing market data access fees, the investor will further benefit by a reduction in costs of executing these transactions. For the investor to make sound financial decisions, efficient and inexpensive access to market data information is vital. Thus, the Commission believes that reducing the market data fees should enhance investor access, and may encourage

[3] *See* Letter from Jeffrey S. Davis, Assistant General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 18, 2000 (''Amendment No. 1''). Amendment No. 1 clarifies that the pilot program will end on March 30, 2001.

[4] *See* Exchange Act Release No. 41499 (June 9, 1999), 64 FR 32910 (June 19, 1999).

[5] *Id.*

[6] 15 U.S.C. 78o–3(b)(5).

[7] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78o–3(b)(5).

increased investor participation in the securities.

Pursuant to Section 19(b)(2),[9] the Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will allow Nasdaq to expeditiously implement the pilot program to reduce market data fees without any unnecessary delay and should confer a benefit upon those firms that provide real-time data to their customers and subscribers. The Commission also notes that it did not receive any comments on the previous pilot program. Accordingly, the Commission does not believe that the current filing raises any regulatory issues not raised by the previous filing.

*It is Therefore Ordered,* pursuant to Section 19(b)(2)[10] of the Act, that the proposed rule change, as amended, (SR–NASD–00–19) is approved on an accelerated basis, for the pilot period ending March 30, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–10726 Filed 4–28–00; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78s(b)(2).

[10] *Id.*

[11] 17 CFR 200.30–3(a)(12).

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collections would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of this publication. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed at the end of this publication.

1. Supplement to Claim of Person Outside the United States-0960–0051. The information collected on Form SSA–21 is used by the Social Security Administration (SSA) to determine continuing entitlement to Social Security benefits and the proper benefit amounts of alien beneficiaries living outside the United States (U.S.). It is also used to determine whether benefits are subject to withholding tax. The respondents are comprised of individuals entitled to Social Security benefits, who are, will be, or have been residing outside the U.S.

*Number of Respondents:* 35,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 5 minutes.

*Estimated Annual Burden:* 2,917.

2. Statement of Care and Responsibility for Beneficiary-0960–0109. SSA uses Form SSA–788 to select the most qualified representative payee who will apply the benefits in the beneficiary's best interests. The respondents are individuals who have custody of a beneficiary where someone else has filed to be the beneficiary's payee.

*Number of Respondents:* 130,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Annual Burden:* 21,667 hours.

II. The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed at the end of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. Appointment of Representative—0960–0527. The information on Form SSA–1696 is used by SSA to verify the applicant's appointment of a representative. The form allows SSA to inform the representative of issues that affect the applicant's claim. The respondents are applicants who notify SSA that they have appointed a person to represent them.

*Number of Respondents:* 412,653.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Average Burden:* 68,776 hours.

2. Application for Social Security Disability Benefits—0960–0060. SSA uses the information collected on Form SSA–16 to determine eligibility for Social Security disability benefits. The respondents are applicants for such benefits.

*Number of Respondents:* 1,185,942.

*Frequency of Response:* 1.

*Average Burden Per Response:* 20 minutes.

*Estimated Average Burden:* 395,314 hours.

3. Request to be Selected as Payee—0960–0014. The information collected on Form SSA–11–BK is used to determine the proper payee for a Social Security beneficiary, and it is designed to aid in the investigation of a payee applicant. The form will establish the applicant's relationship to the beneficiary, the justification, the concern for the beneficiary and the manner in which the benefits will be used. The respondents are applicants for selection as representative payee for Old Age, Survivors and Disability Insurance (OASDI), Supplemental Security Income (SSI), Black Lung benefits and title–VIII Special Veterans Benefits.

*Number of Respondents:* 2,121,686.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10.5 minutes.

*Estimated Annual Burden:* 371,295 hours.

4. Application for Special Benefits for World War II Veterans—0960–0615. The information collected on Form SSA–2000 will be used by SSA to elicit the information necessary to determine entitlement of an individual to benefits under title VIII of the Social Security Act. Respondents are certain World War II Veterans as identified under title VIII.

*Number of Respondents:* 12,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 20 minutes.

*Estimated Annual Burden:* 4,000 hours.

5. Claim for Amounts Due in the Case of a Deceased Beneficiary—0960–0101. Section 204(d) of the Social Security Act provides that if a beneficiary dies before payment of Social Security benefits has been completed, the amount due will be paid to the persons meeting specified qualifications. The information collected on Form SSA–1724 is used by SSA to determine whether an individual

is entitled to the underpayment. The respondents are applicants for the amounts of an underpayment of a deceased beneficiary.

*Number of Respondents:* 300,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Annual Burden:* 50,000 hours.

6. Third party Liability Information Statement—0960–0323. Form SSA–8019 is used by SSA to gather information or to make changes in existing information about third party insurance (excluding Medicare or Medicaid), which could be responsible for payment for a beneficiary's medical care. The respondents are third-party insurers other than Medicare or Medicaid.

*Number of Respondents:* 95,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 5 minutes.

*Estimated Annual Burden:* 7,917 hours.

(SSA Address)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

(OMB Address)

Office of Management and Budget, OIRA,

Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503.

Dated: April 25, 2000.

**Frederick W. Brickenkamp,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. 00–10693 Filed 4–28–00; 8:45 am]

BILLING CODE 4191–02–P

## DEPARTMENT OF STATE

**[Public Notice 3302]**

### Office of Visa Services

**AGENCY:** Department of State.

**ACTION:** 30-Day notice of information collection; Medical examination of applicants for United States visas, Form OF–157.

**SUMMARY:** The Department of State has submitted the following information to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

*Type of Request:* Revision and Reinstatement Form.

*Originating Office:* CA/VO/F/P.

*Title of Information Collection:* Medical Examination of Applicants for United States Visas.

*Frequency:* 700,000.

*Form Number:* OF–157.

*Respondents:* Immigrant Visa Applicants.

*Estimated Number of Respondents:* 700,000.

*Average Hours Per Response:* 2 hours.

*Total Estimated Burden:* 1,400,000 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

*For Additional Information:* Copies of the proposed information collection and supporting documents may be obtained from Daria Darnell, 2401 E Street NW, Rm L–703, Tel: 202–663–1253, U.S. Department of State, Washington, DC 20520. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

Dated: April 14, 2000.

**Nancy Sambaiew,**

*Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs.*

[FR Doc. 00–10692 Filed 4–28–00; 8:45 am]

BILLING CODE 4710–06–P

## DEPARTMENT OF STATE

**[Public Notice 3303]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Frida Kahlo, Diego Rivera, and Twentieth-Century Mexican Art: The Jacques and Natasha Gelman Collection''

**DEPARTMENT:** United States 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 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999, as amended by Delegation of Authority No. 236–1 of November 9, 1999, I hereby determine that the objects to be included in the exhibit, ''Frida Kahlo, Diego Rivera, and Twentieth-Century Mexican Art: The Jacques and Natasha Gelman Collection,'' 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 temporary exhibition or display of the exhibit objects at the Museum of Contemporary Art, San Diego, CA, from on or about May 14, 2000, to on or about September 4, 2000, at the Dallas Museum of Art, Dallas, TX, from on or about October 8, 2000, to on or about January 28, 2001, and at the Phoenix Art Museum, Phoenix, AZ, from on or about April 7, 2001 to on or about July, 1, 2001, 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 W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is Room 700, United States Department of State, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: April 21, 2000.

**William B. Bader,**

*Assistant Secretary for Educational and Cultural Affairs, United States Department of State.*

[FR Doc. 00–10794 Filed 4–28–00; 8:45 am]

BILLING CODE 4710–08–P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG–1998–3553]**

### Marine Transportation System: Waterways, Ports, and Their Intermodal Connections

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting; request for comments.

**SUMMARY:** The Coast Guard, Maritime Administration, National Oceanic and Atmospheric Administration, U.S. Army Corp of Engineers, and the

Environmental Protection Agency are hosting seven Regional Dialog Sessions (RDS) in port cities around the country to report on progress in addressing the MTS Report recommendations and to more actively engage local and regional stakeholders in MTS issues. This notice announces the dates and locations of the seven Regional Dialog Sessions. These dialog sessions are the second round of outreach in developing a customer-based strategy to ensure the marine transportation system meets user and public expectations for the 21st century.

**DATES:** The public meetings will be held on the following dates:

Chicago, IL, May 31 from 1 p.m. to 5 p.m. and continuing on June 1, 2000 from 8:30 a.m. to noon.

Memphis, TN, June 6, 2000 from 9 a.m. to 5 p.m.

Philadelphia, PA, June 12, 2000 from 9 a.m. to 5 p.m.

Jacksonville, FL, June 20 from noon to 4 p.m. and continuing on June 21, 2000 from 8 a.m. to noon.

Seattle, WA, June 27, 2000 from 9 a.m. to 5 p.m.

Los Angeles, CA, July 11, 2000 from 9 a.m. to 5 p.m.

Houston, TX, July 17 from 1 p.m. to 5 p.m. and continuing on July 18, 2000 from 8 a.m. to noon.

Comments must be received by the Docket Management Facility by August 18, 2000.

**ADDRESSES:** The public meetings will be held at the following locations:

Chicago, IL—Federal Aviation Administration Conference Center, 2300 E. Devon Avenue, Des Plaines, IL 60018.

Memphis, TN—Cargill Inc., 1877 Channel Avenue, President's Island, TN 38113.

Philadelphia, PA—U.S. Environmental Protection Agency Region 3 Auditorium, 1650 Arch Street, 4th Floor, Philadelphia, PA 19103.

Jacksonville, FL—Sea Turtle Inn, 1 Ocean Blvd., Atlantic Beach, FL 32233.

Seattle, WA—NOAA's Auditorium in Building 9, 7600 Sand Point Way, Seattle, WA 98115–6349.

Los Angeles, CA—Port Plaza, 100 W. 5th Street, San Pedro, CA 90731.

Houston, TX—JW Marriott-Galleria, 5150 Westheimer Road, Houston, TX 7056.

To make sure your written comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–1998–3553), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this notice on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** For questions on the public docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329; for questions on this notice, contact LTJG Patrick Barelli, U.S. Coast Guard (G-MWP–1), telephone 202–267–2384.

**SUPPLEMENTARY INFORMATION:**

## Request for Comments

We encourage interested persons to participate in this dialog by submitting written data, views, or other relevant documents. Persons submitting comments should include their names and addresses, identify this notice (USCG–1998–3553), and the reasons for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ x 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES.** If you want acknowledgment of receipt of your comments, enclose a stamped, self-addressed post card or envelope. We will consider all comments presented at the regional dialog sessions and submitted in writing to the docket during the comment period.

## Background

The Marine Transportation System (MTS) includes waterways, ports, and their intermodal connections with highways, railways, and pipelines. The MTS links the United States to overseas markets and is important to national security interests. Excluding Mexico and Canada, over 95% of the U.S. foreign trade by tonnage is shipped by sea, and 14% of U.S. inter-city freight is transported by water. Forecasts show that U.S. foreign ocean-borne trade is expected to more than double by the year 2020; and commuter ferries, recreational boating, and other recreational uses of the waterway are expected to increase, placing even greater demands on the marine transportation system. In turn, an expanding marine transportation system will pose greater challenges for protecting and enhancing the environment.

Many federal agencies, state and local governments, port authorities, and the private sector share responsibility for the marine transportation system. Recognizing that the economic, safety, and environmental implications of aging infrastructure, inadequate channels, and congested intermodal connections will become more critical as marine traffic volume increases, the Secretary of Transportation began a multi-agency MTS initiative in March 1998.

The MTS initiative began in the spring of 1998 with seven Regional Listening Sessions to gather stakeholder input on the current state and future needs of the MTS. The input received at the listening sessions became the basis for a National MTS Conference in November of 1998. After the conference, the Secretary established the Congressionally mandated MTS Task Force to conduct an assessment of the U.S. Marine Transportation System. The September 1999 MTS Task Force Report to Congress, *An Assessment of the Marine Transportation System,* recommended action in seven strategic areas. The docket (USCG–1998–3553) contains the Report to Congress, summaries of the Regional Listening Sessions, and the Proceedings of the National MTS Conference. You may access it electronically on the Internet at *http://dms.dot.gov.* Implementation of the recommendations contained in Chapter 6 of the Report to Congress will be the focus of the Regional Dialog Sessions.

## Format of Regional Dialog Sessions

The regional dialog sessions are open to the public and will consist of briefings and facilitated breakout sessions. Public attendees are welcome to participate in all sessions.

## Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: April 25, 2000.

**R.C. North,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 00–10834 Filed 4–26–00; 4:50 pm]

BILLING CODE 4910–15–U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA; Joint RTCA Special Committee 181/EUROCAE Working Group 13 Standards of Navigation Performance

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint Special Committee 181/EUROCAE Working Group 13 meeting to be held May 15–19, 2000, starting at 9 a.m. The meeting will be held at the Northwest Airlines Training Facility (NATCO), 2600 Lone Oak Point, Eagan, MN 55121. The host, Mr. Frank Alexander, may be reached at (602) 436–7268 (phone).

The agenda will be as follows: May 15: (1) Working Group (WG)–4. May 16: (2) WG–4 continues; (3) WG–1 begins. May 17: (4) WG–1 and WG–4 continue meeting separately. May 18: Plenary convenes; (5) Introductory Remarks; (6) Working Group Reports; (7) Review of DO–236A and Moving Map Minimum Operational Performance Standards (MOPS). May 19: (8) Plenary Review of DO–236A and Moving Map MOPS continues; (9) New Business (Cold Temperature Addendum to DO–236A); (10) Date and Location of Next Meeting; (11) New Business; (12) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 24, 2000.

**Jane P. Caldwell,**

*Designated Official.*

[FR Doc. 00–10712 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA Special Committee 172; Future Air-Ground Communications in the VHF Aeronautical Data Band (118–137 MHz)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 172 meeting to be held May 22–25, 2000, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will be as follows: May 22: (a.m.) (1) Plenary Convenes at 9:00 a.m.; (2) Introductory Remarks; (3) Review and Approve Agenda; (4) Working Group (WG)–2, VHF Data Radio Signal-in-Space Minimum Aviation System Performance Standards, final work and vote on VDL Mode 3 document; (5) Continue WG–2; (6) Begin WG–3; (7) WG Continues with VHF Digital Radio Minimum Operational Performance Standards (MOPS) document progress and furtherance of work. May 24: Plenary Reconvenes: (8) Review Summary Minutes of Previous Meeting; (9) Review Reports from WG–2 and WG–3; (10) Report on ICAO Aeronautical Mobile Communications Panel Working Group Activities; (11) Review EUROCAE WG–47 Report and discuss schedule for further work with WG–3; (12) Review Issues List and Future Work Program; (13) Other Business; (14) Dates and Locations of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 24, 2000.

**Jane P. Caldwell,**

*Designated Official.*

[FR Doc. 00–10713 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad 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 Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on February 4, 2000 (65 FR 5721).

**DATES:** Comments must be submitted on or before May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 4, 2000, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 65 FR 4297. FRA received two comments after issuing this notice. The first comment was from the Association of American Railroads (AAR). AAR primarily took issue with FRA's time estimate for each information collection activity required by Part 225. Additionally, it submitted numbers for several of the reports required by this information collection.

AAR surveyed two Class I railroads—one a major freight railroad and the other a major passenger railroad—to glean the average time estimates and the estimated number of reports provided in the table included in its letter. FRA carefully considered all AAR's comments.

The first comment pertained to the Railroad Injury and Illness Summary (FRA Form 6180.55). AAR shows average time estimates of 75 minutes and 60 minutes for this form while FRA shows an average time estimate of 45 minutes. FRA's average estimate includes both large and small railroads. FRA believes its estimate is more representative than ones supplied by the AAR. Accordingly, FRA has kept its original estimate. The next comment pertained to the Railroad Injury and Illness Summary (Continuation Sheet) (FRA Form 6180.55A). AAR shows average time estimates of 60 minutes and 45 minutes for this form. FRA shows an average time estimate of 30 minutes. On closer inspection, FRA believes 45 minutes is a more accurate time estimate, and has accordingly replaced its number with the one supplied by AAR for this requirement. The next comment pertained to the Rail Equipment Accident/Incident Report (FRA Form 6180.54). AAR shows time estimates of 6 hours and 5.8–7 hours for this form while FRA shows 3 hours. FRA agrees that some of the accidents reported on this form do take six hours to complete. However, three quarters of most accidents occur in train yards and/or at slow speeds. Most of these reports can be completed in 90 minutes or less. The AAR has chosen a more serious accident for its calculations. FRA believes three hours is an accurate estimate for both large and small railroads. Accordingly, FRA retains three hours for this requirement. AAR also shows 671 forms and 50 forms as the number of responses for this requirement based on the two railroads surveyed. FRA estimate of 3,000 forms includes both large and small railroads, and comes from the agency's most current data. Accordingly, FRA adheres to its original number for this requirement. The next comment pertained to the Rail-Highway Grade Crossing Accident/Incident Report (FRA Form 6180.57). AAR shows average time estimates of 4 hours and 3 hours for this form while FRA shows 3 hours. AAR and FRA essentially agree. Accordingly, FRA retains its original estimate of three hours for this requirement. The next comment pertained to the Annual Railroad Report of Employee Hours and Casualties, By State (FRA Form 6180.56). AAR shows average time estimates of 4 hours and 3 hours for this form while FRA shows 3 hours. Here also AAR and FRA essentially agree. Accordingly, FRA retains its original estimate for this requirement. The next comment pertained to Telephone Reports of Certain Accidents/Incidents. AAR shows average time estimates of 30 minutes and 15 minutes while FRA shows 15 minutes. Once again, AAR and FRA essentially agree. Accordingly, FRA adheres to its original estimate for this requirement. The next comment pertained to Railroad Employee Injury and/or Illness Record (FRA Form 6180.98). AAR shows estimates of 30 minutes. FRA is in agreement with AAR and retains 30 minutes for its estimate. The next comment pertained to Copies of Forms (FRA Form 6180.98 or alternative form) to Employees. AAR shows estimates of 30 minutes while FRA shows 2 minutes as its estimate. FRA still believes it takes less than two minutes to make a copy of a two page report. FRA is hard pressed to understand the thirty minute figure stated by the AAR. Accordingly, FRA retains its original estimate of 2 minutes for this requirement. The next comment pertained to Posting of Monthly Summary. AAR shows average time estimates of 60 minutes while FRA shows 16 minutes. Since this function is now done by computer, FRA believes 60 minutes is much too high for the average estimate. Accordingly, FRA retains its original estimate for this requirement. The next comment pertained to Doubtful Cases; Alcohol or Drug Involvement. AAR shows average time estimates of 60 minutes and 30 minutes while FRA shows 15 minutes. On closer inspection, FRA believes thirty minutes is a more accurate number for this requirement. Accordingly, FRA adopts the AAR estimate. AAR also shows 50 reports as the number of responses for this requirement. FRA's estimate shows 80 reports and is based on the latest data supplied by both large and small railroads. Accordingly, FRA adheres to its original estimate. The next comment pertained to Employee Human Factor Attachment (FRA Form 6180.81). AAR shows average time estimates of 30 minutes and 15 minutes. FRA also shows 15 minutes. AAR and FRA essentially agree. Consequently, FRA retains fifteen minutes as its estimate for this requirement. AAR also shows 301 forms as the average number of responses for this requirement while FRA shows 971 forms. Again, the FRA number includes both large and small railroads, and reflects the latest agency data. Accordingly, FRA retains its 971 forms as its estimate. The next comment pertained to Notice to Railroad Employee Involved in Rail Equipment Accident/Incident Attributed to Employee Human Factor (FRA Form 6180.78) (Part I). AAR shows average time estimates of 60 minutes while FRA shows 30 minutes. Based on the data its has received, FRA believes 30 minutes is more than adequate to complete the required notice. Accordingly, FRA retains its original estimate. Additionally, AAR shows the number of responses as 301 notices while FRA shows 1,013 notices for this requirement. FRA re-checked its latest data and determined that 971 notices is the correct number, representing both large and small railroads. AAR's number is solely derived from one large railroad. Consequently, FRA retains its revised estimate of 971 notices for Part I. The next comment pertained to Part II of Form 6180.78. AAR shows 3 hours and 2.5 hours as the average time estimate while FRA shows 2 hours. On closer inspection, FRA believes 2.5 hours is a more accurate number, and accordingly revises its estimate to use the AAR number. AAR also shows 25 statements as the number of responses for Part II while FRA shows 101 statements. Again, FRA re-checked its data and determined 97 statements is the correct number for this requirement. AAR's number represents one large railroad while FRA's estimate includes both large and small railroads, and is taken from the agency's latest data. Accordingly, FRA retains its revised estimate for this requirement. The next comment pertained to Railroad Consultations in Joint Operations Accidents/Incidents. AAR shows 3 hours and 2.5 hours as the average time estimate while FRA shows 1 hour. Since there are only 10 fields of information exchanged among carriers, FRA believes one hour is more than adequate time to complete the exchange. Accordingly, FRA retains its original estimate of one hour. AAR also shows 10 requests as the number of responses for this requirement while FRA shows 30 requests. Again, FRA's estimate reflects its latest data for all railroads. Accordingly, FRA adheres to its original number of responses. The next comment pertained to Employee Confidential Letter(s). AAR did not submit an average time estimate for this requirement. It also did not submit an average number of responses. Accordingly, FRA retains two hours as the average time estimate, and 30 letters as the average number of responses. The next comment pertained to Railroad

Review of Statement. Again, AAR did not submit estimates for the average time estimate or the average number of responses. Accordingly, FRA retains 1.5 hours and 4 hours as the time estimates, and 97 supplements and 25 reports as the average number of responses. The next comment pertained to Batch Control Form (Form FRA 6180.99). Here also AAR did not submit an average time estimate or an average number of responses. Accordingly, FRA retains 10 minutes as the average time estimate, and 96 forms as the average number of responses. The next comment pertained to Initial Rail Equipment Accident/Incident Record (Form FRA 6180.97). AAR shows average time estimates of 6 hours and 4.75 hours while FRA shows 30 minutes for this requirement. Accountable train accidents are accidents with a low dollar damage. Most of the reports involve very minor derailments where no analysis or investigation is required. AAR has almost the same numbers for a serious accident as they do for a minor accident. The time consuming process is damage calculation and determining the accident cause. Neither of these items is difficult or time consuming for a minor derailment. Accordingly, FRA retains 30 minutes as the average time estimate for this requirement. AAR also shows 4,432 forms as the average number of forms while FRA shows 12,095 forms. FRA re-checked its numbers, and determined that 12,575 forms was a more accurate number than its original estimate. Since FRA's estimate represents both large and small railroads rather than one large railroad as representative of the entire industry, FRA retains 12,575 forms as the average number of responses for this requirement. The next two comments deal with Internal Control Plans and Intimidation/Harassment Policies. Although both AAR and FRA show average time estimates, these two requirements were one-time and have already been fulfilled. Consequently, there is no burden for either requirement. The next comment pertained to Subsequent Years: Internal Control Plan. AAR shows estimates of 4 hours while FRA shows an estimate of 14 hours. FRA believes that new railroad in subsequent years will take more than four hours to develop an ICP. FRA believes fourteen hours is a more representative number since it is based on the agency's latest data. Accordingly, FRA retains 14 hours as the average time estimate for this requirement. The next comment pertained to Amendments to Internal Control Plans. AAR shows 4 hours for this requirement while FRA shows 1 hour. AAR showed four hours as the time necessary to develop a complete Internal Control Plan (ICP). FRA does not believe that it takes four hours to amend an ICP. FRA believes one hour is a more accurate estimate. Accordingly, FRA retains one hour as the average time estimate for this requirement. AAR shows time estimates for FRA follow-up, reporting, and other audits of derailment information in the above reports. These are not paperwork requirements under the Paperwork Reduction Act of 1995, and no estimates are provided by FRA. The last comment pertains to Written Request by Employee Not to Post their Injury/Illness. AAR shows average time estimates of 30 minutes and 15 minutes while FRA shows 60 minutes for this requirement. FRA believes that it will take a combined total of one hour for the employee to prepare his/her letter, forward it to the railroad's reporting officer, and have the reporting officer review the letter and make sure the injury/illness in question is not posted. FRA believes its estimate more accurately reflects the true burden. Accordingly, FRA retains 60 minutes as the average time estimate for this requirement.

The second comment received by FRA was from the Bureau of Economic Analysis (BEA) of the Department of Labor. BEA remarked that the forms used in this information collection meet its needs. BEA uses data collected on these forms to prepare estimates of the employee compensation component of gross domestic product and State personal income. BEA strongly endorses this collection of information by FRA.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

*Title:* Accident/Incident Reporting and Recordkeeping.

*OMB Control Number:* 2130–0500.

*Type of Request:* Extension of a currently approved collection.

*Affected Public:* Railroads.

*Form(s):* FRA F 6180.33; 6180.54; 6180.55/55A; 6180.56; 6180.57; 6180.78/81/97/98.

*Abstract:* The collection of information is due to the railroad accident reporting regulations set forth in 49 CFR Part 2225 which require railroads to submit monthly reports summarizing collisions, derailments, and certain other accidents/incidents involving damages above a periodically revised dollar threshold, as well as certain injuries to passengers, employees, and other persons on railroad property. Because the reporting requirements and the information needed regarding each category of accident/incident are unique, a different form is used for each category.

*Annual Estimated Burden Hours:* 58,841 hours.

*Addressee:* Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, N.W., Washington, D.C., 20503; Attention: FRA Desk Officer.

*Comments are invited on the following:* Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates 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.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

**Authority:** 44 U.S.C. 3501–3520.

Issued in Washington, DC on April 26, 2000.

**Margaret B. Reid,**

*Acting Director, Office of Information Technology and Support Systems, Federal Railroad Administration.*

[FR Doc. 00–10781 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–06–P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA 2000–7290]**

### Petition for Waiver To Operate Special Train

The National Railroad Passenger Corporation (Amtrak) has filed a letter with the Federal Railroad Administration (FRA) seeking approval to operate a special non-revenue train for the Arizona Department of Transportation on May 5, 2000. A copy of this letter is included in the docket. The two-hour train run will use track owned by the Union Pacific between Phoenix and Tucson, Arizona. The train proposed for use will include two Amtrak locomotives, one at each end, and a 12-car trainset manufactured by Talgo. The Talgo trainset is currently being operated by Amtrak in the Pacific Northwest Rail Corridor between Eugene, Oregon and Vancouver, British Columbia. FRA is treating the request as a temporary waiver request from the requirements of 49 CFR 238.203.

Amtrak has previously filed a grandfathering petition with FRA for approval to continue using the trainset in question and four other Talgo trainsets; these trainsets do not meet the static end strength standards specified in 49 CFR 238.203. This grandfathering petition has been docketed as Docket No. FRA–1999–6404. Paragraph (d) of section 238.203 allows a railroad to continue using railroad passenger equipment that does not conform to FRA's static end strength requirements on a particular rail line or lines while a petition for grandfathering approval is being processed. None of the five trainsets has been used on the Union Pacific's rail line between Phoenix and Tucson.

Amtrak's letter includes the following discussion of the special precautions Amtrak is taking to protect the safety of the special train run.

> The precautions that we are prepared to take—such as: (i) ensuring that an Amtrak locomotive will be on each end of the Talgo trainset, followed by a Talgo power or baggage car that carries no passengers; (ii) operating the equipment during daylight hours only; (iii) ensuring operating supervision by both the Union Pacific and Amtrak; (iv) maintaining speed restrictions within yard limits; and (v) having the State of Arizona provide increased grade crossing protection—when coupled with the fact that we will be using equipment that is currently operating safely under similar conditions in the Pacific Northwest, demonstrates that this special train will in no way compromise the safety of the passengers, railroad employees or the general public.

Interested parties are invited to participate in this proceeding (Docket No. FRA–2000–7290) by submitting written views, data, or comments. In accordance with 49 CFR 211.25, FRA has decided to hold a public hearing on Amtrak's request to use the trainset on the special train run. A public hearing is hereby set for 1 p.m. on Wednesday, May 3, 2000, at the Federal Railroad Administration, 7th floor, conference room 2, 1120 Vermont Ave., NW, Washington, DC 20590. Interested parties are invited to present oral statements at the hearing. The hearing will be an informal one and will be conducted in accordance with FRA's Rules of Practice (49 CFR 211.25) by a representative designated by FRA. The hearing will be a non-adversarial proceeding; therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which initial statements were made. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Written comments should identify Docket No. FRA–2000–7290 and must be submitted to the Docket Clerk, DOT Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW, Washington, DC 20590. Communications received by May 3, 2000 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

FRA makes clear that the hearing scheduled for May 3, 2000 is not a hearing on the merits of Amtrak's grandfathering petition, identified as Docket No. FRA–1999–6404.

Issued in Washington, DC, on April 26, 2000.

**S. Mark Lindsey,**

*Acting Deputy Administrator, Federal Railroad Administration.*

[FR Doc. 00–10835 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–06–P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Notice of Granted Buy America Waiver

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of Granted Buy America Waiver.

**SUMMARY:** This waiver allows Orion Bus Industries (Orion) to count the axle used in the Orion II paratransit vehicle as a domestic component for the purposes of calculating overall domestic content and was predicated on the non-availability of the item domestically. A similar waiver was granted by FTA to Orion in 1998 for the period of two years. Because the market has not changed in the intervening two years, Orion requested that FTA extend this waiver. It was extended on February 28, 2000, for the period of two years, or until such time as a domestic source for this heavy-duty axle becomes available. This notice shall insure that the public, particularly potential manufacturers, is aware of this waiver. FTA requests that the public notify it of any relevant changes in the domestic market of heavy-duty axles.

**FOR FURTHER INFORMATION PLEASE CONTACT:** Meghan G. Ludtke, FTA Office of Chief Counsel, Room 9316, (202) 366–4011 (telephone) or (202) 366–3809 (fax).

**SUPPLEMENTARY INFORMATION:** The above referenced waiver is as follows:

February 28, 2000.

Mr. Paul Royal,

*Executive Vice President, Orion Bus Industries, A Division of Western Star Trucks, Inc., 350 Hazelhurst Road, Mississauge, Ontario.*

Re: Application for Extension of Buy America Waiver for Orion II Component

Dear Mr. Royal: This letter responds to your correspondence of January 19, 2000, in which you request an extension of a Buy America waiver granted for the procurement of the GNX axle for use in your Orion II paratransit vehicle. The original two-year waiver was granted on February 27, 1998, per your request of December 22, 1997. This letter incorporates, by reference, the information contained in the above letters.

The Federal Transit Administration's (FTA) requirements concerning domestic preference for federally funded transit projects are set forth in 49 U.S.C. 5323(j). Section 5323(j)(2)(C) addresses the general requirements for the procurement of rolling stock. This section provides that all rolling stock procured with FTA funds must have a domestic content of at least 60 percent and must undergo final assembly in the U.S.

This waiver would allow Orion to count the axle as domestic for the purposes of calculating overall domestic content of the vehicle. You request a waiver under 49

U.S.C. 5323(j)(2)(B), which states those requirements shall not apply if the item or items being procured are not produced in the U.S. in sufficient and reasonably available quantities and of a satisfactory quality. The implementing regulation provides that, ''[i]t will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States.'' 49 CFR 661.7(c)(1). The regulation goes on to note that, ''[t]he waivers described in paragraphs (b) and (c) of this section may be granted for a component or subcomponent in the case of procurement of the items governed by section 165(b)(3) of the Act (requirements for rolling stock). If a waiver is granted for a component or subcomponent, that component or subcomponent will be considered to be of domestic origin for the purposes of Section 661.11 of this part.'' 49 CFR 661.7(f). The regulations allow a bidder or supplier to request a non-availability waiver for a component or subcomponent in the procurement of rolling stock. See 49 CFR 661.7(f) and 49 CFR 661.9(d).

You claim that the type of axle necessary for the production of the Orion II is not available from a domestic source. In addition to the representations in your correspondence, you have also provided me with letters from two U.S. manufacturers of the heavy-duty axle, Spicer Heavy Axle and Meritor Automotive, Inc. You represent that these are the only two such manufacturers, and they both indicate that they have no plans to manufacture the product in the U.S.

Based on the information you have provided, I have determined that the grounds for a ''non-availability'' waiver do exist. Therefore, pursuant to the provisions of 49 U.S.C. 5323(j)(2)(B), the waiver is hereby extended for the procurement of heavy-duty axles for the Orion II for the period of two years, or until such time as a domestic source for this heavy-duty axle becomes available. In order to insure that the public is aware of this waiver, particularly potential manufacturers, this waiver will be published in the **Federal Register**.

If you have any questions, please contact Meghan G. Ludtke at (202) 366–4011.

Very truly yours,

**Gregory B. McBride,**

*Deputy Chief Counsel.*

Issued: April 26, 2000.

**Nuria I. Fernandez,**

*Acting Administrator.*

[FR Doc. 00–10779 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–57–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the information collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. 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 February 15, 2000 (65 FR 7608).

**DATES:** Comments must be submitted on or before May 31, 2000. Comments were due April 17, 2000. No comments were received.

**FOR FURTHER INFORMATION CONTACT:** Christopher Krusa, Office of Maritime Labor, Training, and Safety, Maritime Administration, 400 Seventh Street, SW, Room 7302, Washington, DC 20590, telephone number 202–366–2648. Copies of this collection can also be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

### Maritime Administration

*Title of Collection:* ''Information to Determine Seamen's Reemployment Rights—National Emergency.''

*OMB Control Number:* 2133–0526.

*Type of Request:* Approval of an existing information collection.

*Affected Public:* U.S. merchant seamen who have completed designated national service in time of war or national emergency and are seeking reemployment with a prior employer.

*Form(s):* None.

*Abstract:* MARAD is requesting approval of this information collection in an effort to implement provisions of the Maritime Security Act of 1996. These provisions amend the Merchant Marine Act, 1936, to grant reemployment rights and other benefits to certain merchant seamen serving on vessels used by the United States for a war, armed conflict, national emergency, or maritime mobilization need. This rule establishes the procedure for obtaining the necessary MARAD certification for reemployment rights and other benefits conferred by statute and MARAD's assistance in pursuing these statutory rights and benefits. This collection requires merchant seamen to provide documents indicating their period of employment and their merchant mariner's status. The information provided will allow MARAD to determine eligibility for reemployment rights when the employment is related to a designated national service.

*Annual Estimated Burden Hours:* 50 hours.

**ADDRESSES:** 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: April 25, 2000.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 00–10722 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the information collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. 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 February 15, 2000 [65 FR 7607]. Public comments were due on or before April 17, 2000. No comments were received.

**DATES:** Comments must be submitted on or before May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Thomas W. Harrelson, Office of Cargo Preference, Maritime Administration, 400 Seventh Street, SW, Room 8118, Washington, DC 20590, telephone number 202–366–4610. Copies of this collection can also be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

**Maritime Administration**

*Title of Collection:* ''Monthly Report of Ocean Shipments Moving Under Export-Import Bank (Eximbank) Financing''.

*OMB Control Number:* 2133–0013.

*Type of Request:* Approval of an existing information collection.

*Affected Public:* Shippers who are subject to Eximbank financing requirements.

*Form(s):* MA–518.

*Abstract:* Title 46 App. U.S.C. 1241–1, Public Resolution 17, 73rd Congress (PR 17), requires MARAD to monitor and enforce the U.S.-flag shipping requirements relative to the loans/guarantees extended by the Eximbank to foreign borrowers. PR 17 requires that shipments financed by Eximbank and that move by sea, must be transported exclusively on U.S.-flag registered vessels unless a waiver is obtained from MARAD. The prescribed monthly report is necessary for MARAD to fulfill its responsibilities under PR 17, to ensure compliance of ocean shipping requirements operating under Eximbank financing, and to ensure equitable distribution of shipments between U.S.-flag and foreign ships. MARAD will use this information to report annually to Congress the total shipping activities during the calendar year.

*Annual Estimated Burden Hours:* 168 Hours.

**ADDRESSES:** 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: April 25, 2000.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 00–10723 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the information collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. 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 February 8, 2000 [65 FR 6249]. Comments were due April 11, 2000. No comments were received.

**DATES:** Comments must be submitted on or before May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Thomas Olsen, Office of Financial and Rate Approvals, Room 8117, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone number 202–366–2313. Copies of this collection can also be obtained from that office.

**SUPPLEMENTARY INFORMATION:**

**Maritime Administration**

*Title of Collection:* ''Determination of Fair and Reasonable Rates For the Carriage of Bulk and Packaged Cargoes on U.S.-flag Commercial Vessels.''

*OMB Control Number:* 2133–0514.

*Type of Request:* Approval of an existing information collection.

*Affected Public:* U.S. citizens that own and/or operate U.S.-flag vessels.

*Form(s):* None.

*Abstract:* This collection of information requires U.S.-flag operators to submit vessel operating costs and capital costs data to MARAD officials on an annual basis. The costs are used by MARAD in determining fair and reasonable guideline rates for the carriage of preference cargoes on U.S.-flag vessels. In addition, U.S.-flag vessel operators are required to submit Post Voyage Reports to MARAD after completion of a cargo preference voyage. The information collection is used by MARAD officials to calculate fair and reasonable rates for U.S.-flag vessels engaged in the carriage of preference cargoes.

*Annual Estimated Burden Hours:* 640 Hours.

**ADDRESSES:** 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: April 25, 2000.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 00–10724 Filed 4–28–00; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[FI–182–78]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, FI–182–78, Transfers of Securities Under Certain Agreements (Section 1.1058–1(b)).

**DATES:** Written comments should be received on or before June 30, 2000, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue

Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Transfers of Securities Under Certain Agreements.

*OMB Number:* 1545–0770.

*Regulation Project Number:* FI–182–78.

Abstract: Section 1058 of the Internal Revenue Code provides tax-free treatment for transfers of securities pursuant to a securities lending agreement. The agreement must be in writing and is used by the taxpayer, in a tax audit situation, to justify nonrecognition treatment of gain or loss on the exchange of the securities.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and not-for-profit institutions.

*Estimated Number of Respondents:* 11,742.

*Estimated Time Per Respondent:* 50 min.

*Estimated Total Annual Burden Hours:* 9,781.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 20, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10814 Filed 4–28–00; 8:45 am]

**BILLING CODE 4830–01–U**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 3903

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3903, Moving Expenses.

**DATES:** Written comments should be received on or before June 30, 2000, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Moving Expenses.

*OMB Number:* 1545–0062.

*Form Number:* Form 3903.

*Abstract:* Internal Revenue Code section 217 requires itemization of various allowable moving expenses. Form 3903 is used to compute the moving expense deduction and is filed with Form 1040 by individuals claiming employment related moves. The data is used to help verify that the expenses are deductible and that the deduction is computed correctly.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 678,678.

*Estimated Time Per Respondent:* 1 hr., 8 min.

*Estimated Total Annual Burden Hours:* 773,693.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 19, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10815 Filed 4–28–00; 8:45 am]

**BILLING CODE 4830–01–U**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 9465

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9465, Installment Agreement Request.

**DATES:** Written comments should be received on or before June 30, 2000, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Installment Agreement Request.

*OMB Number:* 1545–1350.

*Form Number:* Form 9465.

*Abstract:* Form 9465 is used by the public to provide identifying account information and financial ability to enter into an installment agreement for the payment of taxes. The form is used by IRS to establish a payment plan for taxes owed to the federal government, if appropriate, and to inform taxpayers about the application fee and their financial responsibilities.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 760,000.

Estimated Time Per Respondent: 53 min.

*Estimated Total Annual Burden Hours:* 676,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 20, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10816 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 4136

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4136, Credit for Federal Tax Paid on Fuels.

**DATES:** Written comments should be received on or before June 30, 2000, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Credit for Federal Tax Paid on Fuels.

*OMB Number:* 1545–0162.

*Form Number:* Form 4136.

*Abstract:* Internal Revenue Code section 34 allows a credit for Federal excise tax for certain fuel uses. Form 4136 is used to figure the amount of income tax credit. The data is used by the IRS to verify the validity of the claim for the type of nontaxable or exempt use.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, and farms.

*Estimated Number of Respondents:* 619,851.

*Estimated Time Per Respondent:* 4 hr., 24 min.

*Estimated Total Annual Burden Hours:* 2,725,756.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection

techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 20, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10817 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 2106

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2106, Employee Business Expenses.

**DATES:** Written comments should be received on or before June 30, 2000, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Employee Business Expenses.

*OMB Number:* 1545–0139.

*Form Number:* 2106.

*Abstract:* IRC section 62 allows employees to deduct their business expenses to the extent of reimbursement in computing adjusted gross income. Expenses in excess of reimbursements are allowed as an itemized deduction. Unreimbursed meals and entertainment are allowed to the extent of 50% of the expense. Form 2106 is used to compute these expenses.

*Current Actions:* Lines 22b and 22c are being deleted from Part II of Form 2106 to comply with Revenue Procedure 99–38, which prescribes the new standard mileage rate of 32.5 cents per mile, effective 1/1/2000 for the entire year. This is a change from last year's form when there were two different rates during the year. This year there is one rate and taxpayers need only one line to make the computation.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 762,514.

*Estimated Time Per Respondent:* 4 hr., 11 min.

*Estimated Total Annual Burden Hours:* 3,189,745.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 20, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10818 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 2106–EZ

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2106–EZ, Unreimbursed Employee Business Expenses.

**DATES:** Written comments should be received on or before June 30, 2000, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Unreimbursed Employee Business Expenses.

*OMB Number:* 1545–1441.

*Form Number:* 2106–EZ.

*Abstract:* IRC section 62 allows employees to deduct their business expenses to the extent of reimbursement in computing adjusted gross income. Expenses in excess of reimbursements are allowed as an itemized deduction. Unreimbursed meals and entertainment are allowed to the extent of 50% of the expense. Form 2106–EZ is used by employees who are deducting expenses attributable to their jobs and are not reimbursed by their employer for any expenses or who own a vehicle used for business purposes and use the standard mileage rate.

*Current Actions:* Lines 1b and 1c are being deleted from Part I of Form 2106–EZ to comply with Revenue Procedure 99–38, which prescribes the new standard mileage rate of 32.5 cents per mile, effective 1/1/2000 for the entire year. This is a change from last year's form when there were two different rates during the year. This year there is

one rate and taxpayers need only one line to make the computation.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 3,337,019.

*Estimated Time Per Respondent:* 1 hr., 36 min.

*Estimated Total Annual Burden Hours:* 5,339,230.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 20, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10819 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 4137

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4137, Social Security and Medicare Tax on Unreported Tip Income.

**DATES:** Written comments should be received on or before June 30, 2000, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Social Security and Medicare Tax on Unreported Tip Income.

*OMB Number:* 1545–0059.

*Form Number:* Form 4137.

*Abstract:* Form 4137 is used to figure the social security and Medicare tax owed on tips received by an employee but not reported to his or her employer, including any allocated tips shown on Form W–2 that must be reported as income. Form 4137 is also used to compute the social security and Medicare tips to be credited to the employee's social security record.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 76,000.

*Estimated Time Per Respondent:* 1 hr., 11 min.

*Estimated Total Annual Burden Hours:* 90,440.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 19, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10820 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 6198

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6198, At-Risk Limitations.

**DATES:** Written comments should be received on or before June 30, 2000, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions

should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* At-Risk Limitations.

*OMB Number:* 1545–0712.

*Form Number:* Form 6198.

*Abstract:* Internal Revenue Code section 465 requires taxpayers to limit their at-risk loss to the lesser of the loss or their amount at risk. Form 6198 is used by taxpayers to determine their deductible loss and by IRS to verify the amount deducted.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, and individuals, not-for-profit institutions, and farms.

*Estimated Number of Respondents:* 121,400.

*Estimated Time Per Respondent:* 3 hr., 38 min.

*Estimated Total Annual Burden Hours:* 440,682.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10821 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–U

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8822

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8822, Change of Address.

**DATES:** Written comments should be received on or before June 30, 2000 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Change of Address.

*OMB Number:* 1545–1163.

*Form Number:* Form 8822.

*Abstract:* Form 8822 is used by taxpayers to notify the Internal Revenue Service that they have changed their home or business address or business location.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

*Estimated Number of Respondents:* 1,500,000.

*Estimated Time Per Respondent:* 16 min.

*Estimated Total Annual Burden Hours:* 387,501.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 13, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10822 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 2031

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C.

3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2031, Revocation of Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders, and Christian Science Practitioners.

**DATES:** Written comments should be received on or before June 30, 2000 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Revocation of Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders, and Christian Science Practitioners.

*OMB Number:* 1545–1679.

*Form Number:* 2031.

*Abstract:* Public Law 106–170 allows ministers, members of religious orders, and Christian Science practitioners, who have previously been granted exemption from self-employment tax under IRC section 1402(e), to revoke that exemption. Form 2031 will be used by these filers for this purpose.

*Current Actions:* There are no changes being made to the form at this time.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 5,000.

*Estimated Time Per Respondent:* 36 mins.

*Estimated Total Annual Burden Hours:* 3,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 25, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10823 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8611

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8611, Recapture of Low-Income Housing Credit.

**DATES:** Written comments should be received on or before June 30, 2000 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Recapture of Low-Income Housing Credit.

*OMB Number:* 1545–1035.

*Form Number:* 8611.

*Abstract:* IRC section 42 permits owners of residential rental projects providing low-income housing to claim a credit against their income tax. If the property is disposed of or it fails to meet certain requirements over a 15-year compliance period and a bond is not posted, the owner must recapture on Form 8611 part of the credits taken in prior years.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations and individuals.

*Estimated Number of Respondents:* 1200.

*Estimated Time Per Respondent:* 8 hr., 56 min.

*Estimated Total Annual Burden Hours:* 10,723.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 25, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10824 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8800

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8800, Application for Additional Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts.

**DATES:** Written comments should be received on or before June 30, 2000 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title*: Application for Additional Extension of Time to File U.S. Return for a Partnership, REMIC, or for Certain Trusts

*OMB Number*: 1545–1057

*Form Number*: Form 8800

*Abstract*: Form 8800 is used by partnerships, REMIC, and by certain trusts to request an additional extension of time (up to 3 months) to file Form 1065, Form 1041, or Form 1066. Form 8800 contains data needed by the IRS to determine whether or not a taxpayer qualifies for such an extension.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, and farms.

*Estimated Number of Respondents:* 20,000.

*Estimated Time Per Respondent:* 13 min.

*Estimated Total Annual Burden Hours:* 4,210.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10825 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 982

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment).

**DATES:** Written comments should be received on or before June 30, 2000 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment).

*OMB Number:* 1545–0046.

*Form Number:* Form 982.

*Abstract:* Internal Revenue Code section 108 allows taxpayers to exclude from gross income amounts attributable to discharge of indebtedness in title 11 cases, insolvency, or a qualified farm indebtedness. Code section 1081(b) allows corporations to exclude from gross income amounts attributable to certain transfers of property. The data is used to verify adjustments to basis of property and reduction of tax attributes.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, and individuals.

*Estimated Number of Respondents:* 1,000.

*Estimated Time Per Respondent:* 9 hrs., 13 min.

*Estimated Total Annual Burden Hours:* 9,610.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10826 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Forms 5712 and 5712–A

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5712, Election To Be Treated as a Possessions Corporation Under Section 936, and Form 5712–A, Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5).

**DATES:** Written comments should be received on or before June 30, 2000 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the forms and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Election To Be Treated as a Possessions Corporation Under Section 936 (Form 5712), and Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5) (Form 5712–A).

*OMB Number:* 1545–0215.

*Form Number:* Forms 5712 and 5712–A.

*Abstract:* Domestic corporations may elect to be treated as possessions corporations on Form 5712. This election allows the corporation to take a tax credit. Possession corporations may elect on Form 5712–A to share their taxable income with their affiliates under Internal Revenue Code section 936(h)(5). These forms are used by the IRS to ascertain if corporations are entitled to the credit and if they may share their taxable income with their affiliates.

*Current Actions:* There are no changes being made to the forms at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 2,600.

*Estimated Time Per Respondent:* 6 hrs., 35 min.

*Estimated Total Annual Burden Hours:* 17,132.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments*

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10827 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[PS–79–93]**

### Proposed Collection; Comment Request For Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–79–93 (TD 8633), Grantor Trust Reporting Requirements (§ 1.671–4).

**DATES:** Written comments should be received on or before June 30, 2000 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Grantor Trust Reporting Requirements.

*OMB Number:* 1545–1442.

*Regulation Project Number:* PS–79–93.

*Abstract:* The information required by these regulations is used by the Internal Revenue Service to ensure that items of income, deduction, and credit of a trust

treated as owned by the grantor or another person are properly reported.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, and business or other for-profit organizations.

*Estimated Number of Respondents:* 1,840,000.

*Estimated Time Per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 920,000 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2000.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 00–10828 Filed 4–28–00; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Minority Veterans, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Advisory Committee on Minority Veterans has been renewed for a period beginning April 18, 2000, through April 18, 2002.

Dated: April 21, 2000.

By direction of the Secretary.

**Marvin R. Eason,**

*Committee Management Officer.*

[FR Doc. 00–10773 Filed 4–28–00; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
May 1, 2000

# Part II

# Department of Housing and Urban Development

## Fair Housing Initiatives Program; Public Forum Focus Group Meeting Information; Notice

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4560–N–04]**

## Fair Housing Initiatives Program; Notice of Public Forum Focus Group Meeting Information

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of information from a Focus Group Meeting held in connection with the preparation for a National Best Practices Symposium for 2000. Among the topics discussed was information that may be related to the Fair Housing Partnership Component (FHPC) of the Fair Housing Initiatives Program (FHIP) funding availability announcement that was part of HUD's SuperNOFA, published February 24, 2000.

**DATES:** *Comment Due Date:* May 31, 2000.

**ADDRESSES:** Interested persons are invited to submit comments regarding any aspect of the Focus Group Meeting to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. 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:** For further information, please contact Lauretta A. Dixon, Director, FHIP/FHAP Support Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC 20410. As additional information regarding the Focus Groups Meetings becomes available, it will be posted on HUD's website (www.hud.gov/). Information also may be obtained by contacting your local HUD office, or by contacting the Office of Fair Housing and Equal Opportunity, or the Best Practices Office in the Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC 20410; telephone (202) 708–4252 (This is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION**

### I. Background—Availability of Information and Request for Comments

In preparation for a National Best Practices Symposium for 2000, HUD is arranging Focus Group Meetings by each major office in the Department. In the Focus Group Meetings, groups and organizations that received 1999 Best Practices nominations and awards are invited to participate in the planning of the 2000 Symposium. On February 24, 2000, the Office of Fair Housing and Equal Opportunity conducted a Focus Group Meeting entitled, ''Building Fair Housing and Equal Opportunity Coalitions—A Model for Ending Discrimination in Communities.'' Some of the participants in this Building FHEO Coalitions Focus Group Meeting are current Fair Housing Partners under the Fair Housing Initiatives and the Fair Housing Assistance Programs, and some of the discussions that took place may be helpful to applicants under the Fair Housing Partnership Component (FHPC) of the Fair Housing Initiatives Program (FHIP) funding availability announcement that was part of HUD's SuperNOFA, published February 24, 2000 (see 65 FR 9322, at 9485).

Those attending the Focus Group Meeting on Building FHEO Coalitions responded to an invitation sent to all 1999 Best Practices nominees, and came at their own expense to participate in this Meeting, which was held at HUD, 451 7th Street, SW, Washington, DC, from 8:30 AM to 4:30 PM. The following attendees represented fair housing agencies: Tracey Gill, Baltimore Neighborhoods, Inc.; Lee Porter, Fair Housing Council, New Jersey; Mary Davis, Cuyahoga County (Ohio) Department of Development; Louise W. Lorenz and Jan Alderton Pallesen of the Cedar Rapids, Iowa, Civil Rights Commission; Nancy Downing of the Connecticut Fair Housing Center; and Barbara Snow and Tyrone Davis of the Housing Authority of Baltimore City. Attendees met with HUD officials in a one day session to discuss a HUD model for ''Building Fair Housing and Equal Opportunity Coalitions—A Model for Ending Discrimination in Communities,'' and strengths and weaknesses within that model.

This Notice is published to inform the public that an audio tape of the Focus Group Meeting is available by contacting any of the sources listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. The text of the model document discussed at the meeting follows below in section II. of this notice. HUD invites the public to comment on this model document. The Department also welcomes comments on the issues discussed in the Focus Group Meeting. Please submit your comments in accordance with the requirements of the **DATES** and **ADDRESSES** sections of this notice. After consideration of the comments received, HUD may prepare a revised model for presentation at the National Best Practices Symposium for 2000.

### II. Discussion Document

The following document was discussed at the Focus Group Meeting held on February 24, 2000:

### Building Fair Housing and Equal Opportunity Coalitions A Model for Ending Discrimination in Communities

The Department of Housing and Urban Development is committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities and other discriminatory practices in housing. Equal and free access to residential housing (housing choice) is fundamental to meeting essential needs and pursuing personal, educational, employment, or other goals. Because housing choice is so critical, fair housing is a goal that Government, public officials, and private citizens must achieve if equal opportunity is to become a reality.

HUD works with various agencies across the country to help remedy discrimination in the housing industry. Working in communities, these agencies enforce substantially equivalent fair housing laws and ordinances and educate and promote fair housing awareness. Great strides have been made in increasing awareness and breaking down the barriers to equal housing choice in America. However, until discrimination is eliminated, we must continue to explore ways to better address the causes of discrimination and methods for breaking down the barriers that prevent equal housing choices. Developing local fair housing partnerships is one such method for improving performance.

Local fair housing partnerships are an essential component of any community's strategy for fighting for fair housing. Working together, organizations can expand their resources and build on each others experience and efforts to combat the negative forces within a community that foster discrimination.

*Performance Goal:* Developing local fair housing partnerships will result in more housing options, both rental and homeownership, for persons in a community, regardless of race, color, religion, sex, national origin, familial status or disability.

*Guiding Principles for Forming Fair Housing Partnerships:* Overall there are two overriding reasons to form fair housing partnerships, one is the commitment to a common goal, the other is the need to stretch scarce resources.

*Shared Vision:* Fair Housing organizations have a common goal: reducing and eventually eliminating discrimination in housing. Other organizations within the community have shared and/or mutual interests in achieving the goal of fair housing.

*Resources Sharing:* Organizations are limited by the amount of resources they have. Government resources are either being reduced and/or becoming increasingly competitive to acquire. Resource sharing can leverage the limited budgets of organizations and result in more positive outcomes.

**Factors for Building Successful Fair Housing Partnerships**

*Factor #1: Identify key stakeholders.* Within every community several organizations, agencies and individuals have an interest in eliminating discrimination. Seek out and identify who these entities are within your community. Examples include:

*Fair Housing Organizations.* Fair housing organizations, including human relations commissions and voluntary, nonprofit organizations focusing on fair housing problems

*Other Governments.* Other government agencies and/or authorities in the metropolitan area or region

*Advocacy Groups.* Advocacy groups and organizations that have among their concerns the needs (including housing needs) of particular segments of the population, such as people with disabilities; families with children; immigrants and homeless persons; and specific racial or ethnic groups (Blacks, Hispanics, Native Americans, Asian Americans, Alaskan Natives)

*Housing Providers.* Housing providers and representatives of landlords/owners.

*Banks and Other Financial Institutions.* Banks and other financial institutions that can provide loans (including residential) and other financial support to improve homes or areas of the community where living conditions have deteriorated

*Educational Institutions.* Educational institutions and their representatives, including the administrators and teachers/professors who can assist in conducting studies and developing educational activities for delivery in formal and informal settings.

*Other Organizations.* Other organizations and individuals, such as neighborhood organizations and representatives, can provide information, ideas, or support.

*General Public.* The general public can also be involved and can be a critical element in successful program implementation

*Factor #2: Develop Your Organization's Purpose.* Organizations should develop an comprehensive vision that outlines the desired outcomes they intend to pursue. They should also develop a mission statement that describes the strategy for achieving the organization's vision. Identifying the organization's purpose will help clarify roles in future partnerships.

*Factor #3: Identify Common Goals.* Seek out organizations that share your organization's goals and objectives. Once these are identified, discussions regarding mutual benefits and outcomes can be discussed and the benefits of partnership explored.

*Factor #4: Seek Out Non-Traditional Partners.* Organizations may have common interests in outcomes that result from equal housing choice. Private industry organizations may realize more profits as a result of fair housing partnerships through the generation of more business.

*Factor #5: Establish the Partnership.* Clearly define the roles and responsibilities of each of the partners. If feasible, codify the relationships through written agreements, such as Memorandum of Understandings. Develop procedures/policies that facilitate the success of the partnership. The partnership should also establish goals and objectives that will determine the success of the partnership.

*Factor #6: Resource Identification.* Clearly define the resources, financial, human or institutional, that each of the partners brings to the table. A delineation and definition of how the resources will be shared and/or leveraged should be included in any written agreement.

*Factor #7: Evaluation.* The partners should continually assess the progress being made toward stated goals and objectives and evaluate areas for improvement. This will help ensure that the partners are obtaining the desired results from the partnership.

The formation of partnerships between organizations or between public and private entities has several benefits. Most agencies will have the same goals, missions and objectives, so partnerships are logical. There are programmatic and efficiency reasons, including but not limited to, the following.

**Reduce Duplication of Effort**

With agencies performing similar activities there is the chance of a duplication of effort. For example, a variety of groups may provide the public with an awareness of the fair housing laws. By pooling resources and working together they reduce the chance of duplication of effort and money saved can be used for other efforts.

**Work in the Community**

Together they can have a strong voice in the community. Their partnering can influence state and local decisions regarding housing.

**Looking to Help the Same People**

The federal Fair Housing Act fights discrimination in housing if it is based on one the following classes: color, religion, handicap, familial status, race, sex, and national origin. Agencies will, at a minimum, provide protection for these classes.

**Use Respective Strengths to Help Each Other**

There are times between grants when agencies, unfortunately because they rely so heavily on government money, have little left to continue their operations. Partners have been known to step in during these periods to provide subcontracts to the such agencies to keep them operating.

**Ensure Consistency of Effort**

It is important that both the public and private entities are performing their tasks in ways that accurately reflect the fair housing laws in their communities. Having open communication and knowing what each other is doing ensures that each is following the laws.

**Coordinating With Other Governmental Agencies**

Oftentimes, the work of enforcing the provisions of the Federal Fair Housing Act and the substantially equivalent fair housing laws or States and local governments, require crossing governmental (State/local/Federal) lines. It can require that public and/or private agencies work with the Federal government to complete a specific task.

Partnerships can form when groups looking for similar outcomes can pool limited resources to reach those outcomes. The major goal of fair housing agencies is to combat housing discrimination through education and enforcement activities.

Dated: April 21, 2000.

**Eva M. Plaza,**

*Assistant Secretary for Fair Housing and Equal Opportunity.*

[FR Doc. 00–10797 Filed 4–28–00; 8:45 am]

BILLING CODE 4210–28–P

# Reader Aids

**Federal Register**

Vol. 65, No. 84

Monday, May 1, 2000

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## FEDERAL REGISTER PAGES AND DATE, MAY

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## CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT MAY 1, 2000

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- Official inspection and weighing services; published 3-30-00

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**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

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- Integrated resource planning approval criteria; published 3-30-00

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- Missouri; published 3-31-00

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  - Local competition provisions; unbundled network elements; deaveraged rate zones; published 12-8-99

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- California; published 4-4-00
- Kansas; published 3-31-00
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- Various States; published 4-5-00

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

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**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

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- Reclassification of 28 preamendments class III devices into class II; published 3-31-00

**NATIONAL CREDIT UNION ADMINISTRATION**

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- Technology and Information Systems Office renamed Office of Chief Information Officer; published 5-1-00

**NORTHEAST DAIRY COMPACT COMMISSION**

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  - Definitions and required action dates; technical amendments; published 3-27-00

**PENSION BENEFIT GUARANTY CORPORATION**

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  - Interest assumptions for valuing benefits; published 4-14-00
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- Liquidation of collateral and sale of disaster assistance loans; published 3-31-00

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- Platforms in Gulf of Mexico; safety zone; published 3-30-00

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

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**TRANSPORTATION DEPARTMENT**

**Federal Motor Carrier Safety Administration**

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  - Loss or impairment of limbs; technical amendments; published 5-1-00

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## COMMENTS DUE NEXT WEEK

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  - State and zone designations; comments due by 5-8-00; published 5-1-00

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- West Coast States and Western Pacific fisheries—
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- Mississippi; comments due by 5-8-00; published 4-7-00
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National priorities list update; comments due by 5-10-00; published 4-10-00
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Class D and Class E airspace; correction; comments due by 5-8-00; published 4-18-00
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**Internal Revenue Service**
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Exclusions from gross income of foreign corporations; comments due by 5-8-00; published 2-8-00
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Nonqualified preferred stock; comments due by 5-10-00; published 1-26-00
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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

**H.R. 1658/P.L. 106–185**

Civil Asset Forfeiture Reform Act of 2000 (Apr. 25, 2000; 114 Stat. 202)

**S.J. Res. 43/P.L. 106–186**

Expressing the sense of Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru. (Apr. 25, 2000; 114 Stat. 226)

**Last List April 18, 2000**

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## CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.

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A new table will be published in the first issue of each month.

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